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JASON KELLAHIN (RETIRED 1991)

March 25, 1998

Mr. David R. Catanach
Hearing Examiner

HAND DELIVERED

Rand Carroll, Esq.
Division Attorney

HAND DELIVERED

Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: NMOCD Case 11877
Application of Fasken Land and Minerals, Ltd
for compulsory pooling and an
unorthodox oil well location,
Eddy County, New Mexico

Dear Gentlemen:

On behalf of Fasken Land and Minerals, Ltd, please find enclosed our proposed order for entry in this matter.

In addition, I have enclosed Fasken's Motion to Dismiss the latest Redstone pooling case and Fasken's response to Redstone Oil & Gas Company's request dated March 11, 1998 in which it asks that you "stay a division" in Fasken's case until after the April 2, 1998 hearing at which Redstone's second compulsory pooling application is now scheduled.

Very truly yours,



W. Thomas Kellahin

cc: James Bruce, Esq.
Attorney for Redstone Oil & Gas Company
Fasken Oil and Ranch, Ltd.

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

**IN THE MATTER OF THE APPLICATION OF
FASKEN LAND AND MINERALS, LTD. FOR
COMPULSORY POOLING AND AN UNORTHODOX
WELL LOCATION, EDDY COUNTY, NEW MEXICO**

CASE NO. 11877

**IN THE MATER OF THE APPLICATION OF
REDSTONE OIL & GAS COMPANY FOR
COMPULSORY POOLING AND AN UNORTHODOX
WELL LOCATION, EDDY COUNTY, NEW MEXICO.**

CASE NO. 11927

**IN THE MATTER OF THE APPLICATION OF
REDSTONE OIL & GAS INC. FOR
COMPULSORY POOLING AND AN UNORTHODOX
WELL LOCATION, EDDY COUNTY, NEW MEXICO**

CASE NO. 11960

**FASKEN LAND AND MINERALS, LTD'S
MOTION TO DISMISS CASE 11960
AND
ITS REPLY TO REDSTONE'S
MOTION TO STAY A DECISION IN CASE 11877**

Fasken Land and Minerals, Ltd. ("Fasken"), by its attorneys, Kellahin and Kellahin, moves the Division to deny Redstone Oil & Gas Company's ("Redstone") motion to stay a decision in Case 11877 and to dismiss Case 11960 because Redstone's actions in this case constitute laches:

RELEVANT FACTS

The undisputed evidence demonstrates the following:

(1) Redstone operates the Rock Tank Unit in which Redstone has a substantially larger working interest than it has in Section 12 in which Fasken has proposed to drill a well to test both the Upper and Lower Morrow Gas Pools.

(2) On February 5, 1997, Redstone testified that the current Rock Tank Unit Well Nos. 1 and 4 offsetting Section 12 are currently draining the Upper Morrow gas underlying Section 12.

(3) The remaining recoverable Morrow gas reserves underlying Section 12 are being drained by the following offsetting Rock Tank Unit Wells:¹

(a) Unit Well No. 4 located in Unit J of Section 4, T23S, R24E is currently draining the Upper Morrow Pool;

(b) Unit Well No. 1 located in Unit D of Section 7 T23S, R25E is currently draining **both** the Lower Morrow Gas Pool and the Upper Morrow Pool; and

(c) Unit Well No. 2 located in Unit J of Section 6, T23S, R25E is currently draining the Lower Morrow Pool.

(4) In addition, the Rock Tank Unit Well No. 4 has "behind the pipe" potential in the Canyon formation and if recompleted prior to Fasken's well being drilled, the Redstone will be able to drain the Canyon formation before Fasken can drill a protection well. **See Fasken Exhibit 19**

¹ See Fasken Exhibit 16

(5) On September 9, 1997, Fasken proposed to Redstone and the other working interest owners in the E/2 of Section 12 that Fasken would drill and operate its Carnero Federal Well No. 1 to be located in Unit C of Section 12 and dedicated to a standard 640-acre gas spacing unit for any production from the Rock Tank-Upper Morrow Gas Pool and/or the Rock Tank Lower Morrow Gas Pool.

