BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

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

Case No. 11,877

MOTION TO DISMISS APPLICATION

Redstone Oil & Gas Company (Redstone) moves the Division for an order dismissing the above case, and in support thereof, states:

I. FACTS.

Fasken Land & Minerals, Ltd. (Fasken) filed an application to force pool all of Section 12, Township 23 South, Range 24 East, NMPM, from the surface to the base of the Morrow formation, to form a standard 640 acre gas spacing and proration unit for pools or formations spaced on 640 acres, which in this area is limited to the Rock Tank-Morrow Gas Pool and the Rock Tank-Lower Morrow Gas Pool. Fasken also requested approval of an unorthodox gas well location, for a well to be drilled 500 feet from the North line and 2265 feet from the West line (Unit C)[1] of Section 12.

Redstone is the operator of, and an interest owner in, the Rock Tank Unit, which includes the E½ of Section 12. Therefore, Redstone is an interested party in this case.

Section 12, as to the Morrow formation, is subject to a Model Form Operating Agreement - 1956 (AAPL Form 610), dated January 1, 1970 (Operating Agreement). Portions of the Operating Agreement are attached hereto as Exhibit A. The Operating Agreement provides in part:

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[1]The application and advertisement state that the well is in Unit E.

1. The operator of Section 12, as to the Morrow formation, is Gulf Oil Corporation. **Section 5.**

2. If any lease is lost or expires, "there shall be no readjustment of interests in the Unit Area." **Section 2(C).**

3. The Operating Agreement shall remain in effect "for as long as any of the oil or gas leases subjected to this agreement remain ... in force as to any part of the Unit Area." **Section 10.**

5. The Operating Agreement supersedes the Rock Tank Unit Operating Agreement, and is binding upon the successors and assigns of the parties to the Operating Agreement. **Section 31(C).**

The Operating Agreement was signed by Gulf Oil Corporation, Redstone's predecessor-in-interest, and David Fasken, Fasken's predecessor-in-interest.

Pursuant to the Operating Agreement, the Boothe "BO" Fed. Well No. 1 was drilled, and produced for a number of years. After that well ceased producing, the lease on the W½ of Section 12 expired, and a new lease was issued on that acreage. However, federal lease NM 0272711, covering the E½ of Section 12, was in effect on January 1, 1970, and remains in effect. Thus, the Operating Agreement remains in effect.

II. ARGUMENT.

Compulsory pooling is limited to those instances where "owners have not agreed to pool their interests." **NMSA §70-2-17(C) (1995 Repl. Pamp.).** In the present case, there is a voluntary agreement

covering the interests of the parties in Section 12, and compulsory pooling is not only unnecessary, but improper. Because Fasken and all other interest owners in Section 12 are subject to the Operating Agreement, there is no need for compulsory pooling, and the application must be dismissed.

The relief requested by Redstone is consistent with Division precedent. In Case No. 10,658 the applicant, Mewbourne Oil Company, sought a compulsory pooling order. Devon Energy Corporation protested, claiming that a portion of the acreage in the well unit was subject to a valid operating agreement. The Division reviewed the operating agreement, ruled in Devon's favor, and dismissed the application. **See Division Order No. R-9841** (attached hereto as Exhibit B).

Moreover, since Redstone is the successor-in-interest to Gulf Oil Corporation, the original operator, Redstone is the proper operator of any Morrow well in Section 12. Again, Fasken's application is improper.

WHEREFORE, Redstone requests that Fasken's application be dismissed.

