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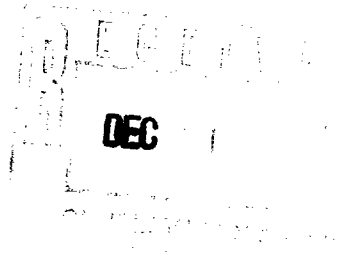
December 11, 1996



VIA FACSIMILE
(505) 827-8177

Mr. William J. LeMay, Director
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: ***BURLINGTON'S RESPONSE TO PENWELL'S MOTION FOR A STAY***
BURLINGTON'S MOTION TO DISMISS PENWELL'S CASE
NMOCD Cases 11613 and 11622
Order R-10709

Dear Mr. LeMay:

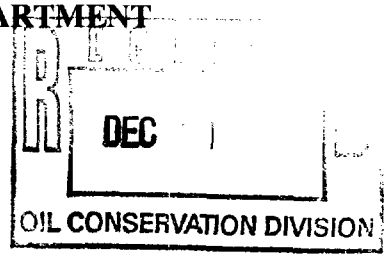
On behalf of Burlington, I received a copy of Penwell's Motion for a Stay of Order R-10709 for the referenced cases. We request that you deny this Motion. I have enclosed Burlington's response in support of that denial. In addition, my response also includes Burlington's Motion to Dismiss Penwell's pooling application for lack of standing.

Very truly yours,

W. Thomas Kellahin

cc: Rand Carroll, Esq. OCD
Michael E. Stogner, Hearing Examiner
Burlington Resources Oil & Gas Company
Attn: Don Davis
William F. Carr, Esq.
Attorney for Penwell Energy, Inc.

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. 11613

APPLICATION OF BURLINGTON RESOURCES OIL & GAS COMPANY FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO

CASE NO. 11622

APPLICATION OF PENWELL ENERGY, INC. COMPULSORY POOLING LEA COUNTY, NEW MEXICO

ORDER NO. R-10709

BURLINGTON RESOURCES OIL & GAS COMPANY'S MOTION TO DISMISS PENWELL CASE 11622 AND RESPONSE TO PENWELL ENERGY, INC.'S MOTION FOR A STAY OF DIVISION ORDER R-10709

Burlington Resources Oil & Gas Company, ("Burlington"), by its attorneys, Kellahin & Kellahin, hereby moves the New Mexico Oil Conservation Commission to dismiss Penwell Energy, Inc. application in NMOCD Case 11622, and hereby responds to the Motion of Penwell Energy, Inc. ("Penwell") for a Stay of Division Order R-10709, in support states:

(1) as of the cutoff dates established for notice in Case 11613, Penwell had no ownership interest and therefore no standing to file its compulsory pooling application on September 10, 1996;

(2) Penwell has waived it right to seek a stay of Order R-10709;

(3) that if such a stay is granted, Burlington will suffer irreparable harm;

(4) that Penwell's Motion is solely for delay with intent to circumvent the Rules and Regulations of the Division as evidenced by the proceedings on file herein, and should be denied;

(5) that there is no reasonable probability that Penwell will prevail at a DeNovo hearing in this case;

(6) that Penwell has agreed to Burlington's proposal for this well with the exception that Penwell seeks to operate in order to avoid having the interests of C. W. Trainer, Frederick Prince and Ann and Elizabeth Losee pooled by Burlington;

(7) that in the unlikely event Penwell should prevail, then Burlington can surrender operations to Penwell even if drilling of the well has commenced.

PENWELL'S ACTIONS IN THIS CASE ARE AN ATTEMPT TO CIRCUMVENT THE PURPOSES OF THE NEW MEXICO OIL & GAS ACT

On November 26, 1996, the Division entered Order R-10709 (copy attached) in which the Division found that:

"(8) For more than 17 months, Burlington has sought to drill a well on and operate the subject acreage only to be frustrated by tactics that can be interpreted as actions taken by both Trainer and Prince to avoid being pooled and to delay this matter.

(9) It would only serve to circumvent the purposes of the New Mexico Oil and Gas Act to allow a record owner of a working interest (Trainer and Prince) in the spacing unit at the time said party was served with a

compulsory pooling application to avoid or delay having that entire percentage interest pooled by assigning, conveying, selling or otherwise burdening or reducing that interest.

