BEFORE THE OIL CONSERVATION DIVISION NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

APPLICATION OF BP AMERICA PRODUCTION COMPANY, FOR COMPULSORY POOLING AND DOWNHOLE COMMINGLING, SAN JUAN COUNTY, NEW MEXICO

)

CASE NO. 13653

<u>AFFIDAVIT</u>

STATE OF NEW MEXICO) ss. COUNTY OF SANTA FE)

Ocean Munds-Dry, attorney in fact and authorized representative of BP America Production Company, the Applicant herein, being first duly sworn, upon oath, states that notice of the above-referenced Application was mailed to the interested parties shown on Exhibit "A" attached hereto in accordance with Oil Conservation Division Rules, and that true and correct copies of the notice letter and proof of notice are attached hereto.

Dcean Munds-Dry

2006.

SUBSCRIBED AND SWORN to before me this

OFFICIAL SEAL LISAMARIE ORTIZ NOTARY PUBLIC-STATE OF NEW MEXICO

ra day of

My Commission Expires:

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EXHIBIT A

APPLICATION OF BP AMERICA PRODUCTION COMPANY, FOR COMPULSORY POOLING W/2 OF SECTION 32, TOWNSHIP 31 NORTH, RANGE 10 WEST, N.M.P.M. SAN JUAN COUNTY, NEW MEXICO.

Burlington Resources Oil & Gas Company LP 3401 East 30th St. Farmington, NM 87402

Westport Oil and Gas Company LP c/o Kerr-McGee Corporation 1670 Broadway, Suite 2800 Denver, CO 80202-4800

.

Energen Resources Corporation 2198 Bloomfield Hwy Farmington, NM 87041-8108

Marcia Berger c/o Petroleum Asset Mgmt LLC P.O. Box 745 Hobbs, NM 88241

WWR Enterprises, Inc. c/o Petroleum Asset Mgmt LLC P.O. Box 745 Hobbs, NM 88241

William C. Briggs c/o Sunwest Bank of Albuquerque, N.A., Agent P.O. Box 26900 Albuquerque, NM 87125

Herbert R. Briggs 6729 Academy Rd. Suite D Albuquerque, NM 87109

CEEFAM LLC 3117 Hyder, SE Alburquerque, NM 87104

Cyrene Inman Bank of America, NA Agent Trust Oil & Gas P.O. Box 26900 Albuquerque, NM 87125-6900 Pennies From Heaven LLC 901 Rio Grande Blvd. NW Albuquerque, NM 87106

Roger B. Nielsen 1200 Danbury Dr. Mansfield, TX 76063-3809

Carolyn Nielsen Sedberry Little Oil & Gas Inc., Agent P.O. Box 1258 Farmington, NM 87499

ConocoPhillips Company 600 N. Dairy Ashford-WL3 Suite 4000 Houston, TX 77079

Production Gathering Company LP 8080 N. Central Expy, Suite 1090 Dallas, TX 75206

Fred Luthy Jr. Bank of America, NA Agent Trust Oil & Gas P.O. Box 840738 Dallas, TX 75284-0738

Fritts Living Trust No.2, as amended P.O. Box 53445 Lubbock, TX 79453

Duff Leach Family Trust P.O. Box 30396 Albuquerque, NM 87190

Stanley W. Hatch 1455 Hardscrabble Rd. Cadyville, NY 12918

Sheila J. Hatch 920 Mckendrie St. San Jose, CA 95126

T.E. Duff, Trust P.O. Box 398 Ruidoso, NM 88345 HOLLAND&HART

Ocean Munds-Dry Associate omundsdry@hollandhart.com

February 2, 2006

<u>CERTIFIED MAIL</u> <u>RETURN RECEIPT REQUESTED</u>

TO: AFFECTED INTEREST OWNERS

Re: Application of BP America Production Company for compulsory pooling and downhole commingling, San Juan County, New Mexico.

Ladies and Gentlemen:

This letter is to advise you that BP America Production Company has filed the enclosed application with the New Mexico Oil Conservation Division seeking an order pooling all mineral interests from the surface to the base of the Dakota formation in certain spacing and proration units in the W/2 of Section 32, Township 31 North, Range 10 West, N.M.P.M., San JuanCounty, New Mexico. Said pooled units are to be dedicated to BP's EPNG Com B LS Well No. 3M to be drilled at a standard gas location 2150 feet from the South line and 725 feet from the West line of Section 32. BP also seeks to commingle production from the Mesaverde formation, Blanco-Mesaverde Gas Pool and the Dakota formation, Basin-Dakota Gas Pool in the wellbore of the EPNG Com B LS Well No. 3M.

This application has been set for hearing before a Division Examiner on March 2, 2006. The hearing will be held in Porter Hall in the Oil Conservation Division's Santa Fe Offices located at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505. You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases are required by Division Rule 1208.B to file a Pre-hearing Statement at least four business days in advance of a scheduled hearing, but in no event later than 5:00 pm MST, on the Thursday preceding the scheduled hearing date. This statement must be filed at the Division's Santa Fe office at the above specified address and should include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

Very truly yours,

Cear Mura Ocean Munds-Drv

ATTORNEY FOR BP AMERICA PRODUCTION Co.