Respectfully submitted,

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

Attorney for Redstone Oil & Gas Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss was hand delivered this 10th day of December, 1997 to:

W. Thomas Kellahin
Kellahin & Kellahin
117 North Guadalupe
Santa Fe, New Mexico 87501

James Bruce

A.A.P.L. FORM 610

MODEL FORM OPERATING AGREEMENT

Non-Federal Lands

BOOTHE "BO" FEDERAL NO. 1

OPERATING AGREEMENT

DATED

January 1, 19 70,

FOR UNIT AREA IN TOWNSHIP 23 SOUTH, RANGE 26 EAST

EDDY COUNTY, STATE OF NEW MEXICO

AMERICAN ASSOCIATION OF PETROLEUM LANDMEN
APPROVED FORM A.A.P.L. NO. 610
MAY BE ORDERED DIRECTLY FROM THE PUBLISHER
REES-MARTIN COMPANY, BOX 591, TULSA 74101

EXHIBIT A

Amended C/A.

A.A.P.L. FORM 610

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OPERATING AGREEMENT

THIS AGREEMENT, entered into this 1st day of January, 19 70, between GULF OIL CORPORATION hereafter designated as "Operator", and the signatory parties other than Operator.

WITNESSETH, THAT:

WHEREAS, the parties to this agreement are owners of oil and gas leases covering and, if so indicated, unleased mineral interests in the tracts of land described in Exhibit "A", and all parties have reached an agreement to explore and develop these leases and interests for oil and gas to the extent and as hereinafter provided;

NOW, THEREFORE, it is agreed as follows:

1. DEFINITIONS

As used in this agreement, the following words and terms shall have the meanings here ascribed to them.

(1) The words "party" and "parties" shall always mean a party, or parties, to this agreement.

(2) The parties to this agreement shall always be referred to as "it" or "they", whether the parties be corporate bodies, partnerships, associations, or persons real.

(3) The term "oil and gas" shall include oil, gas, casinghead gas, gas condensate, and all other liquid or gaseous hydrocarbons, unless an intent to limit the inclusiveness of this term is specifically stated.

(4) The term "oil and gas interests" shall mean unleased fee and mineral interests in tracts of land lying within the Unit Area which are owned by parties to this agreement.

(5) The term "Unit Area" shall refer to and include all of the lands, oil and gas leasehold interests and oil and gas interests intended to be developed and operated for oil and gas purposes under this agreement. Such lands, oil and gas leasehold interests and oil and gas interests are described in Exhibit "A".

(6) The term "drilling unit" shall mean the area fixed for the drilling of one well by order or rule of any state or federal body having authority. If a drilling unit is not fixed by any such rule or order, a drilling unit shall be the drilling unit as established by the pattern of drilling in the Unit Area or as fixed by express agreement of the parties.

(7) All exhibits attached to this agreement are made a part of the contract as fully as though copied in full in the contract.

(8) The words "equipment" and "materials" as used here are synonymous and shall mean and include all oil field supplies and personal property acquired for use in the Unit Area.

2. TITLE EXAMINATION, LOSS OF LEASES AND OIL AND GAS INTERESTS

~~A. Title Examination~~

~~There shall be no examination of title to leases or to oil and gas interests, except that title to the lease~~ covering the land upon which the exploratory well is to be drilled in accordance with Section 7, shall be examined on a complete abstract record by Operator's attorney, and the title to both the oil and gas lease and to the fee title of the lessors must be approved by the examining attorney, and accepted by all parties. A copy of the examining attorney's opinion shall be sent to each party immediately after the opinion is written, and, also, each party shall be given, as they are written, a copy of all subsequent supplemental attorney's reports. A good faith effort to satisfy the examining attorney's requirements shall be made by the party owning the lease covering the drillsite.

If title to the proposed drillsite is not approved by the examining attorney or the lease is not acceptable for a material reason, and all the parties do not accept the title, the parties shall select a new drillsite for the first exploratory well; provided, if the parties are unable to agree upon another drillsite, this agreement shall, in that case, come to an end and all parties shall then forfeit their rights and be relieved of obligations hereunder. If a new drillsite is selected, title to the oil and gas lease covering it and to the fee title of the lessor shall be examined, and title shall be approved or accepted or rejected in like manner as provided above concerning the drillsite first selected. If title to the oil and gas lease covering the second choice drillsite is not approved or accepted, other drillsites shall be successively selected and title examined, until a drillsite is chosen

"Individual Loss"
Revised 1967

4/24/70 : 11/6/70

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The oil and gas leasehold title to the W/2 of Section 12 and to the E/2 of Section 12, Township 23 South, Range 24 East are hereby approved and accepted.