(10) Burlington having: (i) first proposed a well within the subject 40 acres (ii) an approved APD for its proposed well (iii) afforded an opportunity to Trainer for more than 15 months for Trainer to drill its well and Trainer failing to do so and, (iv) a proposal that is fair and reasonable and provides for an equitable solution for the exploration of this 40-acre oil spacing and proration unit with the parties owning the majority having already been provided the opportunity to drill but having failed to drill should be named the operator of the proposed standard 40-acre oil spacing and proration unit comprising the NW/4SE/4 (Unit J) of said Section 24 in which its Checkmate "24" Federal Well No 1 is to be dedicated and, in order to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completed resulting from this order, the application of Burlington in Division case 11613 **should be approved** (emphasis added) by pooling all mineral interest, what ever they may be, within said unit. Correspondingly, the application of Penwell in Case 11622 should therefore be denied."

SUMMARY OF ESSENTIAL FACTS

(1) From April 21, 1995 to September 27, 1996, the working interest owners in the NW/4SE/4 of Section 24, T22S, R32E, NMPM, Lea County, New Mexico were as follows:

Frederick Prince	50.251%
C. W. Trainer	31.324%
Burlington	13.401%
Ann Losee	2.512%
Elizabeth Losee	2.521%

(2) On August 26, 1996, the applicant in Case 11613, Burlington Resources Oil & Gas Company, formerly Meridian Oil Inc. ("Burlington"), filed its application seeking a compulsory pooling order against Trainer, Prince , Ann and Elizabeth Losee.

(3) On August 30, 1996 Trainer signed a certified mail- return receipt card showing acceptance of Burlington's pooling application.

(4) Trainer, after being served with Burlington's compulsory pooling application, sought to avoid the consequences of compulsory pooling by attempting to transfer his interest to Penwell.

(5) After August 30, 1996, C. W. Trainer and Frederick Prince had contacted Penwell, told Penwell that they were about to be pooled by Burlington and entered into a verbal agreement with Penwell to sell their interests to Penwell for $100.00 per acre plus an overriding royalty, provided Penwell could obtain the right to operate the well originally proposed by Burlington and commence drilling the well by November 15, 1996.

(6) Under this verbal agreement with Trainer and Prince, Penwell had the option to withdraw from purchasing Trainer and Prince's interest if they were not successful in obtaining operations for the drilling of the subject well.

(7) On September 10, 1996, the applicant in companion Case No. 11622, Penwell Energy, Inc. ("Penwell"), filed a competing pooling application against Burlington in which Penwell sought to be designated operator of this well.

(8) Also on September 10, 1996, the same date as filing its pooling application, Penwell sent its written proposal to Burlington.

(9) As of the date of the Examiner hearing on October 3, 1996, Penwell had obtained the voluntary agreement of Trainer, Prince and Losee and had assigned part of its interest to CoEnergy Central of Detroit Michigan such that the parties would pay for the costs of the well as follows:

Burlington	13.40100%
Penwell Energy, Inc.	12.23625%
CoEnergy Central	69.33875%
Losee	5.02400%

TIME IS OF THE ESSENCE

Burlington must commence the drilling of this well by December 31, 1996 or risk losing the availability of funds with which to drill and complete this well.

The Division order shortened the typical time frames under its pooling orders and specifically conditioned this order upon the fact that Burlington needed to and therefore was required to commence this well by December 31, 1996.

PENWELL WAIVED ITS RIGHT TO SEEK A STAY OF ORDER R-10709

Penwell agreed at the Examiner Hearing that regardless of whether Burlington or Penwell prevailed, that the well would be spudded by December 31, 1996 in time to save Burlington's funding.

By its actions, Penwell has waived it right to seek a stay of Order R-10709.

DISPUTE OVER OPERATIONS

Burlington contended at the Examiner hearing that it should be designated the operator because:

(a) Burlington first proposed the well;

(b) Burlington has an approved Application for Permit to Drill the subject well;

(c) Burlington afforded an opportunity to Trainer for more than 15 months for Trainer to drill the well and Trainer failed to do so;

(d) Trainer failed to timely commence this well, Trainer has forfeited the right to now select Penwell as the operator;

(f) Burlington in the last two years has drilled and now operates 27 wells in these two pools and has a working interest in 14 other wells operated by Pogo Producing Company;

(g) Penwell has no operations in either of these pools and its nearest well is some 6 miles away;

(h) Burlington has extensive operational experience in this area and has been instrumental in the last year in reducing well costs from $700,000 to $650,000 and has an established plan which is likely to reduce costs by another $74,000 per well;

(i) Burlington has developed substantial geologic experience in this area and has already assumed the exploratory risk of drilling and completing commercial wells in these two pools which will now be to the benefit of all parties;

(j) Penwell has no experience in this area;

(k) Penwell has devoted none of its geologic or engineering resources to exploring or developing either of these two pools;

Penwell contended at the Examiner hearing that it should be designated the operator because:

(a) a majority of the interest owners desire Penwell to operate even though Burlington will be paying more of the actual costs of this well than Penwell.

