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HAND DELIVERY

R-11956

Mr. Richard Ezeanyim,
Chief Engineer
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

Re: Oil Conservation Division Case No. 13036: Application of Ocean Energy, Inc. for Compulsory Pooling, Lea County, New Mexico.

Oil Conservation Division Case No. 13039: Application of David H. Arrington Oil & Gas Inc. for Compulsory Pooling, Lea County, New Mexico.

Dear Mr. Ezeanyim:

As you will recall, the above-referenced cases involve two competing compulsory pooling applications. David H. Arrington Oil & Gas Inc. and Ocean Energy, Inc. each sought an order from the Division pooling the E/2 of Section 8, Township 17 South, Range 35 East, NMPM, Lea County, New Mexico. Each sought to be designated operator of the pooled unit and each proposed to drill a well to the Atoka Morrow formation. However, Arrington proposed to drill in the NE/4 of the section whereas Ocean sought a well in the SE/4 of the section.

Ocean also operates a well in Section 5 of Township 17 South, Range 35 East which directly offsets the Arrington acreage in the NE/4 of the Section and produces from the Atoka-Morrow formation only 660 feet from the spacing unit to which the Arrington acreage is dedicated. All of the experts who testified for Ocean and for Arrington at the Division hearing agreed that the Ocean well to the north would drain reserves from the E/2 spacing unit.

On January 27, 2003, Arrington proposed a well in the NE/4 of Section 8 to protect itself from drainage from the offsetting Ocean well. As long as Ocean can prevent the drilling of a well in the NE/4 of Section 8, it will drain

reserves from the Arrington acreage in Section 8. Every day that this continues, the correlative rights of Arrington are impaired.

By Order No. R-11956, the Division granted the compulsory pooling application of Ocean and denied the application of Arrington. However, this order provided:

> Finding (22) Because there is evidence that reserves will likely be drained from the Unit by wells to the north and east unless an infill well is drilled in the NE/4 of Section 8, provision should be made in this order for any owner of working interest or unleased mineral interest ("owner") to propose such an infill well and to recover well costs associated with such infill well, together with a risk charge as herein provided, from any pooled working interest owner who elects not to pay in advance its share of estimated well costs of such an infill well."

The Order contains specific provisions governing how an owner may propose a well. The Order does not impose any time limitations or otherwise limit, restrict or deny the right of Arrington, or any other owner, to propose a well under this order to prevent drainage by the Ocean operated well to the north and thereby protect their correlative rights.

On the day this order was entered by the Division, Arrington filed its application for hearing *de novo* before the full Oil Conservation Commission. After further consideration of the provisions of this Order, and because of its concern about the additional time delays that could result from its appeal to the Commission and the drainage that would continue to occur while it pursued its rights under the order, Arrington contacted the Division's counsel and confirmed that this Order imposed no time limits on its right to propose a well. Arrington then decided to proceed under the Division order, proposed the infill well pursuant to Order Paragraphs (16) through (20) of order No. R-11956 and requested dismissal of its *de novo* appeal.

On July 10, 2003, pursuant to the provisions of Order No. R-11956, Arrington proposed a well in the NE/4 of Section 8. Ocean waited until August 8, 2003 and requested an interpretation of the Order from the Division. Ocean contended that to permit Arrington to exercise its right to propose an infill well is illogical for it would have to make an election on the Arrington proposal "before the first well is even commenced or drilled." Ocean asked the Division to declare Arrington's well proposal invalid under the order, or to stay the

Order's effect until the initial well that it was drilling in the SE/4 of the section was completed and evaluated.

On August 12, 2003, the Division determined "...that the time for the response to the Arrington's July 10, 2003 well proposal as provided in order paragraph (18) of Order No. R-11956, is extended until three (3) business days after the Division issues an interpretative ruling on Ocean's emergency application." A telephone hearing was held on August 21, in which Ocean was directed to provide the Division with its time frame for the completion of the well. To date, Ocean has not responded to the request of the Division and Arrington has learned that Ocean has abandoned the well in the Atoka Morrow formation.

The Order of the Division appears to mean nothing. It is now 8 1/2 months since Arrington first proposed its well to Ocean, more than 95 days since Arrington proposed the well pursuant to the Division's Order and more than seven weeks after our telephone hearing in which Ocean was directed to provide data on its well to the Division. Ocean has not responded to the Division and Arrington is still being denied the opportunity to develop this acreage -- and all this time it has been drained.

While we have been waiting, what we said would happen has happened. The Arrington property has suffered substantial drainage and our correlative rights have been impaired. However, Arrington still believes that Ocean should not be allowed to permanently prevent Arrington from being able to attempt to salvage what may remain of its property interests in this acreage. We believe the Division should rule in this matter and direct Ocean to make its election so that Arrington can determine if it can still economically justify the well it has been trying to drill.

Very truly yours,

William F. Carr

cc: David H. Arrington
Bill Baker
James Bruce