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JASON KELLAHIN  
OF COUNSEL

July 11, 1990

HAND DELIVERED

Mr. William J. LeMay  
Oil Conservation Commission  
Post Office Box 2088  
Santa Fe, New Mexico 87504

Re: Application of BTA Oil Producers  
for an Unorthodox Oil Well  
Location, Eddy County,  
New Mexico  
NMOCD Case No. 9883  
Order No. R-9147-A

RECEIVED

JUL 11 1990

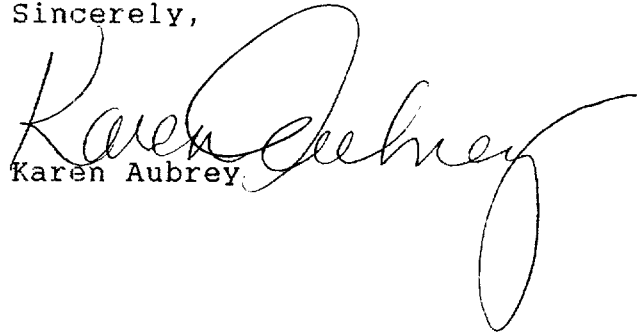
OIL CONSERVATION DIVISION

Dear Mr. LeMay:

On behalf of Bird Creek Resources, Inc. and in  
accordance with your request at the hearing held on June 21,  
1990, please find enclosed a proposed order for entry in  
this case.

Please call me if you have any questions.

Sincerely,

  
Karen Aubrey

KA/tic  
Enclosure

xc: Lawrence W. Robinette  
Bird Creek Resources  
1412 South Boston, Suite 550  
Tulsa, Oklahoma 74119

William F. Carr, Esq.  
Campbell & Black, P.A.  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208

STATE OF NEW MEXICO  
DEPARTMENT OF ENERGY AND MINERALS  
OIL CONSERVATION COMMISSION

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

CASE NO. 9883  
ORDER NO. R-9147-A  
DE NOVO

APPLICATION OF BTA OIL PRODUCERS  
FOR AN UNORTHODOX OIL WELL  
LOCATION, EDDY COUNTY, NEW MEXICO

BIRD CREEK RESOURCES'  
PROPOSED ORDER  
OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on  
June 21, 1990 at Santa Fe, before the Oil Conservation  
Commission,

NOW, on this \_\_\_\_ day of \_\_\_\_\_, 1990, the  
Commission, having considered the testimony presented, and  
the evidence, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as  
required by law, the Commission has jurisdiction of this  
cause and the subject matter thereof.

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 2

(2) Applicant, BTA Oil Producers (hereafter BTA), seeks approval of an unorthodox surface and bottomhole oil well location 176 feet from the South line and 1550 feet from the West line (Unit N) of Section 11, Township 23 South, Range 28 East, N.M.P.M., Undesignated East Loving-Delaware Oil Pool, Eddy County, New Mexico and proposes to dedicate the SE/4SW/4 of said Section 11 to the above described well forming a standard 40-acre oil spacing and proration unit for said pool.

(3) Bird Creek Resources (hereafter Bird Creek) opposes said unorthodox location because there are standard locations available in the SE/4SW/4 of Section 11; and/or it would be economic to directionally drill a well from an unorthodox surface location to a standard bottomhole location; and/or said unorthodox location will result in the waste of hydrocarbon reserves in that the subject well will be unable to drain the northern portion of its 40-acre proration unit; and, therefore, no unorthodox bottomhole location is necessary.

(4) Bird Creek entered an appearance and presented testimony at the Examiner Hearing held in this matter on March 7, 1990.

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 3

(5) On April 26, 1990, 1990 Bird Creek filed its application to have this matter heard De Novo by the full New Mexico Oil Conservation Commission (hereafter Commission).

(6) On June 21, 1990 the Commission, over Bird Creek's objection, incorporated the record of the Examiner hearing, finding that since Bird Creek had appeared and participated in said hearing, it was "bound" by testimony presented on March 7, 1990.

(7) Further, the Commission ruled that Bird Creek was precluded from presenting witnesses and offering evidence to rebut BTA's testimony regarding the geological reasons for the choice of unorthodox location, and the topographical reasons justifying an unorthodox location because Bird Creek had failed to seek a stay of the Examiner Order and BTA had drilled its Pardue "C" well at the unorthodox location during the time period in which either party could have requested a De Novo hearing and a stay.

(8) Bird Creek made an offer of proof that it was prepared to present witnesses to show that there were standard surface and bottomhole locations available to BTA;

that one of these standard locations was outside the flood plain in which BTA claimed it could not drill; and another standard location, while within the flood plain, was at the same elevation within the flood plain as the well BTA had drilled and completed prior to the March 7, 1990 hearing, said well being located to the northwest of the proposed location; that BTA, in fact, obtained a geological advantage over Bird Creek by drilling its well at the unorthodox location; that the areal extent of the flood plain shown by BTA on its Examiner Exhibit No. 7 was inaccurate; that, contrary to the BTA testimony before the Examiner, it was economical to directionally drill the Pardue "C" well; and that contrary to the BTA testimony before the Examiner, the railroad right-of-way could have been drilled on. Said offer of proof was rejected as irrelevant.

(9) That no BTA witness who testified at the Examiner hearing was called to testify before the Commission by BTA, even though those witnesses were in the hearing room.

(10) That Bird Creek was, therefore, prevented from cross-examining those witness on their prior testimony.

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 5

(11) That Bird Creek was not permitted to call BTA's witnesses for direct examination on the questions of topography and geology.

(12) That the Commission limited the proof which it would hear to the question of correlative rights only, which excluded geological and topographical evidence.

(13) That the Commission refused to require BTA, as Applicant, to bear its burden of proof on its request for an unorthodox location on the grounds that BTA had drilled and completed its well during the period provided by statute for requesting a stay of the examiner order and/or a De Novo hearing.

(14) That the Commission denied Bird Creek's Motion to Dismiss the application for failure of BTA to prove a prima facie case.

(15) That the Commission treated the De Novo application and hearing as an appeal of the Examiner order in violation of New Mexico law.

(16) That Bird Creek's due process rights were violated.

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 6

(17) That BTA failed to present geographical or topographical evidence to support its choice of unorthodox location and, in addition, failed to present engineering evidence to prove that the BTA well was not impairing the correlative rights of Bird Creek.

(18) That the drainage calculation testimony presented by BTA that the Pardue "C" well would drain only 20 to 22 acres was based upon a hypothetical formation volume factor and a significantly earlier estimate of analogous recoverable reserves and was, therefore, not credible.

(19) That even though the Pardue "C" well is a producing oil well, BTA had not performed any fluid analysis from which it could determine an actual formation volume factor.

(20) That BTA had not performed a core analysis for the Pardue "C" well which would provide accurate reservoir data to determine the actual drainage area for the well.

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 7

(21) That BTA failed and refused to produce the logs of its Pardue "C" well for either verification of the number of feet of net pay used in its drainage calculation, or verification of its earlier claim of having gained no geological advantage from the well's unorthodox location.

(22) That BTA's engineering witness admitted that BTA had run a single point survey in order to determine the maximum deviation of the bottomhole location of the well, but would not testify as to what that bottomhole location deviation was.

(23) That, in the absence of proof from the Applicant, the Commission assumes that the bottomhole location of the well is, therefore, at a location closer to Bird Creek's well than that requested by BTA.

(24) That Bird Creek's reservoir engineering witness provided substantial credible testimony from which the Commission could conclude that the both the BTA Pardue "C" well and the Bird Creek Teledyne No. 1 well drain in excess of 40 acres.



CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 8

(25) That Bird Creek's reservoir engineer provided substantial credible information from which the Commission could conclude that both the BTA Pardue "C" well and the Bird Creek Teledyne No. 1 well are capable of producing from four (4) separate Delaware sands in the East Loving-Delaware Pool.

(26) That Bird Creek's reservoir engineer provided substantial credible testimony that recoverable reserves from only the current completed interval (Sand "D") and beneath the spacing and proration unit assigned to its Teledyne No. 1 well is approximately 200,000 barrels.

(27) That Bird Creek presented substantial credible testimony to show that the BTA Pardue "C" well will drain in excess of 33,867 barrels of oil from beneath the proration and spacing unit assigned to the Teledyne No. 1 well.

(28) That the BTA unorthodox location is 47% closer to the Teledyne No. 1 well than permitted under the Special Pool Rules for the East Loving-Delaware Pool.

(29) That the accepted penalty for an unorthodox location is:

$$\frac{(\text{standard location} - \text{proposed location})}{\text{standard location}} \text{ equals } \% \text{ penalty}$$

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 9

(30) That the depth bracket allowable for the Pardue "C" well is 142 barrels of oil per day.

(31) That the Pardue "C" well is presently capable of producing in excess of its allowable.

(32) That the allowable assigned to the Pardue "C" well should be reduced by 47% during the period in which the well will produce in excess of its allowable, for an allowable of 75 barrels per day.

(33) That at such time as the Pardue "C" well is no longer capable of producing at least 142 barrels of oil per day, the production from the well, based upon well tests, should be reduced by 47% of well capacity to produce for the life of the well.