(b) Penwell is in agreement with all terms and conditions proposed by Burlington for this well, except that Penwell wants to be designated operator.

Penwell did not object an the Examiner hearing to Burlington's plan for the drilling, completing and operation of the subject well. In fact Penwell's proposal appears to be copied from Burlington's AFE and is virtually identical.

Regardless of whether Burlington commences this well prior to the Commission hearing, such action will not preclude the Commission from awarding operations to Penwell. In the event of that unlikely occurrence, then Penwell can be substituted as operator and operations can continue.

PENWELL LACKS STANDING IN THIS CASE AND ITS APPLICATION MUST BE DISMISSED

Burlington hereby moves the Oil Conservation Commission to dismiss the application of Penwell Energy, Inc. in Case 11622 and as grounds therefore states:

The Division **found that:**

> "(8) For more than 17 months, Burlington has sought to drill and operate this well only to be frustrated by tactics that can be interpreted as actions taken by both Trainer and Prince to avoid being pooled and to delay this matter.
>
> (9) It would only serve to circumvent the purposes of the New Mexico Oil and Gas Act to allow a record owner of a working interest (Trainer and Prince) in the spacing unit at the time said party was served with a compulsory pooling application to avoid or delay having that entire percentage interest pooled by assigning, conveying, selling or otherwise burdening or reducing that interest."

The cutoff dates for notification of affected interest owners is necessary in this case and should be consistent with the precedent established by the Division by Order R-10672.

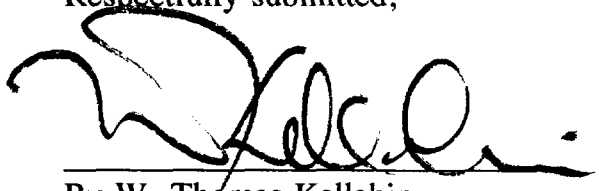
The cutoff dates for this case are the dates each adverse party was served with notice of Burlington's pooling application which was Trainer on August 30, 1996, Elizabeth Losee on August 30, 1996, Prince on September 3, 1996, Ann Losee on September 4, 1996.

The adoption of these cut off dates preclude these parties from transferring their property interest to Penwell/CoEnergy.

As of the cutoff dates established in this case, Trainer, Prince and the Losees **and not Penwell** were the owners pursuant to Section 70-2-17(C) NMSA (1978). Penwell's pooling application is nothing more than an attempt by Trainer/Prince to defeat Burlington's effort to be designated operator in this case. As of the cutoff dates established in this case Penwell had no ownership interest and therefore no standing to file its compulsory pooling application on September 10, 1996.

Accordingly the Penwell application should be dismissed and its motion for a stay denied.

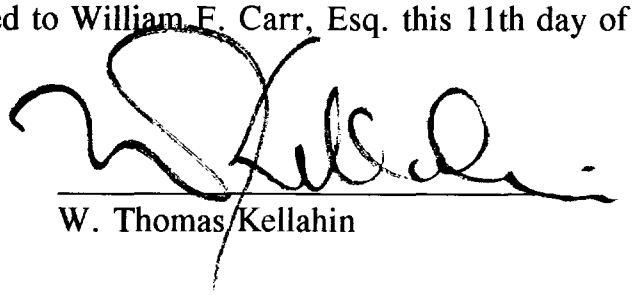
Respectfully submitted,



By W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504-2208
Attorney for Burlington Resources Oil & Gas Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response to Penwell's Motion for a Stay was hand delivered to William F. Carr, Esq. this 11th day of December, 1996.



W. Thomas Kellahin

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:

APPLICATION OF BURLINGTON RESOURCES OIL & GAS COMPANY FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO. *Case No. 11613*

APPLICATION OF PENWELL ENERGY, INC. FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO. *Case No. 11622*

Order No. R-10709

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on October 3, 1996, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 26th day of November, 1996, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

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

(2) Division Case Nos. 11613 and 11622 were consolidated at the time of the hearing for the purpose of testimony because the approval of one case will correspondingly require the denial of the other and in order to provide a comprehensive decision in these cases, one order should be entered for both cases.

(3) On August 26, 1996, the applicant in Case 11613, Burlington Resources Oil & Gas Company, formerly Meridian Oil Inc., henceforth to be referred to as "Burlington", filed its application seeking an order pooling all mineral interests from the surface to the

base of the Bone Spring formation underlying the NW/4 SE/4 (Unit J) of Section 24, Township 22 South, Range 32 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated West Red Tank-Delaware Pool and the Undesignated Red Tank-Bone Spring Pool. Said unit is to be dedicated to Burlington's proposed Checkmate "24" Federal Well No. 1 (**API No. 30-025-32945**) to be drilled at a standard oil well location 1980 feet from the South and East lines of said Section 24.

