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

IN THE MATTER OF THE APPLICATION OF ENERGEN RESOURCES CORPORATION TO AMEND THE COST RECOVERY PROVISIONS OF COMPULSORY POOLING ORDER NO. R-1960, TO DETERMINE REASONABLE COSTS, AND FOR AUTHORIZATION TO RECOVER COSTS FROM PRODUCTION OF POOLED MINERAL INTERESTS, RIO ARRIBA COUNTY, NEW MEXICO.

CASE NO. 13957

PRE-HEARING STATEMENT

This Pre-Hearing Statement is submitted by Montgomery and Andrews, P.A., (J. Scott Hall) on behalf of Energen Resources Corporation, as required by the Oil Conservation Commission's rules.

APPEARANCES

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OPPONENT

JAS Oil and Gas Co., LLC;
Kurt Sommer, Esq.,
Personal Representative,
Estate of Joseph H. Sommer,
De Novo Applicant

STATEMENT OF THE CASE

APPLICANT

Energen Resources Corporation, ("Energen"), has asked the Division to reform an aged compulsory pooling order in order to allow for the prorata reimbursement of the operator's costs of operations and supervision consistent with the current practices of the agency. Energen has also sought relief pursuant to "Rule 414"[1] in order to market gas production from the well attributable to a pooled mineral interest owner, JAS Oil and Gas Co., which has failed to make arrangements for the sale of its gas while simultaneously refusing to permit the operator to market gas on its behalf.

On July 17, 2008, pursuant to a hearing on the merits held before Examiner Brooks, the Division entered Order No. R-1960-A essentially granting most of the relief requested by Energen. A copy of Order No. R-1960-A is attached. On October 24, 2008, JAS Oil and Gas Co., LLC, ("Sommer/JAS"), filed an Application for Hearing De Novo before the Commission.

Energen is the successor operator of the Martinez Well No. 1 drilled to and producing from the Pictured Cliffs formation, (Tapacito-Pictured Cliffs Gas Pool) underlying the SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, in Rio Arriba County. Pursuant to a compulsory pooling application brought by one of Energen's predecessor operators in 1961, Southern Union Production Company, the unleased mineral interests of Joseph A. Sommer, Esq. (now JAS Oil and Gas,

[1] 19.15.24.8 NMAC

LLC,) in the SW/4 of Section 2 were consolidated pursuant to Order No. R-1960. A more complete account of the historical background of the operations of the Martinez Well No. 1 is set forth in Energen's Application. A copy of the Application, along with a copy of the original pooling order, Order No. R-1960, are attached.

As is evident, the form of the compulsory pooling order issued in 1961 is unclear and does not directly comport with the form of orders currently in use by the Division setting forth the means by which well operators may obtain reimbursement for operating costs and supervision charges. Order No. R-1960 neither contains findings establishing the amount of supervision charges, nor does it expressly provide for their periodic adjustment as allowed by statute. (See *NMSA 1978 §70-2-17 C).*

In recent years, Sommer/JAS has disputed the operating expenses and supervision charges for the well. In addition, Sommer/JAS has asserted untenable and often conflicting positions regarding the marketing of gas from the well. Sommer/JAS has failed to make arrangements for the sale of its gas and has refused to permit Energen to market its gas on its behalf. As a consequence, the operator has been prevented from recouping Sommer/JAS's proportionate share operating costs and supervision charges from production. Further, Sommer/JAS has taken the position that the operator may not sell its gas from the well when the Sommer/JAS working interest share is not being marketed. The practical and

unreasonable effect of the Sommer/JAS position, then, is that the well must be shut-in.

Energen's Application accordingly requested (1) the amendment of Order No. R-1960 to include new provisions allowing for the pro rata reimbursement of the operator's costs of operations and supervision charges which may be adjusted annually, (2) further authorizing Applicant to sell a portion or all of the production attributable to the pooled working interest of the non-selling mineral interest owner, and (3) making such other provisions as may be proper.

The Commission's Jurisdiction

The agency's jurisdiction is not in dispute. The jurisdiction and the authority of the Division and Commission to grant the relief sought by the Application in this matter are clearly established in the Oil and Gas Act. NMSA 1978 §70-2-1 et seq. Section 70-2-11 of the Oil and Gas Act makes clear that the Division has a duty to act on the Application in this matter. That section provides:

> *"(a.) The Division is hereby empowered, and it is its duty, to prevent waste prohibited by this act and to protect correlative rights, as in this act provided. To that end, the Division is empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out the purposes of this act, whether or not indicated or specified in any section hereof."*[2]

In past cases, the Division has cited to this specific provision of the Oil and Gas Act as authority supporting the Agency's broad construction of its powers to

[2] *See, also*, NMSA 1978, § 70-2-6; "...[The Division] shall have jurisdiction, authority and control of and over all persons, matters or things necessary or proper to enforce effectively the provisions of this act ...."

act as "cumulative and not exclusive". *See*, Order No. R-11573-B, Case No. 12601; *Application of Bettis Boyle and Stovall To Reopen Compulsory Pooling Order No. R-11573 To Address The Appropriate Royalty Burdens On The Well For Purposes Of The Charge For Risk Involved In Drilling Said Well, Lea County, New Mexico.* Further, applicable agency precedent make clear that relief can be made effective retroactively.

Reimbursement of Operating Expenses and Supervision Charges

The terms of the 1961 compulsory pooling order, together with the applicable statute, NMSA Section 70-2-17 (C), make clear that the operator is entitled to reimbursement for operating expenses and a reasonable charge for supervision. The order provides:

> *"[T]he proportionate share of the costs of development and operation of the pooled unit shall be borne by each consenting working interest owner in the same proportion to the total costs that his acreage bears to the total acreage in the pooled unit."...[The proportionate share of the costs of development of the pooled unit, including reasonable charges for supervision, shall be paid out of production by each non-consenting working interest owner."*

The compulsory pooling statute, in part, states:

> *"Such pooling order of the division shall make definite provision as to any owner, or owners who elects not to pay his proportionate share in advance for the prorate reimbursement solely out of production to the parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision..."* NMSA 1978 Section 70-2-17(C).