B. Failure of Title:

Should any oil and gas lease, or interest therein, be lost through failure of title, this agreement shall, nevertheless, continue in force as to all remaining leases and interests, and

(1) The party whose lease or interest is affected by the title failure shall bear alone the entire loss and it shall not be entitled to recover from Operator or the other parties any development or operating costs which it may have theretofore paid, but there shall be no monetary liability on its part to the other parties hereto by reason of such title failure; and

(2) There shall be no retroactive adjustment of expenses incurred or revenues received from the operation of the interest which has been lost, but the interests of the parties shall be revised on an acreage basis, as of the time it is determined finally that title failure has occurred, so that the interest of the party whose lease or interest is affected by the title failure will thereafter be reduced in the Unit Area by the amount of the interest lost; and

(3) If the proportionate interests of the other parties hereto in any producing well theretofore drilled on the Unit Area is increased by reason of the title failure, the party whose title has failed shall receive the proceeds attributable to the increase in such interests (less operating costs attributable thereto) until it has been reimbursed for unrecovered costs paid by it in connection with such well; and

(4) Should any person not a party to this agreement, who is determined to be the owner of any interest in the title which has failed, pay in any manner any part of the cost of operation, development, or equipment, or equipment previously paid under this agreement, such amount shall be proportionately paid to the party or parties hereto who in the first instance paid the costs which are so refunded; and

(5) Any liability to account to a third party for prior production of oil and gas which arises by reason of title failure shall be borne by the party or parties whose title failed in the same proportions in which they shared in such prior production.

C. Loss of Leases for Causes Other Than Title Failure:

If any lease or interest subject to this agreement be lost through failure to develop or because express or implied covenants have not been performed, or if any lease be permitted to expire at the end of its primary term and not be renewed or extended, or if any lease or interest therein is lost due to the fact that the production therefrom is shut in by reason of lack of market, the loss shall not be considered a failure of title and all such losses shall be joint losses and shall be borne by all parties in proportion to their interests and there shall be no readjustment of interests in the Unit Area.

See Exhibit "B"

3. UNLEASED OIL AND GAS INTERESTS

~~If any party owns an unleased oil and gas interest in the Unit Area, that interest shall be treated for the purpose of this agreement as if it were a leased interest under the form of oil and gas lease attached as Exhibit "B" and for the primary term therein stated. As to such interests, the owner shall receive royalty on production as prescribed in the form of oil and gas lease attached hereto as Exhibit "B". Such party shall, however, be subject to all of the provisions of this agreement relating to lessees, to the extent that it owns the lessee interest.~~

4. INTERESTS OF PARTIES

Exhibit "A" lists all of the parties, and their respective percentage or fractional interests under this agreement. Unless changed by other provisions, all costs and liabilities incurred in operations under this contract shall be borne and paid, and all equipment and material acquired in operations on the Unit Area shall be owned, by the parties as their interests are given in Exhibit "A". All production of oil and gas from the Unit Area, subject to the payment of lessor's royalties, shall also be owned by the parties in the same manner.

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If the interest of any party in any oil and gas lease covered by this agreement is subject to an overriding royalty, production payment, or other charge over and above the usual one-eighth (⅛) royalty, such party shall assume and alone bear all such excess obligations and shall account for them to the owners thereof out of its share of the working interest production of the Unit Area.

5. OPERATOR OF UNIT

GULF OIL CORPORATION shall be the Operator of the Unit Area, and shall conduct and direct and have full control of all operations on the Unit Area as permitted and required by, and within the limits of, this agreement. It shall conduct all such operations in a good and workmanlike manner, but it shall have no liability as Operator to the other parties for losses sustained, or liabilities incurred, except such as may result from gross negligence or from breach of the provisions of this agreement.