(4) On September 10, 1996, the applicant in companion Case No. 11622, Penwell Energy, Inc. ("Penwell"), filed a competing pooling application in which Penwell seeks to be designated operator of the aforementioned 40-acre unit and its proposed Checkers "24" Federal Well No. 1 to be drilled at a standard oil well location 1980 feet from the South and East lines (Unit J) of said Section 24.

(5) Evidence presented at the time of the hearing indicates that from April 21, 1995 to September 27, 1996, working interest ownership within the NW/4 SE/4 of said Section 24 was as follows:

F. Prince, IV, a/k/a Frederick H. Prince, IV of Washington, DC	50.251%
C. W. Trainer et ux Jackie Trainer of Scottsdale, Arizona	31.324%
Burlington of Midland, Texas	13.401%
Ann Ransome Losee of Albuquerque, New Mexico	2.512%
Elizabeth Losee of Albuquerque, New Mexico	2.521%.

(6) In their efforts to obtain a voluntary agreement, Burlington provided testimony which indicates that:

(a) on February 16, 1995, Burlington filed an Application for Permit to Drill ("APD") which was approved by the U. S. Bureau of Land Management on May 4, 1995 and at this time remains in full force and effect;

(b) on April 21, 1995, Burlington formally proposed to the other working interest owners the voluntary formation of a 40-acre oil spacing unit consisting of the NW/4 SE/4 (Unit J) of said Section 24 to be dedicated to the subject well to be drilled and operated by Burlington;

(c) on May 4, 1995, C. W. Trainer ("Trainer") rejected Burlington's proposal and counter proposed that he operate

this well which Burlington agreed to by signing Trainer's authority for expenditure ("AFE");

(d) from April, 1995 to August 14, 1996, Burlington had numerous discussions with Trainer concerning the subject well and repeatedly requested Trainer to commence the well;

(e) during these discussions in 1996, Trainer stated that he would sell his interest to Burlington for $4,000.00 per acre;

(f) on August 14, 1996, Burlington having determined that Trainer probably had no intentions of commencing this well, again proposed the subject well with Burlington as operator to these same interest owners and requested their voluntary joinder in this well within 30 days of their receipt of the proposal;

(g) as of August 23, 1996, Burlington had been advised by Trainer that he would not voluntarily agree to Burlington's proposal;

(h) on August 26, 1996, Burlington filed its pooling case and requested that this matter be set for a hearing before the Division on the next available Examiner's docket then scheduled for September 19, 1996; and,

(i) on August 30, 1996 Trainer signed a certified mail-return receipt card showing acceptance of Burlington's pooling application, however, because of a conflict with the New Mexico Oil Conservation Commission's hearing schedule, the Division postponed its September 19, 1996 docket until September 26, 1996.

(7) Evidence and testimony presented by Penwell in support of its request and to counter Burlington's application indicates that:

(a) after August 30, 1996, Trainer and F. Prince, IV, a/k/a Frederick H. Prince, IV ("Prince") had contacted Penwell, informed Penwell that both the Trainer and Prince interests

were to be pooled by Burlington, and entered into a verbal agreement with Penwell to sell their interests to Penwell for $100.00 per acre plus an overriding royalty, provided Penwell could obtain the right to operate the well originally proposed by Burlington and commence drilling the well by November 15, 1996;

(b) under this verbal agreement with Trainer and Prince, Penwell had the option to withdraw from purchasing Trainer and Prince's interest if they were not successful in obtaining the right to operate the well;

(c) on September 10, 1996, as stated previously in Finding Paragraph No. (4), above, Penwell filed with the Division a competing pooling case against Burlington seeking to operate this well and requested its case be set for hearing on the October 3, 1996 docket;

(d) also on September 10, 1996, the same date as filing its pooling application, Penwell sent its written proposal to Burlington;

(e) on September 12, 1996, legal counsel for Penwell, formally advised Burlington that Penwell had filed a compulsory pooling application and provided a copy of said application; and,

(f) as of the date of the subject hearing, Penwell had obtained the voluntary agreement of Trainer, Prince, Ann Ransome Losee, and Elizabeth Losee and had assigned part of its interest to CoEnergy Central of Detroit, Michigan such that the parties would pay for the costs of the well as follows:

Burlington	13.40100%
Penwell Energy, Inc.	12.23625%
CoEnergy Central	69.33875%
Ann Ransome Losee	2.52100%
Elizabeth Losee	2.52100%.

