

**JAMES BRUCE**  
ATTORNEY AT LAW

POST OFFICE BOX 1056  
SANTA FE, NEW MEXICO 87504

SUITE B  
612 OLD SANTA FE TRAIL  
SANTA FE, NEW MEXICO 87501

(505) 982-2043  
(505) 982-2151 (FAX)

AUG - 3 1998

August 1, 1998

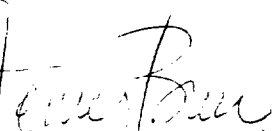
Lori Wrotenbery, Director  
Oil Conservation Division  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

Re: Case No. 11992 (Application of Penwell Energy, Inc. for  
Compulsory Pooling, Eddy County, New Mexico)

Dear Ms. Wrotenbery:

Enclosed for filing are an original and one copy of a motion  
regarding the above case.

Very truly yours,

  
James Bruce

Attorney for Canadian Kenwood Company

BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

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

Case No. 11992  
Order No. R-11004

MOTION TO HOLD ELECTION NOTICE INVALID  
OR IN THE ALTERNATIVE TO  
STAY THE ELECTION PERIOD UNDER ORDER NO. R-11004

Canadian Kenwood Company ("Canadian") moves the Division or the Commission for an order (a) holding, among other things, that an "election" letter sent to Canadian is invalid under Order No. R-11004, or (b) staying the election period until the *de novo* application filed herein is heard, and in support thereof, states:

I. **FACTS.**

Penwell Energy, Inc. ("Penwell") applied in Case No. 11992 for an order pooling the SE¼SW¼ of Section 19, Township 18 South, Range 31 East, NMPM, Eddy County, New Mexico, for all pools or formations, from the surface to the base of the Wolfcamp formation, spaced on 40 acres. The unit was to be dedicated to Penwell's West Shugart "19" Fed. Well No. 1. Canadian entered an appearance in the case.

The only well proposal letter sent by Penwell to Canadian before the hearing proposed a 10,300 foot Wolfcamp test. **See Penwell Hearing Exhibit 3.** The AFE attached to that letter was for a Wolfcamp well. **Id.** The evidence submitted by Penwell at hearing to support a non-consent penalty against Canadian relied solely on Wolfcamp geology. **See Penwell Hearing Exhibits 5-8.**

Order No. R-11004 was issued on July 13, 1998. It contains the usual provisions of a pooling order, including the following:

PROVIDED HOWEVER THAT, the operator of the unit shall commence drilling the well on or before the 1<sup>st</sup> day of October, 1998, **and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Wolfcamp formation.**

Order No. R-11004, Decretory ¶(1), second paragraph (emphasis added); and

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

Order No. R-11004, Decretory ¶(3). A working interest owner furnished with a schedule of well costs must pay its share of costs within 30 days to avoid the penalty provision contained in the order. Order No. R-11004, Decretory ¶¶(4), (7).

After the entry of the order, Penwell sent a letter to Canadian dated July 15, 1998. The letter re-proposed the well as an 8,400 foot Bone Spring test, and attached an AFE for a Bone Spring well. See Exhibit A.

In order to preserve its rights, on July 30, 1998 Canadian applied for Case No. 11992 to be heard *de novo* by the Commission pursuant to NMSA 1978 §70-2-13 (1995 Repl. Pamp.) and Division Rule 1220.

## II. ARGUMENT.

Order No. R-11004 clearly applies to a well to be drilled to test the Wolfcamp formation. Since Penwell now seeks to drill only to the Bone Spring formation, the order is not valid as to Penwell's proposal to drill a well only to the Bone Spring.

In addition, since the July 15th letter is a re-proposal,

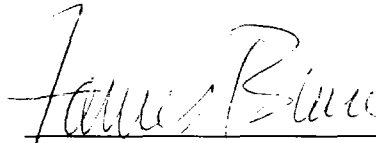
Penwell must re-start the pooling process if it desires to pool Canadian into a Bone Spring well. Penwell cannot bootstrap a new well proposal onto Order No. R-11004.

Finally, testimony to support a 200% non-consent penalty was based solely on Wolfcamp geology. Therefore, even assuming the July 15th proposal letter is a valid election notice under Order No. R-11004, the penalty provision in the order is not supported by evidence in the record as to a Bone Spring test.