6. EMPLOYEES

The number of employees and their selection, and the hours of labor and the compensation for services performed, shall be determined by Operator. All employees shall be the employees of Operator.

~~7. TEST WELLS~~

~~On or before the ____ day of _____, 19____ Operator shall commence the drilling of a well for oil and gas in the following location:~~

~~and shall thereafter continue the drilling of the well with due diligence to~~

~~unless granite or other practically impenetrable substance is encountered at a lesser depth or unless all parties agree to complete the well at a lesser depth.~~

~~Operator shall make reasonable tests of all formations encountered during drilling which give indication of containing oil and gas in quantities sufficient to test, unless this agreement shall be limited in its application to a specific formation or formations, in which event Operator shall be required to test only the formation or formations to which this agreement may apply.~~

~~If in Operator's judgment the well will not produce oil or gas in paying quantities, and it wishes to plug and abandon the test as a dry hole, it shall first secure the consent of all parties to the plugging, and the well shall then be plugged and abandoned as promptly as possible.~~

8. COSTS AND EXPENSES

Except as herein otherwise specifically provided, Operator shall promptly pay and discharge all costs and expenses incurred in the development and operation of the Unit Area pursuant to this agreement and shall charge each of the parties hereto with their respective proportionate shares upon the cost and expense basis provided in the Accounting Procedure attached hereto and marked Exhibit "C". If any provision of Exhibit "C" should be inconsistent with any provision contained in the body of this agreement, the provisions in the body of this agreement shall prevail.

Operator, at its election, shall have the right from time to time to demand and receive from the other parties payment in advance of their respective shares of the estimated amount of the costs to be incurred in operations hereunder during the next succeeding month, which right may be exercised only by submission to each such party of an itemized statement of such estimated costs, together with an invoice for its share thereof. Each such statement and invoice for the payment in advance of estimated costs shall be submitted on or before the 20th day of the next preceding month. Each party shall pay to Operator its proportionate share of such estimate within fifteen (15) days after such estimate and invoice is received. If any party fails to pay its share of said estimate within said time, the amount due shall bear interest at the rate of eight percent (8%) per annum until paid. Proper adjustment shall be made monthly between advances and actual cost, to the end that each party shall bear and pay its proportionate share of actual costs incurred, and no more.

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9. OPERATOR'S LIEN

Operator is given a first and preferred lien on the interest of each party covered by this contract, and in each party's interest in oil and gas produced and the proceeds thereof, and upon each party's interest in material and equipment, to secure the payment of all sums due from each such party to Operator.

In the event any party fails to pay any amount owing by it to Operator as its share of such costs and expense or such advance estimate within the time limited for payment thereof, Operator, without prejudice to other existing remedies, is authorized, at its election, to collect from the purchaser or purchasers of oil or gas, the proceeds accruing to the working interest or interests in the Unit Area of the delinquent party up to the amount owing by such party, and each purchaser of oil or gas is authorized to rely upon Operator's statement as to the amount owing by such party.

In the event of the neglect or failure of any non-operating party to promptly pay its proportionate part of the cost and expense of development and operation when due, the other non-operating parties and Operator, within thirty (30) days after the rendition of statements therefor by Operator, shall proportionately contribute to the payment of such delinquent indebtedness and the non-operating parties so contributing shall be entitled to the same lien rights as are granted to Operator in this section. Upon the payment by such delinquent or defaulting party to Operator of any amount or amounts on such delinquent indebtedness, or upon any recovery on behalf of the non-operating parties under the lien conferred above, the amount or amounts so paid or recovered shall be distributed and paid by Operator to the other non-operating parties and Operator proportionately in accordance with the contributions theretofore made by them.