Holland & Hart up

¹⁹hone [505] 988-4421 Fax [505] 983-6043 www.hollandhart.com

110 North Guadalupe, Suite 1, Santa Fe, NM, 87501, Mailing Address, IEO, Box, 2208, Santa Fe, NM, 87504-2208

STATE OF NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES OIL CONSERVATION DIVISION

IN THE MATTER OF THE APPLICATION OF BP AMERICA PRODUCTION COMPANY FOR COMPULSORY POOLING AND DOWNHOLE COMMINGLING, SAN JUAN COUNTY, NEW MEXICO.

CASE NO.____

APPLICATION

BP AMERICA PRODUCTION COMPANY, ("BP") through its undersigned attorneys, hereby makes application to the Oil Conservation Division pursuant to the provisions of NMSA 1978 § 70-2-17 (2005), for an order pooling all mineral interests in the Mesaverde formation at an approximate depth interval of 4300 feet to 5440 feet below the surface and the Dakota formation from an approximate depth of 7170 feet to an approximate depth of 7440 feet in the following described spacing and proration units located in the W/2 of Section 32, Township 31 North, Range 10 West, N.M.P.M., San Juan County, New Mexico: the W/2 for all formations and/or pools developed on 320-acre spacing which includes but is not limited to the Blanco-Mesaverde Gas Pool and the Basin Dakota-Gas Pool, and the SW/4 for all formations and/or pools developed on 160-acre spacing, and in support of its application states:

1. On June 1, 1953 the interest owners in the W/2 of Section 32 entered an Operating Agreement and Communitization Agreement combining the interests in this spacing unit in the Mesaverde formation only for the drilling of a well. These agreements contain no provisions concerning: (i) operations on this spacing unit by less than all parties; (ii) subsequent wells; or (iii) non-consent percentages because the agreements were for the sole purpose of drilling one Mesaverde well on this spacing unit.

2. In 1953, the rules governing the Blanco Mesaverde pool provided for one well on each 320-acre spacing unit and this unit was therefore fully developed when the parties to the original agreements drilled the El Paso Natural Gas Company State Well No. 3 at a location 1650 feet from the South and West of Section 32 in July of 1953.

3. The Special Pool Rules and Regulations for the Blanco-Mesaverde Gas Pool currently provide up to four wells on a 320-acre spacing unit and the W/2 of said Section 32 is therefore not fully developed in the Blanco-Mesaverde Gas Pool.

4. BP America Production Company is a working interest owner in the W/2 of said Section 32 and has the right to drill thereon.

5. Pursuant to Rule I.B.(1)(a) of the Special Pool Rules and Regulations for the Blanco–Mesaverde Gas Pool, BP America Production Company desires to drill its EPNG Gas Com B LS Well No. 3M at a standard gas well location 2150 feet from the South line and 725 feet from the West line (Unit L) of said Section 32, to an approximate depth of 7432 feet to test any and all formations from the surface to the base of the Dakota formation. This well will be the THIRD OPTIONAL INFILL WELL as to the Mesaverde formationin the W/2 of Section 32. There is no operating agreement covering the Dakota formation in this spacing unit.

6. BP also desires to commingle production from the Mesaverde formation, Blanco-Mesaverde Gas Pool and the Dakota formation, Basin-Dakota Gas Pool in the wellbore of the EPNG Com B LS Well No. 3M. The Blanco-Mesaverde Gas Pool and the Basin-

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Dakota Gas Pool are pre-approved for downhole commingling By Division Rule 303.C(5).

7. As operator of this spacing unit BP owes an obligation to the other interest owners in this spacing unit, including the state of New Mexico, to prudently develop and produce the reserves under this acreage. To do so, additional wells need to be drilled on this acreage.

8. BP has sought and been unable to obtain a voluntary agreement for the development of these lands from certain mineral interest owners in the subject spacing units who are identified on Exhibit A to this application.

9. Said pooling of interests and the drilling of the proposed well will not violate any provision of the 1953 Operating Agreement, will result in the efficient development of the reserves under this spacing unit, will prevent waste and will protect correlative rights. As no operating agreement is fully executed for the development of the Dakota formation, this application is necessary to force pool the unsigned parties.

10. In order to permit BP to obtain its just and fair share of the oil and gas underlying the subject lands, all mineral interests should be pooled, and BP America Production Company should be designated the operator of the well to be drilled.

WHEREFORE, BP America Production Company requests that this application be set for hearing before an Examiner of the Oil Conservation Division on March 2, 2006 and, after notice and hearing as required by law, the Division enter its order:

A. pooling all mineral interests in the subject spacing and proration units,

B. designating BP America Production Company operator of these units and the well to be drilled thereon,

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- C. authorizing BP America Production Company to recover its costs of drilling, equipping and completing the well,
- D. approving the actual operating charges and costs of supervision while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures, and
- E. imposing a penalty for the risk assumed by BP America Production Company in drilling and completing the well against any working interest owner who does not voluntarily participate in the drilling of the well.