It has been the practice of the Division, and the Commission, to retain jurisdiction over its compulsory pooling orders to, among other things, resolve disputes over development and operating costs:

> *"In the event of any dispute relative to such costs, the division shall determine the proper costs after due notice to the interested parties and a hearing thereon."* Id.

The relevant terms of the 1961 compulsory pooling order does not reflect the cost recovery provisions found in contemporary pooling orders, which typically provide as follows:

> *(12) Reasonable charges for supervision (combined fixed rates) are hereby fixed at $6000 per month while drilling and $600 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest.*

There should be no question that the agency has ongoing jurisdiction to resolve the dispute over the operator's entitlement to reimbursement for operating expenses under the order and to establish overhead charges comporting with current industry rates for the area.

It should also be without question that the Division has jurisdiction to address the *means* by which an operator may obtain reimbursement for operating expenses and supervision charges. In this particular circumstance, Energen's invocation of Rule 414 is consistent with, and facilitates the

operator's request to obtain reimbursement from an obdurate working interest owner.

Rule 414

That the Commission deemed appropriate to promulgate Rule 414 conclusively establishes the existence the agency's jurisdiction over the subject matter of this Application and the authority to accord the relief Energen seeks.

As previously indicated, Sommer/JAS has failed to make arrangements for the sale of its gas and have refused to allow Energen to market gas on its behalf. Consequently, Energen has been prevented from recovering reimbursement of the proportionate share of operating costs and supervision charges attributable to the Sommer/JAS interest which the compulsory pooling order authorizes. The operation of both the compulsory pooling statute and the original pooling order is thwarted as a consequence.

At the same time, Sommer/JAS challenge the operator's authority to sell gas for its own account or for any other interest owner, threatening that such sales constitute conversion, thereby placing the operator in an impossible position. The end-result of the Sommer/JAS reasoning, were it to be put into practice, would place all other interest owners at the mercy of the non-selling party and would prevent any sales from the well. Plaintiffs' position, then, directly implicates the correlative rights[3] of the operator and other interest owners. Correspondingly,

[3] NMSA 1978 §70-2-33.H: "[C]orrelative rights means the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas or both in the pool, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the

under Rule 414 (now 19.15.24.8 NMAC), the Commission established a procedure in aid of its statutory mandate to protect correlative rights in such a situation:

> **19.15.24.8 Gas Sales By Less Than One Hundred Percent Of The Owners In A Well** *When there are separate owners in a well and where any owner's gas is not being sold with the well's current production, the owner may, if necessary to protect the owner's correlative rights, petition the Division for a hearing seeking appropriate relief.*

In the process of promulgating Rule 414, the Commission expressly recognized the industry practice of gas balancing. (See Order No. R-8361, attached.) Energen does not in this case seek to have the Commission write a gas balancing agreement for the parties. Rather, the Commission is asked to recognize that the request for authorization to sell a portion or all of the production attributable to the pooled working interest of the non-selling mineral interest owner to enable the reimbursement of costs is consistent with long-standing industry custom and practice.

There is precedent for oil and gas regulatory agency authorization for regulatory agency gas balancing in *Amoco Production Company v. Thompson*, 516 So. 2d 376 (La. App. 1st Cir. 1987), *writ denied* 520 So. 2d 118 (La. 1988). In *Thompson,* Amoco Production Company, as the operator of a compulsory pooling unit, filed an application with the Louisiana Commissioner of Conservation of the Department of Natural Resources for an order which would allow it to separately market its share of production from the unit and balance the share of the non-

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proportion that the quantity of recoverable oil or gas or both under the property bears to the total recoverable oil or gas or both in the pool and, for such purpose, to use his just and equitable share of the reservoir energy;" The Division is charged with protecting correlative rights pursuant to NMSA §70-2-11 A.

marketing owners at a later date. As in this case, Amoco and the non-marketing interest owners were not parties to an operating agreement. The Louisiana Commission granted Amoco's application which was subsequently reviewed by the Louisiana Circuit Court of Appeals. That court engaged in an analysis of that state's oil and gas conservation and compulsory pooling statutes, statutes strikingly analogous to New Mexico's and went on to uphold the Commission's order authorizing the operator to separately market its share of production and implement a form of balancing for the non-marketing owner. Regulatory gas balancing and the *Thompson* decision are discussed further by Prof. Patrick H. Martin, in his 1990 article, *The Gas Balancing Agreement: What, When, Why and How*, (36 Rocky Mtn. Min. L. Inst. 1990). Prof. Martin was the Louisiana Commissioner who authorized regulatory balancing in the *Thompson* case.

The Rule 414 relief sought by Energen is not altogether unlike that accorded by the Commission in Order No. R-12343-E.[4] In that case, the Commission resolved conflicting applications for overlapping lay-down and stand-up 320-acre Morrow formation spacing units in the South Osudo-Morrow Gas Pool by establishing a single 640-acre unit. Because a prolific gas well had been drilled and was producing, the effect of the order was to cause a retroactive adjustment in the interest owners' participation in the well. This effectively caused some owners to

[4] Case No. 13492; *Application of Samson Resources Company, Kaiser-Francis Oil Company and Mewbourne Oil Company for Cancellation of Two Drilling Permits and Approval of a Drilling Permit, Lea County, New Mexico;* consolidated with Case No. 13493; *Application of Chesapeake Operating, Inc. for Compulsory Pooling, Lea County, New Mexico.*

be overproduced and others underproduced, requiring adjustments to be made. (In this regard, see *Hunt Oil Company v. Batchelor*, 644 So.2d 191, 193 [La. 1994].)