10. TERM OF AGREEMENT

This agreement shall remain in full force and effect for as long as any of the oil and gas leases subjected to this agreement remain or are continued in force as to any part of the Unit Area, whether by production, extension, renewal or otherwise; provided, however, that in the event the first well drilled hereunder results in a dry hole and no other well is producing oil or gas in paying quantities from the Unit Area, then at the end of ninety (90) days after abandonment of the first test well, this agreement shall terminate unless one or more of the parties are then engaged in drilling a well or wells pursuant to Section 12 hereof, or all parties have agreed to drill an additional well or wells under this agreement, in which event this agreement shall continue in force until such well or wells shall have been drilled and completed. If production results therefrom this agreement shall continue in force thereafter as if said first test well had been productive in paying quantities, but if production in paying quantities does not result therefrom this agreement shall terminate at the end of ninety (90) days after abandonment of such well or wells. It is agreed, however, that the termination of this agreement shall not relieve any party hereto from any liability which has accrued or attached prior to the date of such termination.

11. LIMITATION ON EXPENDITURES

Without the consent of all parties: (a) No well shall be drilled on the Unit Area except any well expressly provided for in this agreement and except any well drilled pursuant to the provisions of Section 12 of this agreement, it being understood that the consent to the drilling of a well shall include consent to all necessary expenditures in the drilling, testing, completing, and equipping of the well, including necessary tankage; (b) No well shall be reworked, plugged back or deepened except a well reworked, plugged back or deepened pursuant to the provisions of Section 12 of this agreement, it being understood that the consent to the reworking, plugging back or deepening of a well shall include consent to all necessary expenditures in conducting such operations and completing and equipping of said well to produce, including necessary tankage; (c) Operator shall not undertake any single project reasonably estimated to require an expenditure in excess of Fifteen Thousand Dollars ($15,000.00) except in connection with a well the drilling, reworking, deepening, or plugging back of which has been previously authorized by or pursuant to this agreement; provided, however, that in case of explosion, fire, flood, or other sudden emergency, whether of the same or different nature, Operator may take such steps and incur such expenses as in its opinion are required to deal with the emergency and to safeguard life and property, but Operator shall, as promptly as possible, report the emergency to the other parties. Operator shall, upon [illegible] furnish copies of its "Authority for Expenditures" for any single project costing in excess of $15,000.00

17. DELAY RENTALS AND SHUT-IN WELL PAYMENTS

Delay rentals and shut-in well payments which may be required under the terms of any lease shall be paid by the party who has subjected such lease to this agreement, at its own expense. Proof of each payment shall be given to Operator at least ten (10) days prior to the rental or shut-in well payment date. Operator shall furnish similar proof to all other parties concerning payments it makes in connection with its leases. Any party may request, and shall be entitled to receive, proper evidence of all such payments. If, through mistake or oversight, any delay rental or shut-in well payment is not paid or is erroneously paid, and as a result a lease or interest therein terminates, there shall be no monetary liability against the party who failed to make such payment. Unless the party who failed to pay a rental or shut-in well payment secures a new lease covering the same interest within ninety (90) days from the discovery of the failure to make proper payment, the interests of the parties shall be revised on an acreage basis effective as of the date of termination of the lease involved, and the party who failed to make proper payment will no longer be credited with an interest in the Unit Area on account of the ownership of the lease which has terminated. In the event the party who failed to pay the rental or the shut-in well payment shall not have been fully reimbursed, at the time of the loss, from the proceeds of the sale of oil and gas attributable to the lost interest, calculated on an acreage basis, for the development and operating costs theretofore paid on account of such interest, it shall be reimbursed for unrecovered actual costs theretofore paid by it (but not for its share of the cost of any dry hole previously drilled or wells previously abandoned) from so much of the following as is necessary to effect reimbursement:

(1) Proceeds of oil and gas, less operating expenses, theretofore accrued to the credit of the lost interest, on an acreage basis, up to the amount of unrecovered costs;

(2) proceeds, less operating expenses thereafter incurred attributable to the lost interest on an acreage basis, of that portion of oil and gas thereafter produced and marketed (excluding production from any wells thereafter drilled) which would, in the absence of such lease termination, be attributable to the lost interest on an acreage basis up to the amount of unrecovered costs, the proceeds of said portion of the oil and gas to be contributed by the other parties in proportion to their respective interests; and

(3) any moneys up to the amount of unrecovered costs that may be paid by any party who is or becomes the owner of the interest lost, for the privilege of participating in the Unit Area or becoming a party to this contract.