IT IS THEREFORE ORDERED THAT:

(1) That the applicant, BTA, shall within ten days of the date of this order provide to the Commission and to Bird Creek, a complete and accurate copy of its directional survey for the Pardue "C" 8808 JV-P Well No. 1. Should said survey show the subject well to be closer than 176 feet to the South line of Section 11, then and in that event, the well shall be immediately shut in, and this case

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 10

shall be reopened at the next available Commission hearing to determine whether this well shall be allowed to produce and, if so, at what rate.

(2) That applicant, BTA Oil Producers, is hereby authorized to produce its Pardue "C" 8808 JV-P Well No. 1 at an unorthodox oil well location 176 feet from the South line and 1550 feet from the West line (Unit N) of Section 11, Township 23 South, Range 28 East, N.M.P.M., Undesignated East Loving-Delaware Oil Pool, Eddy County, New Mexico.

(3) The SE/4SW/4 of said Section 11 shall be dedicated to the above described well forming a standard 40-acre oil spacing and proration unit for said pool.

(4) A production limitation factor of 53% is hereby assigned to the subject well from the date of first production until such time as the well is no longer capable of producing its assigned allowable, and at that time, a production limitation factor of 53% of the well's ability to produce is hereby assigned to the subject well for the life of the well and shall be enforced in the following manner:

(a) During the period of time the subject well is capable of production in excess of top unit allowable (142 barrels of oil per day) for the East Loving-Delaware Pool, the

subject well shall be allowed to produce 53% of 142 barrels of oil per day, or 75 barrels of oil per day.

- (b) In the event the subject well is initially incapable of production in excess of top unit allowable, or during the period of time the subject well is subsequently incapable of production in excess of top unit allowable, the subject well shall be allowed to produce 53% of that amount which is ~~is~~ capable of producing. The amount the subject well is capable of producing shall be determined by quarterly well tests witnessed by a representative of the Division's Artesia district office.

(5) The applicant shall give advance notification to the supervisor of the Artesia District Office of the Division of the date and time of conducting each quarterly well test in order that the same may be witnessed.

(6) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

CASE NO. 9883  
ORDER NO. R-9147-A  
PAGE 12

DONE at Santa Fe, New Mexico, on the day and year  
hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

WILLIAM J. LEMAY

WILLIAM R. HUMPHRIES

WILLIAM W. WEISS

CAMPBELL & BLACK, P.A.  
LAWYERS

JACK M. CAMPBELL  
BRUCE D. BLACK  
MICHAEL B. CAMPBELL  
WILLIAM F. CARR  
BRADFORD C. BERGE  
MARK F. SHERIDAN  
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OIL CONSERVATION DIVISION  
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July 3, 1990

Mr. William J. LeMay,  
Chairman and Secretary  
Oil Conservation Commission  
New Mexico Department of Energy,  
Minerals and Natural Resources  
State Land Office Building  
Santa Fe, New Mexico 87504

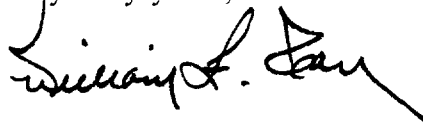
Re: **Case 9883 (De Novo):** Application of BTA Oil Producers for  
for an Unorthodox Oil Well Location, Eddy County, New Mexico

Dear Mr. LeMay:

Pursuant to your request of June 21, 1990, enclosed herewith please find BTA Oil Producers Proposed Order of the Commission in the above-referenced case.

Your attention to this matter is appreciated.

Very truly yours,



WILLIAM F. CARR

WFC:mtb  
Enclosure

cc: William R. Humphries,  
Commission of Public Land (w/enclosure)  
William W. Weiss (w/enclosure)

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

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

CASE 9883 (DE NOVO)  
ORDER NO. R-\_\_\_\_\_

APPLICATION OF BTA OIL PRODUCERS  
FOR AN UNORTHODOX OIL WELL LOCATION,  
EDDY COUNTY, NEW MEXICO.

**BTA OIL PRODUCERS'  
PROPOSED  
ORDER OF THE COMMISSION**

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on June 21, 1990, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this \_\_\_\_ day of July, 1990, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, BTA Oil Producers ("BTA"), operates the SE/4 SW/4 of Section 11, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico on which it has drilled its Pardue "C" 8808 JV-P Well No. 1 ("Pardue No. 1") at a location 176 feet from the South line and 1550 feet from the West line (Unit N) of said Section 11 to test the undesignated East Loving-Delaware Pool.

(3) BTA proposed to drill this well at a standard location but, due to topographic conditions, moved the well to the unorthodox location at which it has been drilled.