As indicated, Energen requests (1) the amendment of the earlier compulsory pooling order, Order No. R-1960, to include new provisions allowing for the pro-rata reimbursement of the operator's costs of operations and supervision charges which may be adjusted annually, (2) further authorizing Applicant to sell a portion or all[5] of the production attributable to the pooled working interest of the non-selling mineral interest owner to enable the reimbursement of those costs. These requests for relief neatly overlap and are not inconsistent.

This agency has appropriately assumed jurisdiction over the application in this matter. No other body, judicial, administrative or otherwise has been charged with the specific statutory mandate to exercise jurisdiction, authority and control over oil and gas operations in this state. *See*, NMSA 1978, § 70-2-6-A; *see also Continental Oil Co. v. Oil Conservation Commission*, 70 N.M. 310, 323, 373 P.2d 809, 817 (1962). The invocation of this agency's administrative processes under the compulsory pooling statutes and Rule 414 is fully in accord with the Commission's mandate "*...to do whatever may be reasonably necessary to carry out the purposes of [the oil and gas act]....*" NMSA 1978 §70-2-11 A.

[5] In accordance with its testimony, it is Energen's preference to have authorization to sell all of the non-marketing interest owner's share of gas production because it is more administratively efficient and less burdensome to do so.

PROPOSED EVIDENCE

APPLICANT

WITNESSES	EST. TIME	NO. OF EXHIBITS
Paul Rote, Landman	One Hour	26

OPPOSITION

WITNESSES	EST. TIME	NO. OF EXHIBITS

PROCEDURAL MATTERS

None.

MONGOMERY & ANDREWS, P.A.

By: _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of May, 2009, the foregoing was delivered to the following counsel of record:

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(505)982-2151

_____
J. Scott Hall

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES –
OIL CONSERVATION DIVISION 2007 APR 30 PM 3 20

IN THE MATTER OF THE APPLICATION OF ENERGEN RESOURCES CORPORATION TO AMEND THE COST RECOVERY PROVISIONS OF COMPULSORY POOLING ORDER NO. R-1960, TO DETERMINE REASONABLE COSTS, AND FOR AUTHORIZATION TO RECOVER COSTS FROM PRODUCTION OF POOLED MINERAL INTERESTS, RIO ARRIBA COUNTY, NEW MEXICO

CASE NO. _____

AMENDED APPLICATION

ENERGEN RESOURCES CORPORATION, by its undersigned attorneys, Miller, Stratvert, P.A., (J. Scott Hall) hereby makes application pursuant to NMSA 1978 §70-2-17 (1995) for an order amending the cost recovery provisions of Order No. R-1960 pooling all interests in the Pictured Cliffs formation, (Tapacito-Pictured Cliffs Gas Pool) underlying the SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico, forming a standard 160-acre spacing and proration unit. Applicant also seeks authorization to sell a portion or all of the pooled working interest share of production of a non-selling mineral interest owner and to obtain reimbursement of costs therefrom. In support thereof, Applicant would show the Division:

1. On May 5, 1961, pursuant to a hearing held on April 19, 1961 in Case No. 2249[1], the Division issued Order No. R-1960 pooling certain uncommitted interests in the SW/4 of Section 2 preparatory to the drilling by Southern Union Production Company, ("Supron"), of its Martinez No. 1 well at a standard location in the N/2 SW/4 of said Section 2 to a depth sufficient to test the Pictured Cliffs formation. (*Exhibit 1*, attached.)

[1] *Application of Southern Union Production Company For An Order Force-Pooling A Standard 160-Acre Gas Proration Unit In The Tapacito-Pictured Cliffs Gas Pool, Rio Arriba County, New Mexico.*

2. The evidence at the hearing established that the Applicant in that case owned or controlled 100 percent of the available working interest in the N/2 SW/4 of Section 2 and that Applicant sought to pool the remaining interests, including unleased mineral interests, whose owners did not agree to participate in the drilling of the well. The quantum of non-participating interests constituted a relatively small percentage of the interests in the unit. The Commission accordingly granted Supron's request to pool those interests.

3. Subsequent to the hearing and the issuance of Order No. R-1960, Supron drilled and successfully completed the Martinez No. 1 well in the Pictured Cliffs formation. Supron continued to operate the Martinez No. 1 well until approximately July 23, 1982 when Union Texas Petroleum Company acquired the property and became operator of the well. On approximately June 23, 1990, Meridian Oil, Inc. acquired the well and became operator. Meridian was then succeeded as operator by Burlington Resources Oil and Gas Company on July 11, 1996. Taurus Exploration USA, Inc. subsequently acquired the lease and well from Burlington and became operator on August 1, 1997. On October 1, 1998, through a change of name, Taurus became Energen Resources Corporation. Applicant is the current operator of the well.

4. The unnumbered decretal portions of Order No. R-1960 contained the following provisions authorizing the operator to recover the costs of development and operation:

> *"PROVIDED FURTHER, That the proportionate share of the costs of development of the pooled unit, including a reasonable charge for supervision, shall be paid out of production by each non-consenting working interest owner and shall be 110 per cent of the same proportion to the total costs of drilling and completing the well that his acreage bears to the total acreage in the pooled unit."*

5. In its compulsory pooling orders, the Division is required by statute to include provisions allowing the operator to be reimbursed for operating expenses and a reasonable charge for supervision:

> "*Such pooling order of the division shall make definite provision as to any owner, or owners who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of production to the parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision...*" NMSA 1978 Section 70-2-17(C).

6. It has been the practice of the Division to retain jurisdiction over its compulsory pooling orders to, among other things, resolve disputes over development and operating costs:

> *"In the event of any dispute relative to such costs, the division shall determine the proper costs after due notice to the interested parties and a hearing thereon."*

Id.

7. JAS Oil and Gas Co., LLC, the successor to one of the owner's whose unleased mineral interests were pooled under Order No. R-1960 has disputed the operator's entitlement to reimbursement for reasonable operating costs, as wells as supervision costs, and the method for reimbursing such costs.