(6) On October 16, 1997, Fasken filed a compulsory pooling application which was docketed as Case 11877 and set for hearing on November 6, 1997.

(7) On November 19, 1997, the Bureau of Land Management ("BLM") approved Fasken's application for permit to drill its proposed well.

(8) At Redstone's request, the Fasken continued its case to December 4, 1997 and then again continued until January 8, 1998.

(9) On January 8, 1998, the hearing was limited to oral argument on Redstone's motion to dismiss Fasken's case at the conclusion of which the Division denied Redstone's motion and set an evidentiary in Fasken's case for February 5, 1998.

(10) On January 26, 1998, counsel for Redstone Oil & Gas Company ("Redstone") filed a compulsory pooling application with the Division seeking to pool acreage within Section 12, T23S, R24E, NMPM, Eddy County, New Mexico for Redstone's proposed Rock Tank Well No. 5 which was docketed as Case 11927 and set for hearing on February 19, 1998.

(11) On February 5, 1998, the Division heard Fasken's case and allowed Redstone to present its case.

(12) On February 9, 1998, Redstone sent a written well proposal for this well to Fasken and the other working interest owners.

(13) Prior to February 9, 1998, Redstone made no effort either orally or in writing to propose its well to Fasken and the other affected owners.

(14) On February 5, 1998, at the hearing of Fasken's case, Redstone testified that they had only recently come up with their well location and compulsory pooling idea.

(15) On February 5, 1998, Redstone's petroleum engineer testified that:

(a) there is 5-7 BCF of gas remaining to be recovered from the Lower Morrow Pool underlying Section 12; and

(b) although Redstone would drill a well in Section 12 through the Lower Morrow no attempt would be made to produce remaining gas reserves in the Lower Morrow underlying Section 12 because the Rock Tank Unit wells could drain those reserves. **See Transcript pages 121, 122 and 131.**

(16) On February 13, 1998, Fasken filed a motion to dismiss Redstone's Case 11927 because Redstone had violated Section 70-2-17(C) NMSA 1978 by instituting an application for compulsory pooling prior to proposing its well.

(17) On March 5, 1998, Redstone filed a response to Fasken's motion to dismiss and a request that the Division stay its decision in the Fasken case.

(18) On March 5, 1998, the Division granted Fasken's motion to dismiss Redstone's Case 11927 because Redstone had failed to comply with Section 70-2-17(C) NMSA 1978.

(19) On March 10, 1998, Redstone filed a second compulsory pooling application with the Division seeking to pool acreage within Section 12, T23S, R24E, NMPM for Redstone's proposed Rock Tank Well No. 5 docketed as Case 11960 and set for hearing on April 2, 1998.

(20) On March 11, 1998, Redstone filed a motion to stay entry of an order in Fasken's Case 11877.

(21) On March 24, 1998, Fasken filed its proposed order for entry in these cases and its Motion to Dismiss Redstone Case 11960.

ARGUMENT

In New Mexico, there are four elements of proof necessary to establish laches²:

(1) Conduct on the part of Fasken which gave rise to Redstone's compulsory pooling application

This element was satisfied when Fasken proposed its well on September 9, 1997 and then on October 16, 1997 filed its compulsory pooling application. At this point, Redstone had the opportunity to propose its own well and to then timely file its compulsory pooling case.

(2) Delay by Redstone in asserting its application within a reasonable time after notice of Fasken's pooling application and after being afforded an opportunity to propose its own well and file its own pooling case.

This element was satisfied when Redstone waited (5) months after Fasken first proposed its well before Redstone proposed its own well. Redstone waited until after the February 5, 1998 hearing on the Fasken well proposal had taken place before it proposed its own well. Redstone waited until March 11, 1998, some five (5) months after Fasken filed its pooling application before it filed its compulsory application in Case 11960.

² City of Raton v. Vermejo Conservancy District, 101 N.M. 95, 678 P.2d 1170 (1984)

(3) Lack of knowledge by or notice to Fasken that Redstone would assert a well proposal and its own compulsory pooling case.