(8) For more than 17 months, Burlington has sought to drill a well on and operate the subject acreage only to be frustrated by tactics that can be interpreted as actions taken by both Trainer and Prince to avoid being pooled and to delay this matter.

(9) It would only serve to circumvent the purposes of the New Mexico Oil and Gas Act to allow a record owner of a working interest (Trainer and Prince) in the spacing unit at the time said party was served with a compulsory pooling application to avoid or delay having that entire percentage interest pooled by assigning, conveying, selling or otherwise burdening or reducing that interest.

(10) Burlington having: (i) first proposed a well within the subject 40 acres (ii) an approved APD for its proposed well (iii) afforded an opportunity to Trainer for more than 15 months for Trainer to drill its well and Trainer failing to do so and, (iv) a proposal that is fair and reasonable and provides for an equitable solution for the exploration of this 40-acre oil spacing and proration unit with the parties owning the majority having already been provided the opportunity to drill but having failed to drill should be named the operator of the proposed standard 40-acre oil spacing and proration unit comprising the NW/4 SE/4 (Unit J) of said Section 24 in which its Checkmate "24" Federal Well No. 1 is to be dedicated and, in order to avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the application of Burlington in Division Case 11613 should be approved by pooling all mineral interests, whatever they may be, within said unit. Correspondingly, the application of Penwell in Case 11622 should therefore be denied.

(11) Any non-consenting working interest owner should be afforded the opportunity to pay his share of the estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(12) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(13) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(14) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(15) Burlington's proposed fixed overhead and administrative costs for its Checkmate "24" Federal Well No. 1 are $5,000.00 per month while drilling and $500.00 per month while producing. Penwell in its attempt to operate the subject 40-acre tract proposed fixed rates of $4,178.00 per month while drilling and $400.00 while producing for its Checkers "24" Federal Well No. 1. Burlington cited the "*1995 - Fixed Rate Overhead Survey*", published by Ernst & Young, LLP of Houston, Texas as the source for its amounts. Burlington further testified that its proposed rates reflect those that are currently being charged by both Burlington as operator and by others on Delaware and Bone Spring producing oil wells within the immediate area.

FINDING: Such overhead and administrative charges are deemed to be fair and reasonable.

(16) $5,000.00 per month while drilling and $500.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(17) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(18) Upon the failure of the operator of said pooled unit to commence drilling of the subject well to which said unit is dedicated on or before December 31, 1996, the order pooling said unit should become null and void and of no effect whatsoever.

(19) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(20) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Penwell Energy, Inc. in Division Case 11622 for an order pooling all mineral interests from the surface to the base of the Bone Spring formation underlying the NW/4 SE/4 (Unit J) of Section 24, Township 22 South, Range

32 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated West Red Tank-Delaware Pool and the Undesignated Red Tank-Bone Spring Pool, said unit to be dedicated to its proposed Checkers "24" Federal Well No. 1 to be drilled at a standard oil well location 1980 feet from the South and East lines (Unit J) of said Section 24, is hereby denied.

(2) The application of Burlington Resources Oil & Gas Company ("Burlington") in Case No. 11613 for an order pooling all mineral interests from the surface to the base of the Bone Spring formation underlying the NW/4 SE/4 of said Section 24 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre oil spacing within said vertical extent which presently includes but is not necessarily limited to the Undesignated West Red Tank Delaware Pool and the Undesignated Red Tank-Bone Spring Pool is hereby **approved.**

PROVIDED HOWEVER THAT, Burlington as the operator of said unit commence the drilling of its Checkmate "24" Federal Well No. 1 (**API No. 30-025-32945**), to be drilled at a standard oil well location 1980 feet from the South and East lines of said Section 24, on or before the thirty-first day of December 1996, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Bone Spring formation.

PROVIDED FURTHER THAT, in the event Burlington as the said operator does not commence the drilling of said well on or before the thirty-first day of December, 1996, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) After the effective date of this order and within 90 days prior to commencing said well, Burlington shall furnish the Division and to each known working interest owner an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable

well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him; and

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) $5,000.00 per month while drilling and $500.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(15) Jurisdiction of this cause 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

WILLIAM J. LEMAY
Director

FLASH-FAX™ TO: Leslyn Sweatt Burlington FAX #: 915-688-6011 | FROM: Kellahin FAX #: PHONE #: | DATE: 11 26 96 PAGES INCLUDING THIS PAGE: 10 | TOPS 1480

Oil Conservation Division
(505) 827-7131 (Office)
(505) 827-8177 (Fax)

Please Deliver This Fax To:

TO: W. Thomas Kellahin

FROM: OCD

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