Operator shall attempt to notify all parties when a gas well is shut-in or restored to production, but assumes no liability whatsoever for failure to do so.

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18. PREFERENTIAL RIGHT TO PURCHASE

~~Should any party desire to sell all or any part of its interests under this agreement, or its rights and interests in the Unit Area, it shall promptly give written notice to the other parties with full information concerning its proposed sale, which shall include the name and address of the prospective purchaser (who must be ready, willing and able to purchase), the purchase price, and all other terms of the offer. The other parties shall then have an optional prior right, for a period of ten (10) days after receipt of the notice, to purchase on the same terms and conditions the interest which the other party proposes to sell; and if this option is not exercised, the purchasing parties shall share the purchased interest in the proportions that the interest each bears to the total interest of all purchasing parties. However, there shall be no preferential right to purchase in those cases where any party wishes to mortgage its interests, or to dispose of its interests by merger, reorganization, consolidation, or sale of all of its assets, or a sale or transfer of its interests to a subsidiary or parent company or subsidiary of a parent company, or to any company in which any one party owns a majority of the stock.~~

19. SELECTION OF NEW OPERATOR

Should a sale be made by Operator of its rights and interests, the other parties shall have the right within sixty (60) days after the date of such sale, by majority vote in interest, to select a new Operator. If a new Operator is not so selected, the transferee of the present Operator shall assume the duties of and act as Operator. In either case, the retiring Operator shall continue to serve as Operator, and discharge its duties in that capacity under this agreement, until its successor Operator is selected and begins to function, but the present Operator shall not be obligated to continue the performance of its duties for more than 120 days after the sale of his rights and interests has been completed.

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...ted on Exhibit "A". The originating notice to be given under any provision hereof shall be deemed ... when received by the party to whom such notice is directed and the time for such party to give any ... response thereto shall run from the date the originating notice is received. The second or any ... notice shall be deemed given when deposited in the United States mail or with the Western Union ... Company, with postage or charges prepaid. Each party shall have the right to change its address ... at any time, and from time to time, by giving written notice thereof to all other parties.

36. OTHER CONDITIONS, IF ANY, ARE:

A. Effective Date. This agreement shall become effective as of the effective date of the Communitization Agreement which is entered into simultaneously herewith and which communitizes all leasehold interests as to the Upper and Lower Morrow Gas Pools in Section 12, Township 23 South, Range 24 East. Upon the effective date of this agreement the Operating Agreement dated October 30, 1969 which provided for the drilling of a test well to the aforesaid formations and which covered only the W/2 of said Section 12 shall be superseded.

B. Recovery of Well Costs. The well costs allocated to the 8.7890625% interest of Monsanto Company and the well costs allocated to the 8.7890625% interest of David Fasken in the W/2 of Section 12, Township 23 South, Range 24 East, were carried by Gulf pursuant to the Operating Agreement dated October 30, 1969, mentioned above, subject to a penalty of 150% out of any production. Until recovery of 150% of 1/2 of all such costs, together with the operating expenses attributable to said interest, Gulf shall be entitled to receive the said interests (the same being 4.39453125% for Monsanto Company and 4.39453125% for David Fasken) and after payout those interests in the Unit well including all equipment therein and thereon shall be owned by Monsanto and Fasken, respectively, who shall thereafter receive the production attributable to such interests and who shall thereafter bear all operating costs attributable to such interests.