8. The relevant terms of the 1961 compulsory pooling order do not reflect the cost recovery provisions found in contemporary pooling orders, which typically provide as follows:

> *( ) Reasonable charges for supervision (combined fixed rates) are hereby fixed at $5000 per month while drilling and $500 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations". The operator is authorized to withhold from production the proportionate share of both the supervision charges and*

the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest

9. Applicant proposes the amendment of the cost recovery provisions under the original version of Order No. R-1961 to reflect the current custom and practice of the industry and the Division which allows well operators to recover the costs of operations and supervision and which may be periodically adjustable.

10. Applicant seeks an order amending Order No. R-1961 retroactively by substituting the unnumbered decretal portions of the Order set forth in Paragraph 4, above, with contemporary compulsory pooling cost recovery provisions in substantially the same form as reflected in Paragraph 8, above, and at reasonable rates.

11. In addition to disputing the operator's entitlement to reimbursement for reasonable operating costs and charges, the interest owner referenced in paragraph 7, above, and its predecessors, has failed to take its share of production in-kind or otherwise market or dispose of its working interest share of gas production, and has further refused to permit Applicant and other third parties from marketing or disposing its share. When a party's gas is not sold, the well may be continued to be produced for the benefit of the other interest owners. Gas balancing is then implemented and the account of the non-selling party is deemed to be under-produced.

12. As a consequence of the referenced interest owner's failure and refusal to market its gas, there have been no sales proceeds attributable to its seven-eighths working interest and Applicant has been prevented from deducting that interest owner's share of costs and expenses from production.

13. Simultaneous with its failure and refusal to arrange or permit the sale or disposition of its seven-eighths working interest share of production, the referenced interest

owner has simultaneously demanded payment for eight-eighths. Under circumstances such as these, NMSA 1978 §70-2-17 C does not require that more than one-eighth be paid to an unleased mineral interest owner whose interest is pooled.

14. The failures and refusals of the interest owner to sell its gas, its demands for payment and the inability of the operator to obtain reimbursement for monthly operating expenses frustrate the operation of the agency's compulsory pooling order and circumvent the Oil and Gas Act.

15. Applicant seeks authorization to sell a portion of JAS Oil & Gas Co. LLC's pooled working interest in sufficient amounts to permit Applicant to obtain the prorata reimbursement for such costs and charges the Division determines are proper. Alternatively, Applicant seeks authorization to sell all of the working interest share of production attributable to the JAS working interest and seek appropriate reimbursement from a portion of the proceeds therefrom.

16. The Division has ongoing jurisdiction over its compulsory pooling orders by virtue of the express terms thereof, and pursuant to, *inter alia,* NMSA 1978 §70-2-17 C. The Division also has authority to accord appropriate relief under Rule 414 (NMAC 19.15.6.414: **Gas Sales By Less Than One Hundred Percent Of The Owners In A Well.**)

17. Granting the relief requested will promote the efficient and orderly operation of the subject well, will protect the rights of the operator and the interest owners, will serve to protect correlative rights, prevent waste and is otherwise in the interests of conservation.

WHEREFORE Applicant requests that this Application be set for hearing before a duly appointed examiner of the Oil Conservation Division on July 26, 2007 and that after

notice and hearing as required by law, the Division enter its Order (1) amending Order No. R-1960 to include new provisions reflecting the current custom and practice of the industry and the Division allowing for the prorata reimbursement of the operator's costs of operations and supervision, (2) further authorizing Applicant to sell a portion or all of the production attributable to the pooled working interest of the non-selling mineral interest owner, and (3) making such other provisions as may be proper.

MILLER STRATVERT P.A.

By: _____

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BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION OF NEW MEXICO FOR THE PURPOSE OF CONSIDERING:

CASE No. 2249
Order No. R-1960

APPLICATION OF SOUTHERN UNION PRODUCTION COMPANY FOR AN ORDER FORCE-POOLING A STANDARD 160-ACRE GAS PRORATION UNIT IN THE TAPACITO-PICTURED CLIFFS GAS POOL, RIO ARRIBA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on April 19, 1961, at Santa Fe, New Mexico, before A. L. Porter, Jr., Examiner duly appointed by the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission," in accordance with Rule 1214 of the Commission Rules and Regulations.

NOW, on this 5th day of May, 1961, the Commission, a quorum being present, having considered the application, the evidence adduced, and the recommendations of the Examiner, A. L. Porter, Jr., and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, Southern Union Production Company, is the owner and operator of Federal Lease No. NM 014856, comprising the N/2 SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico.

(3) That the applicant seeks an order force-pooling all mineral interests in the Tapacito-Pictured Cliffs Gas Pool in the SW/4 of said Section 2, in order to form a 160-acre gas proration unit.

(4) That inasmuch as denial of the subject application would deprive, or tend to deprive, the mineral interest owners in the above-described 160-acre tract of the opportunity to recover their just and equitable share of the hydrocarbons in the Tapacito-Pictured Cliffs Gas Pool, all mineral interests therein should be force-pooled.

(5) That the applicant should furnish the Commission with an itemized schedule of well costs upon completion of a well on the subject gas proration unit.

IT IS THEREFORE ORDERED:

That the interests of all persons having the right to drill for, produce, or share in the production of hydrocarbons from the Tapacito-Pictured Cliffs Gas Pool underlying the SW/4 of Section 2, Township 25 North, Range 3 West, NMPM, Rio Arriba County, New Mexico, are hereby force-pooled to form a standard 160-acre gas proration unit comprising all of said acreage. Said unit is to be dedicated to a well to be located at an orthodox location thereon.

PROVIDED HOWEVER, That the proportionate share of the costs of development and operation of the pooled unit shall be borne by each consenting working interest owner in the same proportion to the total costs that his acreage bears to the total acreage in the pooled unit.

