

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

RECEIVED

AUG 18 1997

Oil Conservation Division

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

CASE NO. 11838

**APPLICATION OF PREMIER OIL & GAS INC.
TO HAVE THE DIVISION ORDER EXXON COMPANY USA
TO APPEAR AND SHOW CAUSE
EDDY COUNTY, NEW MEXICO**

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by PREMIER OIL & GAS INC., as required by the Oil Conservation Division.

APPEARANCE OF PARTIES

APPLICANT

Premier Oil & Gas Inc.
P. O. Box 1246
Artesia, New Mexico 88210
(972)386-6204
Attn: Ken Jones

ATTORNEY

W. Thomas Kellahin
KELLAHIN AND KELLAHIN
P.O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

Exxon Company USA

James Bruce, Inc.
P. O. Box 1056
Santa Fe, NM 87504
(505) 982-2043

STATEMENT OF CASE

Relief Requested:

(1) Exxon has refused to include Premier's FV-1 Well located in Tract 1309 (SE/4NE/4) of Section 25, Township 20 South, Range 27 East, as a wellbore committed to Exxon's Avalon (Delaware) Unit as of October 1, 1997, despite the fact that the Tract 1309 was involuntarily committed into Exxon's Unit by a statutory unitization order-Commission Order R-10460-B.

(2) Order R-10460-B Paragraph 25 retained continuing jurisdiction for the entry of such further orders as may be deemed necessary.

(3) Section 70-7-3 NMSA 1979 states that "...the Division is vested with jurisdiction, power and authority and ii shall be its duty to make and enforce such orders and do such things as may be necessary or proper to carry out and effectuate the purposes of the Statutory Unitization Act.

(4) Premier Oil & Gas, Inc.'s FV-1 Well located 1980 feet from the North line and 990 feet from the East line (Unit H) Section 25, Township 20 South, Range 27 East, NMPM, Eddy County, New Mexico should be ordered by the Division to be included in the Avalon (Delaware) Unit in compliance with the Statutory Unitization Act ("the Act"), Section 70-7-1 NMSA (1978), including but not limited to amending Exhibit H of the Unit Operating Agreement to include said wellbore and to qualify said wellbore a useable wellbore committed to its Avalon (Delaware) Unit prior to October 1, 1997.

(5) Section 70-7-7 NMSA (1979) of the "Statutory Unitization Act" requires:

"the order providing for unitization and unit operations of a pool or portion of a pool shall be upon terms and conditions that are fair, reasonable and equitable and shall approve **or prescribe** a plan or unit agreement for unit operation which **shall include:**

J. such additional provision as are found to be appropriate for carrying on the unit operations and for the protection of correlative rights and the prevention of waste." (emphasis added).

(6) In violation of Section 70-7-6 NMSA (1979), Exxon failed to submit any evidence in Case 11298 to show "by the evidence" that **including** Well Tract 1309 in the Unit while **excluding** that tract's wellbore (FV-1) from the Unit "to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners."

(7) The Commission in Case 11298 (upon which Order R-10460-B is based) did not address the issue of the exclusion of the FV-1 Wellbore from the Unit nor did Exxon provide any evidence in the record upon which to support excluding FV-1 Wellbore while including FV-3 Wellbore in the list of wellbores to be contributed to the Unit.

(8) In accordance with Order R-10460-B and Section 70-7-7 NMSA (1979), it is necessary for the Division to address the arbitrary exclusion of the FV-1 Wellbore from this Unit which is an issue not addressed by the Commission in the prior case.

(9) Premier contends that a supplemental order must be issued pursuant to the Division's "continuing jurisdiction" and in accordance with Section 70-7-7 and Section 70-7-6 NMSA (1979) to require Exxon to include Premier's FV-1 Wellbore in the Unit.

(10) In addition, it is necessary for the Division to take action in this matter prior to October 1, 1997 which is the last date provided for in the Unit Operating Agreement in which to commit wellbores to the unit.

PROPOSED EVIDENCE

APPLICANT:

WITNESSES

EST. TIME

EXHIBITS

Ken Jones (operator)

40 min.

@ 8 exhibits

PROCEDURAL MATTERS

Argument on Exxon's motion to dismiss.

KELLAHIN AND KELLAHIN

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over a horizontal line.

By: _____
W. Thomas Kellahin
P.O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285