Priority of Operations. Insofar as charges for, control and direction of oil and gas operations conducted pursuant to the above-mentioned Communitization Agreement are concerned the Operator herein shall have paramount jurisdiction over the communitized lands, notwithstanding the fact that Monsanto Company is the designated Operator of the Rock Tank Unit which covers a portion of said lands. For the purposes hereof it is expressly agreed that the Rock Tank Unit Operating Agreement is superseded insofar but only insofar as it applies to the Rock Tank Upper and Lower Morrow Formations in and under the E/2 of Section 12, Township 23 South, Range 24 East, and only for the period that this Operating Agreement is in force and effect. Nothing herein contained shall supersede, alter, amend or predominate over the Rock Tank Unit Agreement as it pertains to the said E/2 of Section 12, above described.

11/6/70

This agreement may be signed in counterpart, and shall be binding upon the parties and upon their heirs, successors, representatives and assigns. [This agreement has been re-executed so as to include without any changes since its last revision on 4/24/70 pages 1 through 11, inclusive, and Exhibits B, C and D. In addition, this agreement contains changes proposed on 11/6/70 in pages 12, 13 and in Exhibit A. For identification purposes the unchanged pages incorporated herein are now marked "4/24/70 : 11/6/70", and the revised pages are simply marked "11/6/70".]

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OPERATOR

GULF OIL CORPORATION

ATTEST:

By: _____
Attorney-in-Fact

_____
Assistant Secretary

Date: _____

PARTIES OTHER THAN OPERATOR

CITIES SERVICE OIL COMPANY

Date: _____ By: _____
Attorney-in-Fact

Date: _____ _____
JACK L. HAMON

Date: _____ _____
DAVID FASKEN

MONSANTO COMPANY

Date: _____ By: _____
Attorney-in-Fact

ATLANTIC RICHFIELD COMPANY

Date: _____ By _____
Attorney-in-Fact

MOBIL OIL CORPORATION

ATTEST:

_____ By _____
Assistant Secretary Attorney-in-Fact

Date: _____

REDFERN DEVELOPMENT CORPORATION

ATTEST:

_____ By _____
Assistant Secretary

Date: _____

MARATHON OIL COMPANY

Date: _____ By _____

Date: _____ _____
MAX W. COLE, II

11/6/70

EXHIBIT "A"

I. Lands Covered and Restrictions.

(a) Lands Subject to Contract.
All of Section 12, Township 23 South, Range 24 East, N.M.P.M., Eddy County, New Mexico, containing 640 acres, more or less.

(b) Restrictions, if any, as to formations or depths.
This agreement shall be effective only as to the Rock Tank Upper and Lower Morrow Pools as the same are defined by the New Mexico Oil Conservation Commission.

II. Percentage or Fractional Interests of Parties Under Agreement in the Lands Subject to Contract.

(a) Until Payout of Monsanto and Fasken Interests in the W/2 of Section 12-23S-24E, Pursuant to Section 31-B, Above.

Working Interest Owner	Drilling and Operating Costs*	Participation In Production**
Gulf Oil Corporation	51.372145%	51.529661%
Monsanto Company	16.429479%	16.360842%
David Fasken	16.429479%	16.360841%
Cities Service Oil Company	8.311165%	8.283456%
Atlantic Richfield Company	1.681881%	1.663228%
Jake L. Hamon	4.155563%	4.141705%
Mobil Oil Corporation	.480891%	.501548%
Flag-Redfern Oil Company	.498233%	.489989%
Marathon Oil Company	.320587%	.334365%
Max W. Coll, II	.320587%	.334365%
TOTALS	100.000000%	100.000000%

(b) After Payout of All Interests.