**WHEREFORE**, Canadian requests that the Division issue an order:

- A. Holding that Order No. R-11004 does not apply to a well which is not drilled to a depth sufficient to test the Wolfcamp formation;
- B. Holding that Penwell's July 15th letter to Canadian does not comply with Decretory Paragraphs (1) and (3) of Order No. R-11004, and that Canadian has no obligation to respond to that letter in order to avoid a non-consent penalty under the order;
- C. Holding that the non-consent penalty in Order No. R-11004 applies only to a well drilled to a depth sufficient to test the Wolfcamp formation; and
- D. Holding that, if Penwell seeks to drill a Bone Spring well, it must re-start the pooling process in order to obtain Canadian's joinder in the well; or
- E. If the July 15th re-proposal letter complies with Order No. R-11004, staying the running of the 30 day election period until the Commission can hear the appeal.

Respectfully submitted,



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

Attorney for Canadian Kenwood Company

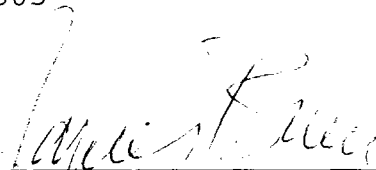
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was mailed this 15<sup>th</sup> day of August, 1998 to:

William F. Carr  
Campbell, Carr, Berge & Sheridan, P.A.  
P.O. Box 2208  
Santa Fe, New Mexico 87504

Marilyn S. Hebert  
Oil Conservation Commission  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

Rand L. Carroll  
Oil Conservation Division  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505



James Bruce

PENWELL ENERGY, INC.

1100 AMCO BUILDING  
800 N. MARIENFELD  
MIDLAND, TEXAS 79701

OFF: (915) 883-2534  
FAX: (915) 883-4514

July 15, 1998

Canadian Kenwood Company  
1910 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402

Attn: Tena Hall

Re: Shugart West "19" Federal #1 Well  
Shugart West Prospect (NM-050)  
Eddy County, New Mexico

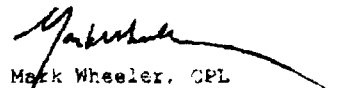
Dear Tena:

Pursuant to Compulsory Pooling Order R-11004, Penwell Energy, Inc. hereby re-proposes the drilling of the captioned well, a 8,400' Bone Spring test well to be drilled 1990' FWL & 660' FSL of Section 19, T-18-S, R-31-E, NMFM, Eddy County, New Mexico. Said order pools all formations from the surface to the base of the Wolfcamp formation. Due to spotty production performance in our Wolfcamp wells in Section 30, we have re-proposed this test well as a Bone Spring test.

We request that Canadian Kenwood immediately execute the enclosed AFE for your 73% share of this well and return one (1) copy to the undersigned or advise us at your earliest convenience that you wish to be subject to said Compulsory Pooling Order. Should you have any questions, please feel free to contact us.

Yours very truly,

PENWELL ENERGY, INC.

  
Mark Wheeler, CPL  
Land Manager, Permian Basin

/cmw:nm-050(30m  
cc: Steve Foy / John Thomas

EXHIBIT A

**PENWELL ENERGY, INC.  
AUTHORITY FOR EXPENDITURE**

|  |  |
|--|--|
| <b>WELL NAME:</b> West Shugart "18" Federal #1 | <b>PROSPECT NAME:</b> Shugart West Bone Spring |
| <b>LOCATION:</b> 1,880' FWL & 860' FSL         | <b>COUNTY &amp; STATE:</b> Eddy, New Mexico    |
| <b>Section 18 - T18N - R31E</b>                | <b>OBJECTIVE:</b> 8,400' Bone Spring Oil Well  |