PROVIDED FURTHER, That the proportionate share of the costs of development of the pooled unit, including a reasonable charge for supervision, shall be paid out of production by each non-consenting working interest owner and shall be 110 per cent of the same proportion to the total costs of drilling and completing the well that his acreage bears to the total acreage in the pooled unit.

PROVIDED FURTHER, That the share of the costs for development of the pooled unit, as determined above, which is to be paid by the mineral interest owners shall be withheld only from the working interests' share (7/8) of the revenues derived from the sale of the hydrocarbons produced from the well on the pooled unit. Royalty payments are not to be affected by the withholding of any funds for the purpose of paying out a proportionate share of the costs of development and operation of the pooled unit.

PROVIDED FURTHER, That the applicant shall furnish the Commission with an itemized schedule of well costs upon completion of a well on the subject gas proration unit.

IT IS FURTHER ORDERED:

That jurisdiction of this cause is retained for the entry of such further orders as the Commissiom may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

EDWIN L. MECHEM, Chairman

E. S. WALKER, Member

A. L. PORTER, Jr., Member & Secretary

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

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:

CASE NO. 13957
ORDER NO. R-1960-A

APPLICATION OF ENERGEN RESOURCES CORPORATION TO AMEND THE COST RECOVERY PROVISIONS OF COMPULSORY POOLING ORDER NO. R-1960, RIO ARRIBA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 29, 2007, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 17th day of July, 2008, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due notice has been given, and the Division has jurisdiction of the subject matter of this case.

(2) By this application, Energen Resources Corporation ("Energen", "Applicant" or "Operator") seeks an order amending an existing compulsory pooling order to authorize Applicant as Operator to sell a non-consenting pooled party's working interest share of gas production from the compulsory pooled unit in order to enable Operator to recover the pooled party's share of operating expenses, and to otherwise prescribe and settle the rights and duties of the Operator and the pooled party with respect to the marketing of gas production from the pooled unit and the recovery by Operator of operating costs and overhead charges.

(3) The compulsory pooling order at issue in this proceeding (the Pooling Order) is Order No. R-1960, entered in Case No. 2249 on May 5, 1961. That order established a compulsory-pooled unit (the Unit) comprising the SW/4

of Section 2, Township 25 North, Range 3 West, NMPM, in Rio Arriba County, New Mexico, as to the Pictured Cliffs Gas Pool [Tapacito-Pictured Cliffs Gas Pool (85920)]. The Unit is dedicated to Applicant's Martinez Well No. 1 (API No. 30-039-06124), located 790 feet from the South line and 790 feet from the West line (Unit M) of said Section 2 (the subject well).

(4) Joseph A. Sommer (Sommer) was the owner of an unleased mineral interest in the S/2 SW/4 of Section 2. Sommer did not contractually commit his interest to the subject well and did not elect to participate therein under the Pooling Order. Accordingly he became a non-consenting party, under the terms of the Pooling Order, as to his deemed working interest (7/8ths of his total interest, pursuant to NMSA 1978, Section 70-2-17). Sommer's interest is now owned by JAS Oil and Gas Company, LLC (JAS).

(5) Applicant appeared at the hearing through counsel and presented the testimony of a landman, who testified as follows:

(a) The subject well was drilled in 1961 by Southern Union Production Company and completed as a producer of natural gas from the Pictured Cliffs formation. Union Texas Petroleum and Burlington Resources operated the well at various times. Applicant acquired the well and became Operator in 1997.

(b) Prior to 1992, the operators of the Unit sold gas produced from the subject well for the account of the working interest owners, including Sommer. However, in 1992, then operator Meridian Oil notified the working interest owners that it would no longer market their share of gas production from the subject well. For a time thereafter a Meridian affiliate purchased gas from some of the working interest owners, but, in 1995, that arrangement was also terminated.

(c) All of the working interest owners in the Unit except for Sommer/JAS, are parties to a joint operating agreement which includes a gas balancing agreement. The gas balancing agreement provides that, in the event that a working interest owner fails to arrange for the sale of its share of gas produced from the Unit, the operator is authorized to sell the corresponding percentage of gas produced for its (operator's) own account. The operator must account for the quantity of gas allocable to the non-selling working interest owner out of future production, if, as and when that owner arranges for the sale of its gas. If the non-selling working interest owner has not recouped all of the gas to which it is entitled under the terms of the gas balancing agreement when the well ceases to produce, then the operator is obligated to account to the non-selling owner in money on a basis provided in the gas balancing agreement.

(d) Neither JAS nor its predecessor, Sommer, never signed, ratified, or otherwise assented to, the joint operating agreement or the gas balancing agreement.

(e) Nevertheless, both Operator and previous operators have treated the Sommer/JAS interest as though it were governed by the gas balancing agreement, and have maintained a gas balancing account for that interest.

(f) When Applicant assumed operation of the Unit, the previous operator's gas balancing record showed the Sommer interest as "oversold," meaning that Sommer had been compensated for more gas than his share of the actual production from the Unit. Since assuming operations, however, Applicant has marketed the gas corresponding to Sommer/JAS working interest share of production from the unit for its own account, as it would have been entitled to do if Sommer/JAS had assented to the gas balancing agreement. Accordingly, Applicant's gas balancing accounts now show the JAS interest as "undersold," meaning that JAS has been compensated for less gas than its percentage share of the gas actually produced and sold from the Unit.

(g) Applicant has, at all times, paid Sommer/JAS the proceeds of sale of its deemed royalty interest (1/8th of its prorata share of production from the Unit, as provided in NMSA 1978, Section 70-2-17), and there is no controversy concerning the Sommer/JAS royalty interest.

(h) However, as to the Sommer/JAS deemed 7/8ths working interest, Applicant has invoiced Sommer, and subsequently JAS, for a proportionate share of the expenses of operating the subject well, including charges for overhead, as it would be entitled to do under the joint operating agreement if Sommer/JAS had assented to that agreement, but has not paid Sommer/JAS any portion of the proceeds Applicant has received from the sale of the corresponding share of gas produced from the Unit. Applicant has instead credited gas corresponding to this interest to a gas-balancing account as though Sommer/JAS were a party to the gas balancing agreement.