Respectfully submitted, HOLLAND & HART LLP

By: WILLIAM F. CARR **OCEAN MUNDS-DRY**

Post Office Box 2208 Santa Fe, New Mexico 87504 Telephone: (505) 988-4421

ATTORNEYS FOR BP AMERICA PRODUCTION COMPANY

APPLICATION, Page 4

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Application of BP America Production Company for compulsory pooling and downhole commingling, San Juan County, New Mexico. Applicant in the above-styled cause seeks an order pooling all mineral interests from the surface to the base of the Dakota formation to an approximate depth of 7432 feet in the following described spacing and proration units located in the W/2 of Section 32, Township 31 North, Range 10 East, N.M.P.M., San Juan County, New Mexico: the W/2 for all formations and/or pools developed on 320-acre spacing which includes but is not limited to the Blanco-Mesaverde Gas Pool and the Basin Dakota-Gas Pool; and the SW/4 for all formations and/or pools developed on 160-acre spacing. Said units are to be dedicated to its EPNG Com B LS Well No. 3M to be drilled at a standard gas well location 2150 feet from the South line and 725 feet from the West line (Unit L) of said Section 32. Applicant also seeks to commingle production from the Mesaverde formation, Blanco-Mesaverde Gas Pool and the Dakota formation, Basin-Dakota Gas Pool in said well. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of BP America Production Company as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 15 miles northeast of Farmington, New Mexico.

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AFFIDAVIT OF PUBLICATION

Ad No. 52935

STATE OF NEW MEXICO County of San Juan:

CONNIE PRUITT, being duly sworn says: That she is the ADVERTISING MANAGER of THE DAILY TIMES, a daily newspaper of general circulation published in English at Farmington, said county and state, and that the hereto attached Legal Notice was published in a regular and entire issue of the said DAILY TIMES, a daily newspaper duly qualified for the purpose within the meaning of Chapter 167 of the 1937 Session Laws of the State of New Mexico for publication and appeared in the Internet at The Daily Times web site on the following day(s):

Tuesday, February 7, 2006.

And the cost of the publication is \$108.07.

CONNIE PRUITT ON appeared before me, whom I know personally to be the person who signed the above document.

2008. Commission Expires November 17

COPY OF PUBLICATION

NOTICE OF PUBLICATION

STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION DIVISION SANTA FE, NEW MEXICO

enals

The State of New Mexico through its Oil Conservation Division hereby gives no-fice pursuant to law and the Rules and Regulations of the Division of the follow-ing public hearing to be held at 8:15 A.M. on. March 2, 2006, in the Oil Conser-vation Division Hearing Room at 1220 South St. Francis, Santa Fe, New Mexico, before on examiner duly appoint for the hearing. If you are an individual with a disability who is in need of a reader, amplifier, quiffied sign language inter-preter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact: Florene Davidson at 505-476-3458 or through the New Mexico Resty Network, 1-800-659-1779 by February 27, 2006. Public doc-uments including the agendo and minutes, can be provided in various accessi-hle forms. Please contact Florene Davidson if a summary or other type of accessible form is needed.

STATE OF NEW MEXICO TO: All named parties and persons having any right, fille, interest or claim in the following cases and notice to the public.

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian whether or not so stated.)

CASE 13653:

918

Application of BP America Production Company for compulsory pooling and downhole commingling, San Juan County, New Mexico. Applicant in the obove-styled cause seeks an order pooling all mineral interests from the surface to the base of the Dakota formation to an approximate depth of 7432 feet in the following described spacing and proration units located in the W/2 of Sec-tion 32, Township 31 North, Range 10 East, N.M.P.M., San Juan County, New Mexico: the W/2 for all formations and/or pools developed on 320-arce spacing which includes but is not timited to the Blanco-Mesaverde Gas Pool and the Basin Dakota Gas Pool; and the SW/4 for all formations and/or pools devel-oped on 160-arce spacing. Said units are to be dedicated to its EPNG Com B LS. Well No. 3M to be drilled at a standard gas well location 21:50 feet from the South line and 725 feet from the West line (Unit L) of said Section 32. Applicant also seeks to commingle production from the Mesaverde formation, Blanco-mesaverde Gas Pool and the Dakota formation, Basin-Dakota Gas Pool in said well. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as a ctual operating costs and charges for supervision, designation of BP America Production Company as op-erator of the well and a charge for risk involved in drilling said well. Said area is located approximately 15 miles norheast of farmington, New Mexico.

Given under the Seal of the State of New Mexico Oll Conservation Commission at Santa Fe, New Mexico on this 2nd day of February 2006.

STATE OF NEW MEXICO OIL CONSERVATION DIVISION Mark E. Fesmire, P.E., Director

Legal No. 52935 published in The Daily Times, Farmington, New Mexico on Tues-day, February 7, 2006