| INTANGIBLE COSTS                   | BCP        | ACP        | TOTAL   |
|------------------------------------|------------|------------|---------|
| APD & ARCHAEOLOGICAL               | 502 750    | 702 800    | 1,550   |
| TITLE OPRIUS & CONATIVE            | 804 3,000  | 704 0      | 3,000   |
| SURVEYING & LOCATION               | 508 750    | 708 750    | 1,500   |
| MANHOLES & CULVERTS                | 808 3,000  | 708 0      | 3,000   |
| ROADS & LOCATIONS WITH LENSES ETC. | 510 25,000 | 710 7,500  | 32,500  |
| DRILLING - 2,000/FT                | 512 12,000 | 712 0      | 12,000  |
| DRILLING - 15,000/FT               | 514 15,000 | 714 0      | 15,000  |
| DRILLING - 15,000/FT               | 516 15,000 | 716 3,000  | 18,000  |
| DRILLING - 15,000/FT               | 518 25,000 | 718 3,500  | 28,500  |
| WATER                              | 820 0      | 720 0      | 0       |
| WATER - 15,000/FT                  | 822 0      | 722 0      | 0       |
| DRILLING - 15,000/FT               | 524 8,500  | 724 0      | 8,500   |
| DRILLING - 15,000/FT               | 526 12,700 | 726 0      | 12,700  |
| DRILLING - 15,000/FT               | 530 2,000  | 730 22,000 | 24,000  |
| DRILLING - 15,000/FT               | 532 8,000  | 732 0      | 8,000   |
| DRILLING - 15,000/FT               | 534 8,000  | 734 0      | 8,000   |
| DRILLING - 15,000/FT               | 536 8,000  | 736 5,000  | 13,000  |
| DRILLING - 15,000/FT               | 538 15,100 | 738 0      | 15,100  |
| DRILLING - 15,000/FT               | 540 12,800 | 740 0      | 12,800  |
| DRILLING - 15,000/FT               | 542 2,300  | 742 12,000 | 14,300  |
| DRILLING - 15,000/FT               | 544 9,000  | 744 3,500  | 12,500  |
| DRILLING - 15,000/FT               | 546 1,000  | 746 1,000  | 2,000   |
| DRILLING - 15,000/FT               | 548 0      | 748 15,500 | 15,500  |
| DRILLING - 15,000/FT               | 550 0      | 750 87,500 | 87,500  |
| DRILLING - 15,000/FT               | 552 0      | 752 7,500  | 7,500   |
| DRILLING - 15,000/FT               | 554 8,000  | 754 3,000  | 11,000  |
| DRILLING - 15,000/FT               | 556 12,500 | 756 2,000  | 14,500  |
| DRILLING - 15,000/FT               | 558 4,500  | 758 2,500  | 7,000   |
| DRILLING - 15,000/FT               | 560 8,800  | 760 0      | 8,800   |
| DRILLING - 15,000/FT               | 562 8,800  | 762 500    | 9,300   |
| DRILLING - 15,000/FT               | 564 17,100 | 764 7,500  | 24,600  |
| TOTAL INTANGIBLES                  | 380,112    | 164,695    | 544,807 |

| TANGIBLE COSTS           | BCP        | ACP        | TOTAL   |
|--------------------------|------------|------------|---------|
| CONDUCTOR CASING         | 602 5,000  | 702 0      | 5,000   |
| SURFACE CASING           | 604 8,500  | 704 0      | 8,500   |
| INTERMEDIATE CASING      | 608 31,200 | 708 0      | 31,200  |
| PRODUCER CASING / TUBING | 616 0      | 716 44,800 | 44,800  |
| PRODUCER CASING / TUBING | 620 0      | 720 22,000 | 22,000  |
| PRODUCER CASING / TUBING | 622 3,000  | 722 17,000 | 20,000  |
| PRODUCER CASING / TUBING | 624 0      | 724 0      | 0       |
| PRODUCER CASING / TUBING | 626 0      | 726 0      | 0       |
| PRODUCER CASING / TUBING | 628 0      | 728 5,500  | 5,500   |
| PRODUCER CASING / TUBING | 630 0      | 730 0      | 0       |
| PRODUCER CASING / TUBING | 632 0      | 732 5,000  | 5,000   |
| PRODUCER CASING / TUBING | 634 0      | 734 32,000 | 32,000  |
| PRODUCER CASING / TUBING | 636 0      | 736 5,000  | 5,000   |
| PRODUCER CASING / TUBING | 638 0      | 738 2,500  | 2,500   |
| PRODUCER CASING / TUBING | 640 2,500  | 740 8,225  | 10,725  |
| TOTAL TANGIBLES          | 85,500     | 93,225     | 178,725 |
| TOTAL WELL COSTS         | 465,612    | 257,920    | 723,532 |

**PLUMBING COST** 558 11,801  
**TOTAL PAYABLE** 422,000

Penwell Energy, Inc.

By: Engineering Staff

Date Prepared: July 18, 1988

Operations Manager Approval: \_\_\_\_\_

We approve:

73.0 % Before Tanks / 73.0 % After Tanks

Company: Canadian Kenwood Company

This ARE is only an estimate. By signing you agree to pay your share of the actual costs incurred.

By:

Printed Name:

Title:

Date: