UNANTICIPATED DEVELOPMENTS CONCERNING FV-1 WELL WHICH ENTITLED PREMIER TO A HEARING

Prior to Commission Hearing

Prior to the Commission hearing held on December 14, 1995, the circumstances surrounding this issue were as follows:

(1) Premier assumed that both its FV-1 and FV-3 wellbores would be included within the unit due to a prior communications with Exxon employees.

(2) This assumption is verified by Terry Payne's report which credits Premier with 2 wellbores. See Premier Exhibit 9 in Case 11298 at page 41, 5th column.

(3) By letter dated November 16, 1995, Exxon advised Premier that "Exxon, as Unit Operator, will have the option to accept all such wells or equipment as being of use and value to the unit" See Exhibit "A" attached.

EXXON COMPANY, U.S.A.
POST OFFICE BOX 1600 • MIDLAND, TEXAS 79702-1600

MIDLAND PRODUCTION ORGANIZATION

November 16, 1995

Working Interest Owners
Avalon (Delaware) Unit

Gentlemen:

Pursuant to Article 10.3 of the Avalon (Delaware) Unit Operating Agreement, Exxon is planning to conduct an inventory of the equipment which may be included in the unit on December 5, 1995. In accordance with the JOA this is your 10 day advance notification. Please notify Wayne Clayton at phone number below to let us know if you will have a representative at such inventories. We will meet in the lobby of the Carlsbad, New Mexico Holiday Inn at 8:00 a.m. MST. Following the inventory, Exxon will later determine which of the equipment will be required for Unit Operations and notify the working interest owners of its determination. Also pursuant to Article 10.3, Exxon hereby requests your nominations for the Inventory Committee. Space for your nominee to the committee is provided at the end of this letter.

Exxon has not received any notification, pursuant to Article 10.1.1 and 10.1.2 of the Unit Operating Agreement that there are any wells or equipment that you as the owner elect to retain. Thus, Exxon, as Unit Operator, will have the option to accept all such wells or equipment as being of use and value to the Unit.

Please return your Inventory Committee Nomination to:

Avalon (Delaware) Unit
Operations Accounting
Exxon Company, U.S.A.
P. O. Box 1600
Midland, Texas 79702-1600

If you have any questions, please contact me at (915) 688-6653 or Wayne Clayton at (915) 699-6652. We look forward to working with you.

Sincerely,

Cindy L. Gentry

Cindy L. Gentry

Inventory Committee Nominee:
Name: _____

Position: _____

Company: _____

Phone #: _____

EXHIBIT
A

After the Commission hearing

After the Commission hearing, the following occurred:

(1) By letter dated March 12, 1997, Premier requested Exxon to include the FV-1 Well in the unit.

(2) In accordance with the Unit Operating Agreement, Exxon's 72% of the voting rights will determine if a wellbore is included or excluded.

(3) However, contrary to its representations prior to the hearing, on April 24, 1997, Exxon rejected Premier's request to include the FV-1 wellbore in the unit stating:

> "With regard to the inclusion of your FV-1 Well, the wells that are to be included in the Unit are listed in Exhibit "H" of the Operating Agreement; the acquisition of any additional wellbores would require the consent of the working interest owners. Since it does not appear that the FV-1 well would add any value to the Unit, I do not believe that working interest owners would approve its acquisition at this time." See Exhibit "B" attached.

EXXON COMPANY, U.S.A.
POST OFFICE BOX 1600 • MIDLAND, TEXAS 79702-1600

MIDLAND PRODUCTION ORGANIZATION

April 24, 1997

Avalon Unit
Eddy County, New Mexico

Mr. Kenneth C. Jones
Premier Oil & Gas Inc.
P.O. Box 1246
Artesia, New Mexico 88210

Dear Mr. Jones:

The purpose of this letter is to discuss a number of matters related to the captioned unit. Initially, with regard to our efforts to settle this matter without further litigation, based on our conversations, and your letter that I received on March 12, 1997, it does not appear that such resolution is possible, because the parties' positions are so far apart. We would certainly like to see this matter resolved without further expenditures of time and money on legal proceedings. However, we do not believe that it is worthwhile to commence negotiations when the distance between the parties positions is so great that there is no realistic possibility of reaching any compromise solution. We remain, of course, willing to listen to any proposal you wish to make.

Second, with regard to your suggestion that the FV-1 well be included in the Unit, and/or that additional acreage of yours included in the Unit, please be advised that Exxon cannot consider these requests at this time. Any expansion of the Unit would have to be accomplished under the terms of the Unit Agreement and would require that the additional acreage be proven productive and useful for Unit operations. At this point, I do not believe that your acreage meets this requirement and I do not believe that the Unit would approve its inclusion, as is required by the Unit Agreement. With regard to the inclusion of your FV-1 well, the wells that are to be included in the Unit are listed in Exhibit "H" of the Operating Agreement; the acquisition of any additional wellbores would require the consent of the working interest owners. Since it does not appear that the FV-1 well would add any value to the Unit, I do not believe that working interest owners would approve its acquisition at this time.

Third, you have inquired as to Exxon's willingness to dispose of water from your operations. Exxon will certainly be willing to consider any reasonable proposal for such disposal. While the specific terms for any disposal will have to be negotiated, please be advised that it is Exxon's basic position at this time that, where water that the Unit takes from you is used in enhanced recovery operations, neither party should pay the other any consideration for such taking, while, if the

EXHIBIT
TAMEK
B

RECYCLE

water is taken and simply disposed of in a disposal well, the Unit should receive some negotiated fee for the disposal.

Additionally, please be advised that Exxon will be willing to cooperate with you in regard to any operational matters that arise in the future pertaining to your operations in the Avalon Unit. These efforts may include a lease line injection type agreement, some agreement for the handling of CO_2, etc. In negotiating such any Agreement Exxon will, of course, have to ensure that the interests of the Unit owners are protected.

Finally, I believe that it is necessary that we address the assessment of the FV3 well. Under Section 11.3 of the Operating Agreement, each well included in the Unit must be assessed as usable within two years following the effective date of the Unit, i.e., by October 1, 1997. Most of the wells have now been tested and accepted by the Unit; we anticipate that the testing of all wells will be completed by the deadline. Under the terms of the Unit Agreement, the FV3 must be tested on or before October 1, 1997, or it will be deemed not usable, and you will not receive the credit for such well in the final inventory. Under Section 11.2.2 of the Operating Agreement, you had the right to request that Exxon perform the testing to determine if the wellbore was usable, within six months after the effective date of the Unit; this six month period has now expired.

We acknowledge that you have appealed the decision of the New Mexico Oil and Gas Commission approving the Unit. Unless and until a decision of the Commission is overturned, however, it now has full legal force and effect, and you are bound to the terms of the Unit and Unit Operating Agreements. In recognition of the fact that you have appealed the unitization, Exxon has not required you to make a consent/nonconsent election under the Unit Agreement. However, we will require that, if the well is to be included in the Unit, it must be determined to be usable on or before October 1, 1997, in accordance with the requirements of the Operating Agreement. Please note that, under Section 11.2.1 of the Operating Agreement, Exxon must approve the testing procedures in advance, to witness the tests, and to make a final determination as to whether the wellbore is usable. I would appreciate it if you would advise me of your plans for testing the wellbore as soon as possible.

Exxon remains willing to work with you with regard to matters relating to the Unit and operations in the Unit area. If you have any questions regarding the foregoing, please do not hesitate to contact me at (915) 688-6191.

Very truly yours,

R. W. Matt

RWM:jfs

ISSUES FOR TODAY:

Does the approval of the Unit Operating Agreement by reference amount to a conscious decision by the OCC that the VF-1 well can now only be added to unit at the absolute and sole discretion of Exxon; or

Becuase this is a statutory unit in which Premier's tract was involuntarily compelled into the unit by the OCC, can the OCC examine whether the FV-1 well will add any value to the Unit even over Exxon's objection?

Actions by Exxon constitute a change in circumstance, when coupled with the Division's continuing jurisdiction over this matter, which requires that Premier be given a hearing on this issue. **Wood Oil Company v. Oil Conservation Commission**, 205 Okla 534, 239 P.2d 1021 (195), **Railroad Commission of Texas v. Aluminum Co. of America**, 380 S.W.2d 599 (1964).

HEARING:

Has Exxon acted arbitrarily in rejecting Premier's request to include the FV-1 Well in the unit?