(i) Sommer and JAS has not paid invoices sent to it by Applicant for operating expenses or otherwise compensated Applicant for any part of the operating expenses pertaining to the subject well and the Unit.

(j) By various letters, Sommer made known to Applicant his position that he was not liable for operating expenses in the absence of revenue, and that Applicant should account to him for his working interest share of production from the Unit. Sommer's letters also asserted that

Applicant did not have authority to sell the share of gas production from the Unit corresponding to the Sommer/JAS working interest.

(k) Applicant made various offers of settlement of the resulting controversy. However none of its offers was accepted.

(l) It is the custom and practice in the oil and gas industry for working interest owners to enter into gas balancing agreements similar in terms to that to which the working interest owners (other than Sommer/JAS) agreed with respect to the Unit.

(m) The operating expenses invoiced to Sommer/JAS include "producing overhead" charges computed at the rate provided in the joint operating agreement agreed to by the other working interest owners, adjusted for inflation, as allowed by the 1984 joint operating agreement, in accordance with periodic bulletins issued by COPAS (Council of Petroleum Accountants' Societies).

(n) The producing overhead charges, including the COPAS adjustments, are fair and reasonable. It is usual and customary, though not universal, in the oil and gas industry to provide in joint operating agreement for escalation of overhead charges in accordance with the COPAS bulletins, and has been usual and customary, to the witness's knowledge, for at least 25 years. The witness expressly disclaimed knowledge as to what may or may not have been customary in 1961, when the Pooling Order was issued.

(o) Applicant seeks an order authorizing it to market JAS's working interest share of gas produced from the Unit for the account of JAS, and to reimburse itself out of amounts received from such sale for JAS's prorata share of operating costs, including producing overhead. Alternatively, Applicant seeks authority to market so much of JAS's working interest share of production from the Unit as is necessary to enable Applicant to recover JAS's prorata share of operating costs. Applicant also seeks an amendment to the Pooling Order authorizing it to charge producing overhead at the rates provided in its joint operating agreement with the other working interest owners, as adjusted in accordance with the COPAS bulletins.

(6) JAS appeared though counsel in opposition to the application, and presented the testimony of Kurt Sommer, the present beneficial owner of the Sommer/JAS interest, as a fact witness. Mr. Sommer testified, *inter alia*, that he believed that the operating expenses charged to this well, including the producing overhead charges, were not fair and reasonable, and that JAS opposed the Division granting Applicant any relief relating to past production or past operating expenses.

Recovery of Operating Costs

(7) Read literally, the Pooling Order does not contain any provision for recovery of operating costs incurred after payout from the share of production allocated to a non-consenting pooled party.

(8) Two provisions of the Pooling Order provide for recovery of costs. Since the provisions of the Pooling Order are not numbered, they will be referenced herein as the first proviso, being the paragraph of the order beginning, "provided however," and the second proviso, being the first of three paragraphs beginning, "provided further."

(9) The first proviso states that the "costs of development and operation of the pooled unit shall be borne by" the *consenting* working interests owners. The second proviso then provides for recovery of "the proportionate share of the costs of development, including a reasonable charge for supervision" out of a *non-consenting* working interest owner's share of production. However the phrase, "including a reasonable charge for supervision" is interpreted, the second proviso cannot the construed as expressly providing for recovery of operating expenses incurred after payout, because (a) operating costs incurred after payout are not *included* in "costs of development," and (b) the proviso states that the recovery allowed "shall be [not shall include] 110% of . . . the costs of drilling and completing the well . . . ." It is apparent that the second proviso expressly covers only to costs incurred prior to payout.

(10) If the second proviso is disregarded as literally addressing only costs incurred prior to payout, then the first proviso would seem to leave costs of operation to be borne solely by the consenting parties, unless the first proviso is also construed as referring only to operating costs incurred prior to payout, in which event the order is silent regarding responsibility for operating costs incurred after payout.

(11) It would, however, not be reasonable to construe the Pooling Order as either imposing the post-payout operating costs on the consenting parties, or as, by its silence regarding such costs, precluding recovery of the non-consenting pooled parties' share of such costs out of production. The compulsory pooling statute in force at the time of the entry of the Pooling Order, NMSA 1953, Sec. 65-3-147, as enacted by Laws 1953, Ch. 76, Section 1, did not contain the provision found in the present pooling statute to the effect that :

> Such pooling order of the division shall make definite provision as to any owner, or owners, who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of

> production to the parties advancing the costs of the development and operation . . . . [NMSA 1978, Section 70-2-17, as amended].[1]

However, the statute then in effect did provide that, "[a]ll orders requiring such pooling shall be upon terms and conditions that are just and reasonable." If the Pooling Order were construed as allowing non-consenting pooled parties their share of production without charge for reasonable operating costs, the Pooling Order would not just and reasonable.

(12) Accordingly, to the extent that the Pooling Order may be subject to any different construction, it should be amended, retroactively to the date of its issuance, to provide that the parties incurring costs of operation of the subject well and the Unit shall be entitled to recover the proportionate share of those costs, but not exceeding such amounts as are reasonable, from a non-consenting pooled party's working interest share of production from the Unit, but solely out of such party's share of production.

(13) However, as to operating costs other than producing overhead charges, the record in this case is not sufficient for the Division to determine what amounts are reasonable, either with respect to costs incurred in the past or those being incurred currently. Applicant's witness specifically stated that he was not testifying as to the reasonableness of costs other than administrative overhead. JAS's witness testified that operating costs were not reasonable. However, it was unclear whether he referred to all operating costs, or only overhead charges, and he premised his testimony of an exhibit (Energen Exhibit 22) that is confusing, and which he did not clearly explain. Furthermore, JAS's witness was not qualified as an expert, and therefore was not competent to give opinion testimony.