This element was satisfied by Redstone landman, Joe E. Small, who testified on February 5, 1998 that Redstone's only letter to Fasken was dated November 20, 1997 and did not tell Fasken that Redstone wanted to operate the Fasken well or that Redstone would be proposing its own well. (Transcript pages 81-86). Redstone waited until February 9, 1998 to send a written well proposal for its well to Fasken and the other working interest owners. Redstone waited until March 11, 1998 to file its compulsory pooling case.

(4) Redstone's Delay has prejudiced Fasken.

This element is satisfied by the fact that Fasken's proposed well is to protect its spacing unit from further drainage of the Upper Morrow pool by Redstone's Rock Tank Unit wells in which Redstone has a substantially larger working interest. **See Fasken Exhibit 16.** Redstone's petroleum engineer testified that Redstone "was pulling that (Lower Morrow Gas Pool) bottomhole pressure down quite rapidly". Further delay of the drilling of the proposed Fasken well will impair Fasken's correlative rights in Section 12. In addition, the Rock Tank Unit Well No. 4 has "behind the pipe" potential in the Canyon formation and if recompleted prior to Fasken's well being drilled, the Redstone well will be able to drain the Canyon formation before Fasken can drill a protection well. **See Fasken Exhibit 19**

Redstone testified that its objections to Fasken drilling a well in Section 12 will never be satisfied (See Transcript page 86), yet if Redstone is named operator, it will drill an almost identical well. Such action by Redstone is nothing more than an effort to cause delays and to gain an unfair advantage over Fasken by taken gas from under Section 12 to which Fasken is entitled.

CONCLUSION

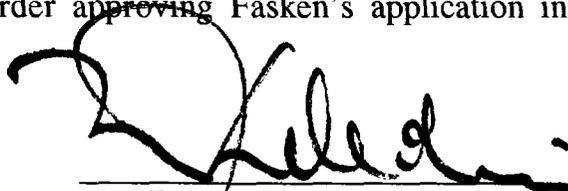
Fasken acted first, and Fasken owns the largest interest (60.203765%) in the 640-acre Morrow spacing unit proposed in both compulsory pooling applications.

Redstone has simply waited too long to propose its well. Redstone is attempting to avoid being subjected to Fasken's pooling application by untimely seeking to create its own pooling application. Redstone is guilty of inexcusable neglect in enforcing its rights to propose a well and to seek compulsory pooling. Redstone's actions are egregious. Redstone's application in Case 11960 must be dismissed and the Division should immediately proceed to enter its order in Case 11877 by granting Fasken's requested order.

WHEREFORE Fasken Land and Minerals, Ltd. requests that the Division:

(1) grant this motion and dismiss Oil Conservation Division Case 11960; and

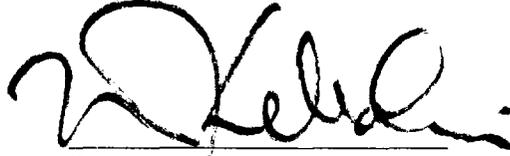
(2) enter its order approving Fasken's application in Case 11877.



W. Thomas Kellahin

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was hand delivered to counsel for applicant this 25th day of March, 1998.

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written in a cursive style.

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 FASKEN LAND AND MINERALS, LTD. CASE 11877
FOR COMPULSORY POOLING AND AN UNORTHODOX GAS
WELL LOCATION, EDDY COUNTY, NEW MEXICO**

**APPLICATION OF REDSTONE OIL & GAS COMPANY CASE 11927
FOR COMPULSORY POOLING AND AN UNORTHODOX GAS
WELL LOCATION, EDDY COUNTY, NEW MEXICO**

**APPLICATION OF REDSTONE OIL & GAS COMPANY CASE 11960
FOR COMPULSORY POOLING AND AN UNORTHODOX GAS
WELL LOCATION, EDDY COUNTY, NEW MEXICO**

**FASKEN LAND AND MINERALS, LTD.'S
PROPOSED
ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on November 6, 1997, December 4, 1997, January 8, 1998, February 5, 1998 and March 5, 1998 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this ___ day of March, 1998, The Division Director, having considered the testimony, the recorded 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) The applicant in Case 11877, Fasken Land and Minerals, Ltd. ("Fasken"), originally sought an order pooling all mineral interests from the surface to the base of the Morrow formation underlying all of Section 12, Township 23 South, Range 24 East, NMPM, Eddy County, New Mexico, forming a standard 640-acre gas spacing and proration unit for any and all formations and/or pools developed on 640 acre spacing within said vertical extent, which presently includes the Rock Tank-Upper Morrow Gas Pool and the Rock Tank-Lower Morrow Gas Pool. Said unit is to be dedicated to its proposed Carnero "12" Federal Com. Well No. 1 to be drilled at an unorthodox gas well location 500 feet from the North line and 2265 feet from the West line (Unit C) of said Section 12.