Working Interest Owner	Drilling and Operating Costs*	Participation In Production**
Gulf Oil Corporation	42.583083%	42.740599%
Monsanto Company	20.824010%	20.755373%
David Fasken	20.824010%	20.755372%
Cities Service Oil Company	8.311165%	8.283456%
Atlantic Richfield Company	1.681881%	1.663228%
Jake L. Hamon	4.155563%	4.141705%
Mobil Oil Corporation	.480881%	.501548%
Flag-Redfern Oil Company	.498233%	.489989%
Marathon Oil Company	.320587%	.334365%
Max W. Coll, II	.320587%	.334365%
TOTALS	100.000000%	100.000000%

III. Addresses of Parties to Which Notices Should be Sent.

Gulf Oil Company-U.S.
A Division of Gulf Oil Corporation
Post Office Box 1938
Roswell, New Mexico 88201

Cities Service Oil Company
Cities Service Building
Bartlesville, Oklahoma 74003

Jake L. Hamon
Post Office Box 763
Dallas, Texas 75221

David Fasken
608 First National Bank Building
Midland, Texas 79701

Monsanto Company
101 North Marienfeld
Midland, Texas 79701

Atlantic Richfield Company
Post Office Box 1610
Midland, Texas 79701

Mobil Oil Corporation
Post Office Box 633
Midland, Texas 79701

Flag-Redfern Oil Company
Post Office Box 23
Midland, Texas 79701

Marathon Oil Company
Post Office Box 552
Midland, Texas 79701

Max W. Coll, II
Post Office Box 1818
Roswell, New Mexico 88201

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(*) Based upon Column 5 of Pg. 7 of Exhibit "C" to the Rock Tank Unit Agreement.
(**) Based upon Column 6 of Pg. 7 of Exhibit "C" to the Rock Tank Unit Agreement.

11/6/70
(Revised 12/14/70)

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. 10658
ORDER NO. R-9841

APPLICATION OF MEWBOURNE OIL COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 21, 1993, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 3rd day of February, 1993, 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) The applicant, Mewbourne Oil Company, seeks an order pooling all mineral interests from the base of the Abo formation to the base of the Morrow formation, underlying the following described acreage in Section 35, Township 17 South, Range 27 East, NMPM, Eddy County, New Mexico, and in the following manner:

> the W/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to, the Undesignated Scoggin Draw-Atoka Gas Pool, Undesignated North Illinois Camp-Morrow Gas Pool, Undesignated Scoggin-Morrow Gas Pool and Undesignated Logan Draw-Morrow Gas Pool;

EXHIBIT
B

the NW/4 forming a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes only the Undesignated Logan Draw-Wolfcamp Gas Pool; and,

the E/2 NW/4 forming a standard 80-acre oil spacing and proration unit for any pools developed on 80-acre spacing within said vertical extent, of which there are currently none.

(3) Said units are to be dedicated to the applicant's Chalk Bluff "35" Federal Well No. 2, to be drilled at an orthodox gas well location within the SE/4 NW/4 (Unit F) of said Section 35.

(4) Devon Energy Corporation (Devon), successor owner of Malco Refineries, Inc.'s interest in the NW/4 and NW/4 SW/4 of said Section 35, appeared at the hearing through counsel and opposed the application on the basis that its interest is governed by an operating agreement with Mewbourne Oil Company, who is the successor owner of the Stanolind Oil and Gas Company underlying the same acreage.

(5) Devon claims its interest is bound under the agreements reached by Malco Refineries, Inc. and Stanolind Oil and Gas Company in July, 1953 and April, 1958, being Devon's Exhibit "A" and "B" in this case.

Mewbourne, also represented by counsel, contends that a supplemental agreement is necessary where acreage outside the "contract lands" are included in a spacing unit, being the NE/4 SW/4 and S/2 SW/4 of said Section 35, which is 100% Mewbourne-contracted properties. Since both parties have not agreed to a "supplemental agreement", Mewbourne contends that the original agreement is invalid and seeks to force-pool Devon's interest into the W/2 spacing unit.

FINDING: Since under the "force-pooling" statutes (Chapter 70-2-17 of the NMSA 1978) there exists in this matter an agreement between the two parties owning undivided interests in a proposed 320-acre gas spacing and proration unit, an order from the Division pooling said parties is unnecessary.

(6) This case should therefore be dismissed.

IT IS THEREFORE ORDERED THAT:

(1) Case No. 10658 is hereby **dismissed**.

(2) 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

SEAL