(14) In view of the deficiencies of the record in this respect, the Division should direct Applicant to furnish JAS a full accounting of past operating costs, and periodic statement of currently incurred costs, and JAS should be allowed a period of time to object to those costs (excluding producing well overhead charges, as provided below), following which, if necessary, the Division will determine the reasonableness of such costs in a subsequent hearing.

Producing Well Overhead

(15) The Pooling Order, in the second proviso, evidences an intention to allow the operator to recover "a reasonable charge for supervision." This intent was in accord with the requirement of the then-applicable statute, which provided for recovery of "costs of development and operation . . . including a reasonable charge for supervision." Laws 1961, Ch. 65, Section 1. However, the Pooling

[1] An amended pooling statute in substantially identical language to present NMSA 1978, Section 70-2-17, including the quoted language, had been adopted by the Legislature prior to the issuance of the Pooling Order, but was not yet effective on that date. *See* Laws 1961, Ch. 65, Section 1.

Order does not prescribe either an amount or a formula for determining a reasonable charge for supervision.

(16) Energen's evidence establishes that the producing well overhead charges it has charged to the other non-operators in the subject well, including the periodic escalations of those charges, are customary, fair and reasonable. Accordingly, the Pooling Order should be amended, retroactively, to provide for recovery of the producing well overhead charges allocable to the Sommer/JAS interest, solely out of production from the Unit, in the manner hereinafter provided concerning recovery of past costs and future costs, respectively.

(17) Retroactive amendment of the pooling order to provide for recovery of overhead charges based on testimony as to what is now fair and reasonable is appropriate in this case only because (a) the Pooling Order is silent as to any amount or formula for such charges, and (b) there is no evidence that a different basis for such charges would have been fair and reasonable when the Pooling Order was issued. This order should not be read as a precedent for retroactive amendment of pooling orders to increase the overhead charges provided if those orders specifically provide the amount of such charges or a formula for computing the same, or for amendment of such orders to provide for escalation of overhead rates if the orders provide a specific amount and do not provide for escalation.

Provisions Concerning Future Production and Operating Costs

(18) Applicant has asked that the Division authorize it to sell the share of gas applicable to the Sommer/JAS 7/8ths working interest in production from the Unit, and to recover, out of the proceeds of such sale, the Sommer/JAS share of expenses of operating the Unit. The Division has authority, pursuant to NMSA 1978, Section 70-2-17, to provide in pooling orders such terms as are just and reasonable. The evidence in this case supports the conclusion that, with respect to future production from the Unit and expenses hereafter incurred, such an arrangement would not be just and reasonable. Accordingly, from August 1, 2008 forward, the operator of the Unit should be authorized to sell for the account of Sommer/JAS the share of gas produced from the Unit allocable to Sommer/JAS's deemed 7/8ths working interest, and to withhold therefrom reasonable and necessary costs of operating the Unit hereafter incurred, accounting to Sommer/JAS for any amounts remaining after withholding such costs.

Provisions Concerning Past Production and Operating Costs

(19) Presumably the Division would have authority, pursuant to its general power to include in pooling orders terms that are just and reasonable, to authorize the unit operator to sell a pooled party's share of gas produced from the Unit, or to treat such share as accruing to the account of such party in a gas balancing account, according to what the Division might conclude, in a particular

case, would be just and reasonable. However, there is nothing in the Pooling Order to suggest that the Division intended to impose either such provision, or that it found that either such provision would be fair and reasonable in the case of this Unit. To amend the Pooling Order retroactively to provide for disposition of past production, assuming the Division would have authority to do so, would not be just and reasonable at this time, as it would attempt to assign to the parties' past actions an effect different from what they may have intended when they undertook those actions.

(20) Determining the effects of sale of production in which a pooled party owns an interest under a pooling order that is silent on the subject is a more appropriate function for a court than for the Division. Accordingly, the parties should be left to their remedies in the courts for determining when, and in what manner, Sommer/JAS shall receive its share of past production from the Unit for which it has not received payment.

(21) Since Sommer/JAS may incur delay in receiving its share of past production, while Applicant has received the entire proceeds of selling 100% of the production from the Unit, it would not be just and reasonable to allow applicant to recover past costs out of Sommer/JAS's share of future production. Applicant should recover those costs out of proceeds of past production payable to Sommer/JAS as and when recovered by Sommer/JAS.

Applicability of Division Rule 414

(22) Applicant has asked for relief under Division Rule 414, which provides:

> **19.15.6.414GAS SALES BY LESS THAN ONE HUNDRED PERCENT OF THE OWNERS IN A WELL:**
> When there are separate owners in a well and where any such owner's gas is not being sold with current production from such well, such owner may, if necessary to protect his correlative rights, petition the division for a hearing seeking appropriate relief.

(23) Rule 414 provides that where an owner's gas is not being sold with current production, "*such owner*" may petition the Division for appropriate relief. Applicant is not an owner whose gas is not being sold with current production. Sommer/JAS has not applied for any relief under Rule 414. Clearly Rule 414 has no application to this case, and Applicant's petition, to the extent it seeks relief under that rule, should be denied.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Energen Resources Corporation, Order R-1960 is hereby amended, effective as of the date of first production from the Martinez Well No. 1 (API No. 30-039-06124) in Section 2, Township 25 North, Range 3 West, Rio Arriba County, New Mexico, to include the following provision:

> Reasonable charges for supervision (combined fixed rates) are hereby fixed at $350 per month while producing, as of 1984, provided that these rates shall be adjusted annually, from 1984 forward, pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*" The operator is authorized to withhold from production attributable to each pooled party's deemed working interest, the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(2) For all production from the Unit occurring from and after August 1, 2008, at 7:00 a.m., the operator of the Unit shall be authorized, unless otherwise provided by agreement between the parties, to sell each non-consenting pooled party's working interest share of gas produced from the Unit for such party's account. Operator shall account to such non-consenting working interest owner for its share of proceeds received after deducting such party's share of operating costs for the period of time to which such sales apply (and for any prior periods, after August 1, 2008, for which Operator has not recovered such costs previously), including charges for supervision, as provided above. The operator shall, within 70 days after the end of any month in which it sells a pooled party's share of gas under this provision, provide such pooled party a detailed statement or statements showing proceeds received and expenses deducted therefrom. The non-consenting pooled party shall have 45 days after receipt of such statement to file objections thereto with the Division. If no objection is filed, the expenses shown on such statement shall be deemed to constitute reasonable costs. If the pooled party objects to any expenses deducted, the Division will determine reasonable costs after notice and hearing.