(3) The applicant in Case 11927, Redstone Oil & Gas Company ("Redstone") seeks an order pooling all or part of Section 12, Township 23 South, Range 24 East, NMPM < Eddy County, New Mexico for its proposed well to be located 500 feet FNL and 2515 feet FEL of said Section 12.

(4) The applicant in Case 11960, Redstone Oil & Gas Company ("Redstone") seeks an order pooling all or part of Section 12, Township 23 South, Range 24 East, NMPM < Eddy County, New Mexico for its proposed well to be located 500 feet FNL and 2515 feet FEL of said Section 12.

(5) Subsequent to the hearing held on February 5, 1998, Fasken amended its application to include a request that the order also include pooling all mineral interests underlying the N/2 of said Section 12 for any and all formations and/or pools developed on 320-acre gas spacing and proration units.

(6) Redstone Oil & Gas Inc. ("Redstone") was the only interest owner to appear in opposition to the original application of Fasken. Redstone has not objected the reorienting the 320-acre gas spacing unit.

Redstone's Motion to Dismiss

(7) On January 5, 1998, the Division heard evidence and arguments concerning Redstone's motion to dismiss Fasken's application:

(a) Redstone contended that Fasken was precluded from using compulsory pooling because its well proposal was subject to the terms of a voluntary agreement (a January 1, 1970 Joint Operating Agreement) which Redstone argued still covers all of Section 12.

(b) Fasken contended that: (i) an application for compulsory pooling of Section 12 is appropriate because there is no voluntary agreement covering the consolidation of Section 12 into a 640-acre gas spacing and proration unit for the drilling of Fasken's proposed well; (ii) because Fasken's new lease for the W/2 of Section 12 was taken more than six (6) months after the expiration of the old lease, this new lease is not subject to the 1970 Operating Agreement; and (iii) none of Fasken's interest in the W/2 of Section 12 where the well will be located is subject to any existing voluntary agreement.

(8) The evidence demonstrated the following relevant facts:

(a) Fasken owns all of the oil and gas leasehold interest in the W/2 of Section 12, T23S, R24E, NMPM, Eddy County, New Mexico and on September 9, 1997 proposed to Redstone, the current operator of the Rock Tank Unit (which includes the E/2 of Section 12) the formation of a 640-acre gas spacing unit for a Morrow well to be drilled in the NW/4 of this section to be dedicated to the Rock Tank-Morrow Gas Pool and the Rock Tank-Lower Morrow Gas Pool.

(b) The Rock Tank Unit was formed on August 1, 1967 and includes the E/2 of Section 12. This unit and its operating agreement remain in full force and effect and Fasken is a working interest owner in this unit.

(c) In 1970, the working interest owners of the federal oil and gas lease covering the W/2 of Section 12 ("old lease") which was not committed to the Rock Tank Unit agreed to an Operating Agreement dated January 1, 1970 for the purpose of drilling a Morrow gas well in the SW/4 of Section 12.

(d) The well was completed in July, 1970 and produced until it was plugged and abandoned in October, 1979 which resulted in the termination of the prior 640-acre spacing unit. The federal lease covering the W/2 of Section 12 expired subsequent to the plugging of that well. The E/2 of Section 12 continued to be committed to the Rock Tank Unit.

(e) On September 1, 1993, some 9 years after the expiration of the old lease in the W/2 of Section 12, Santa Fe Energy Operating Partners, L.P. acquired a new federal oil & gas lease covering the W/2 of Section 12 ("new lease") which it assigned to Fasken on December 21, 1993.

(9) The Division denied Redstone's motion to dismiss because Redstone has failed to consider the specific provisions of Article 23 of the Joint Operating Agreement which answer this issue. The Division is not being asked to resolve a contractual dispute because no such dispute exists. The language of Article 23 is clear and unambiguous. An application for compulsory pooling of Section 12 is appropriate because there is no voluntary agreement covering the consolidation of Section 12 into a 640-acre gas spacing and proration unit for the drilling of Fasken's proposed well. None of Fasken's interest in the W/2 of Section 12 where the well will be located is subject to any existing voluntary agreement. Accordingly, the Division denied Redstone's motion to dismiss and on February 5, 1998 proceeded with a hearing on Fasken's compulsory pooling case. In addition, and over the objection of Fasken, Redstone was permitted to present evidence concerning its compulsory pooling case (Case 11927) which was not scheduled to be heard until March 5, 1998.

Fasken's Motion to Dismiss

(10) On February 5, 1998, Fasken moved that the Division dismiss Case 11926 which is a compulsory pooling application filed by Redstone on January 26, 1998.

(11) The undisputed evidence demonstrates the following:

(a) On September 9, 1997, Fasken proposed to Redstone and the other working interest owners in the E/2 of Section 12 that Fasken would drill and operate its Carnero Federal Well No. 1 to be located in Unit C of Section 12 and dedicated to a standard 640-acre gas spacing unit for any production from the Rock Tank-Upper Morrow Gas Pool and/or the Rock Tank Lower Morrow Gas Pool.

(b) On October 16, 1997, Fasken filed a compulsory pooling application which was docketed as Case 11877 and set for hearing on November 6, 1997.

(c) On November 19, 1997, the Bureau of Land Management ("BLM") approved Fasken's application for permit to drill its proposed well.

(d) At Redstone's request, the case was continued to December 4, 1997 and then again continued until it was finally heard on February 5, 1998.

(e) On January 26, 1998, counsel for Redstone Oil & Gas Company ("Redstone") filed a compulsory pooling application with the Division seeking to pool acreage within Section 12, T23S, R24E, NMPM, Eddy County, New Mexico for Redstone's proposed Rock Tank Well No 5.

(f) On February 9, 1998, Redstone sent a written well proposal for this well to Fasken and the other working interest owners.

(g) Prior to February 9, 1998, Redstone made no effort either orally or in writing to propose its well to Fasken and the other affected owners.

(h) On February 5, 1998, at the hearing of Fasken's case, Redstone testified that they had only recently (within days) come up with their well location and compulsory pooling idea.

(12) On March 5, 1998, the Division granted Fasken's motion to dismiss case 11927 because Redstone had failed to comply with Section 70-2-17(C) NMSA 1978 by instituting an application for compulsory pooling prior to proposing its well.

(13) Division Case 11960 should be dismissed because Redstone waited (5) months after Fasken first proposed its well before Redstone proposed its own well. Redstone waited until after the hearing on the Fasken well proposal had taken place before it proposed its own well. Redstone has simply waited too long to propose its well. Redstone is attempting to avoid being subjected to Fasken's pooling application by untimely seeking to create its own pooling application. Redstone's delay has been prejudicial to Fasken.

Well locations and geology

(14) In Case 11877, Fasken seeks approval to drill its well at an unorthodox well location in Unit C and which is 500 feet from the north line and 375 feet west of the center line of Section 12 because it is within the only area in the W/2 of Section 12 which satisfied the topographical limitations.

(15) In Case 11927, Redstone sought to have its well approved in Unit B of Section 12 at an unorthodox gas well location 500 feet from the north line of and 125 feet east of the centerline of Section 12.

(16) Both Redstone and Fasken agreed that any production from the Fasken well from the Morrow formations should not be subject to a production penalty.

(17) At the hearing held on February 5, 1998, Redstone agreed that the Fasken well location should not be subject to a location penalty for any gas production from any formation subject to 320-acre spacing provided the dedicated acreage consisted of the N/2 of Section 12.

(18) On February 6, 1998, Fasken proposed to all appropriate interest owners that Fasken would reorient its spacing unit from the W/2 to the N/2. There was no objection to this proposal made by any affected party.

(19) On February 10, 1998, Fasken requested the Division to readvertise Case 11877 to reflect its amended application to reorient its proposed spacing unit which was set for hearing on March 5, 1998. There was no opposition to Fasken's request and the case was taken under advisement.

(20) Redstone introduced its consulting geologist interpretation which had been prepared in August, 1997 and conceded that there is no material difference between these two locations which are only 500 feet apart.

Risk factor penalty

(21) Both Fasken and Redstone contend that the Division should impose the maximum 200% risk factor penalty in this case.

AFE's

(22) The Division finds that Fasken's proposed AFE is more accurate and reasonable than the AFE proposed by Redstone for the following reasons:

(a) Fasken's AFE cost estimate provides for adequate formation testing from the Delaware through the Morrow formations with the use of mud logging, drill stem testing and open hole logging services which Redstone's AFE does not.

(b) Fasken's AFE cost estimate includes costs for stimulation services where Redstone's does not.

(c) Fasken's AFE cost estimate provides for air drilling the Lower Morrow formation in order to minimize formation damage in a zone that is anticipated to have significant pressure depletion while Redstone's AFE does not.

(d) Fasken's AFE provides for potential lost circulations problems which have occurred in the Rock Tank Unit Well No 1 and 2 while Redstone's AFE does not.

Decision

(23) The Division finds that Fasken's application should be granted and the Redstone application dismissed for the following reasons:

(a) Fasken initiated the first well proposal on September 9, 1997;

(b) Redstone, despite having had its consultant prepare a geologic interpretation for Section 12, delayed five (5) months before making its well proposal;

(c) There is no substantial evidence to demonstrate that Redstone's location is geologically superior to Fasken's location;

(d) Redstone admitted it had no excuse for waiting so long before it made its proposal;

(e) Fasken has more than 60% of the working interest in this spacing unit while Redstone has less than 19% of the working interest;

(f) Fasken has diligently and in good faith initiated this proposal and has attempted to obtain voluntary agreement in a timely fashion;

(g) Redstone should not be rewarded for its dilatory tactics in this case.

(24) Time is of the essence in this matter and in order to avoid further delay, Fasken should be awarded an expedited pooling order.

(25) 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 subject application should be approved by pooling all mineral interests, whatever they may be, within said unit, subject to the terms and conditions set forth below.

(26) Fasken Oil and Ranch, Ltd. should be designated the operator of the subject well and unit.

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

(28) 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.

(29) Any non-consenting working 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.

(30) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated 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.

(31) \$5,000.00 per monthly 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 operation the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(32) 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.

(33) Upon the failure of the operator of said pooled unit to commence the drilling of the subject well to which said unit is dedicated on or before the expiration of the 90-day period following issuance of this order, then this order pooling said unit should become null and void and of no effect whatsoever.

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

(35) The operator of the well and unit shall notify the Director of the Division on writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of the order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Morrow formation underlying portions or all of Section 12, Township 23 South, Range 24 East, NMPM, Eddy County, New Mexico, are hereby pooled in the following manner:

(a) all of Section 12 to form a standard 640-acre gas spacing and proration unit for any and all formations and/or pools developed on 640 acre spacing within said vertical extent; and

(b) N/2 of Section 12 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 300 acre spacing within said vertical extent,

Said unit(s) is to be dedicated to Fasken's proposed Carnero Federal Well NO 1 to be drilled at an unorthodox location 500 feet from the north line and 2265 feet from the west line of said Section 12 with is approved without penalty.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the ___ day of _____, 1998, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, if the said operator does not commence the drilling of said well on or before 90 days following issuance of this order, Decretory Paragraph No (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains an extension of time 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 and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Fasken Oil and Ranch, Ltd. is hereby designated the operator of the subject well and unit.

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

(4) Within thirty (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 operation 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 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 well 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 thirty (30) days from the date the schedule of estimated well costs is furnished.

(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 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) \$_____.00 per month while drilling and \$_____ 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 operation 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 immediately be placed in escrow in Eddy 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 parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

NMOCD Cases 11877, 11927 and 11960

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(15) Cases 11927 and 11960 are hereby **dismissed**.

(16) Jurisdiction is hereby 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

LORI WROTENBERY, Director