(3) Within thirty days after the issuance of this Order, Energen shall provide to Sommer/JAS a full and complete accounting of all costs of operating the Unit incurred prior to August 1, 2008, for which it claims that it is entitled to reimbursement out of the working interest share of production from the Unit allocable to Sommer/JAS. Sommer/JAS shall have 45 days after receipt of such statement to file objections thereto with the Division. If no objection is filed, the expenses shown on such statement shall be deemed to constitute reasonable costs. If Sommer/JAS objects to any such expenses, the Division will determine reasonable costs after notice and hearing.

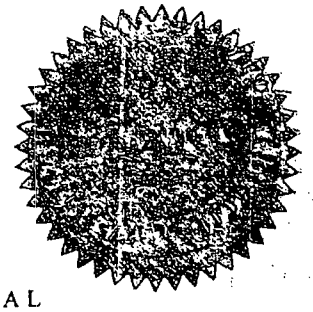
(4) Unless a court otherwise decrees, or the parties otherwise agree, Energen shall be entitled to offset the reasonable costs determined as provided in Ordering Paragraph (3) against any amount recovered by Sommer/JAS as proceeds allocable to its working interest share of production from the Unit occurring prior to August 1, 2008, whether recovered by judgment of a court, pursuant to gas balancing, or otherwise.

(5) Applicant's petition for relief under Division Rule 414 is denied.

(6) The parties may override this Order in whole or in any part by mutual agreement.

(7) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.
Director

SEAL

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 9016
Order No. R-8361

APPLICATION OF THE OIL CONSERVATION DIVISION ON ITS OWN MOTION FOR THE ADOPTION OF A NEW RULE 414 TO REGULATE SALES OF GAS BY SEPARATE OWNERS IN A WELL.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 o'clock a.m. on October 23 and November 20, 1986, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 18th day of December, 1986, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) The Oil Conservation Division (Division) seeks the adoption of a new Rule 414 to regulate the sales of gas from wells by owners of less than 100 percent of the working owners.

(3) An industry committee had recommended that the Division examine such sales to determine if rules therefor were necessary to protect the correlative rights of the owners in such a well.

(4) When such sales occur, it may be possible for an owner to sell more than his share of the gas from a well, thereby violating the correlative rights of the other owners in the well.

(5) When such sales occur, a small percentage interest owner may overproduce a well causing it to be shut in under the gas proration rules and at a time when the other owners in the well might otherwise be able to sell their share.

(6) A special study committee appointed by the Division Director considered four proposed rules as follows:

RULE 414. PROPOSAL NO. 1.

Where there are separate owners in a well, no gas sales may commence or be made from such well until all owners have agreed to a single well operator with authority to commit 100 percent of the gas therefrom.

The well operator must provide the Division with a statement attesting to such agreement before any allowable will be assigned or before any authorization to produce will be made.

RULE 414. PROPOSAL NO. 2.

Where there are separate owners in a well, no gas sales may commence or be made from such well unless such owners have entered into a gas balancing agreement. Such balancing agreement must provide for each owner to receive his just and equitable share of the gas from the well(s) covered thereunder.

The well operator must provide the Division with a statement attesting to such agreement before any allowable will be assigned or before any authorization to produce will be made.

RULE 414. PROPOSAL NO. 3.

Where there are separate owners in a well and where there is no gas balancing agreement providing for each such owner to receive his just and equitable share of the gas therefrom, no individual owner may sell a volume of gas in any month greater than his percentage interest in the well's current allowable or purchasers per well allocation.

In pools with assigned allowables, the volume to be sold may be determined by multiplying the appropriate percentage interest times the allowable. In pools without assigned allowables, the volume to be sold will be that volume which is produced in that period of time found by multiplying the number of days in the month by the appropriate percentage interest.

RULE 414. PROPOSAL NO. 4

When there are separate owners in a well and where any such owner's gas is not being sold with current production from such well, such owner may, if necessary to protect his

correlative rights, petition the Division for a hearing seeking appropriate relief.

(7) The special study committee could not agree on or recommend proposals No. 1, 2, or 3.

(8) The committee did recommend proposal No. 4 in that it would advise owners how they could seek relief from the Division if less than one hundred percent of the owners of the production from a well authorized the sale of gas from a well and such sale threatened the correlative rights of an unconsenting interest owner.

(9) Such a hearing process would permit owners in wells where such a sale occurs the opportunity to seek protection of their correlative rights and permit the Division, through the adversarial process, to gain the problem-specific knowledge to better deal with problems relating to sales by less than one hundred percent of the owners of a well.

(10) Committee proposal No. 4 should be adopted effective January 1, 1987.

IT IS THEREFORE ORDERED THAT:

(1) Effective January 1, 1987, a new Rule 414 is hereby adopted to read in its entirety as follows:

> "RULE 414 GAS SALES BY LESS THAN ONE HUNDRED PERCENT OF THE OWNERS IN A WELL
>
> When there are separate owners in a well and where any such owner's gas is not being sold with current production from such well, such owner may, if necessary to protect his correlative rights, petition the Division for a hearing seeking appropriate relief."

(2) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JIM BACA, Member

ED KELLEY, Member

R. L. STAMETS, Chairman and Secretary

S E A L

dr/