(4) BTA sought administrative approval of this unorthodox location but an objection was filed by Bird Creek Resources Inc. ("Bird Creek"), an off-set operator, and the matter was set for hearing before a Division Examiner on March 7, 1990. By Order No. R-9147, the Division approved the unorthodox location of the Pardue No. 1 and imposed a penalty on the well of 12,225 barrels which is an amount equal to 8.15% of the well's recoverable reserves -- the additional recoverable reserves that could be drained from the Bird Creek tract as a result of the unorthodox well location of the Pardue No. 1.

(5) Bird Creek knew the Pardue No. 1 well was being drilled and produced by BTA in accordance with Division Order No. R-9147 and did not seek a stay of the Division order.

(6) BTA's development of this property at all times has been pursuant to a valid order of the Oil Conservation Division.

(7) The evidence presented to the Commission established that the Delaware formation in the subject area is tight and requires stimulation before wells completed therein can produce.

(8) Only the C and D zones are producing in the Pardue No. 1 or in any offsetting well.

(9) The economics of drilling Delaware wells in this area has resulted in no well having been cored or tested. Consequently, the drainage radius for any of the wells involved in this case cannot be calculated.

(10) Volumetric calculations have been made which show the number acres individual wells in the pool will drain.

(11) Although there were discrepancies in the data utilized in calculating drainage areas,<sup>1</sup> BTA presented evidence that showed that the Pardue No. 1 cannot reasonably be expected to drain 40 acres.

---

<sup>1</sup>BTA used 150,000 barrels of recoverable reserves in its reservoir calculations. This number was concurred in by Bird Creek's expert, Mr. Burks, at the March 7, 1990 Examiner Hearing (*see*, transcript at 43). A higher figure, however, was utilized by Bird Creek at the Commission hearing.



(12) Bird Creek seeks a penalty on the Pardue No. 1 in the C and D zones of the Delaware formation. Their proposed penalty is based on a computer study which estimated the additional drainage area on the Bird Creek tract which would result from the unorthodox location of the Pardue No. 1 (*see*, Bird Creek Exhibit No. 1).

(13) The area upon which Bird Creek's penalty is based, is limited by a no-flow boundary between the Pardue No. 1 and Bird Creek's Teledyne No. 1 Well. This area and resulting penalty calculation, however, did not take into consideration the no-flow boundaries between the Teledyne No. 2 Well and other off-setting wells nor did it exclude acreage in the northern portion of the Teledyne tract which could be drained by a BTA well at the standard location. The acreage utilized in Bird Creek's penalty calculation included substantial acreage that would not be drained by virtue of BTA's proposal and is an improper basis for assessment of a penalty.

(14) When the other no-flow boundaries were considered, the drainage area on Bird Creek's tract is reduced and this results in the number of barrels drained by the Pardue No. 1 from the Bird Creek tract also to be reduced to a number which closely approximates the 12,225 barrels utilized by the Hearing Examiner as a basis for the penalty in Order No. R-9147.

(15) The defined drainage area utilized by Bird Creek for computation of a penalty is also inappropriate for their is insufficient information on this very tight formation to estimate the actual drainage areas or the exact locations of no-flow boundaries in the reservoir.

(16) The volumetric calculation presented by BTA (BTA Exhibit No. 7) which is based on actual data from the Pardue No. 1 and data from other Delaware wells in the area, demonstrates that the Pardue No. 1 will have little or no impact on the off-setting Bird Creek Teledyne Wells.

(17) Bird Creek's proposed doubling the penalty of the Pardue No. 1 to protect potential, unproven, behind the pipe reserves in zones that are not producing in any off-setting well, is not supported by the evidence, is arbitrary, unreasonable and should be rejected by the Division.

(16) Division Order No. R-9147 which approved the location of the Pardue No. 1 and imposed a penalty on the well's ability to produce equal to 53% of the well's allowable until the well is underproduced by 12,225 barrels (an amount equal to 8.15% of the ultimate recoverable reserves attributable to the well), imposes a reasonable and appropriate penalty on the Pardue No. 1, protects the correlative rights of all owners in the pool, will prevent waste and should be affirmed.

IT IS THEREFORE ORDERED THAT:

- (1) Oil Conservation Division Order No. R-9147 is hereby affirmed.
- (2) Jurisdiction of this cause is retained for the entry for such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

WILLIAM R. HUMPHRIES, Member

WILLIAM W. WEISS, Member

WILLIAM J. LEMAY, Chairman and  
Secretary

S E A L

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
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CONSIDERING:

CASE 9883 (DE NOVO)  
ORDER NO. R-\_\_\_\_\_

APPLICATION OF BTA OIL PRODUCERS  
FOR AN UNORTHODOX OIL WELL LOCATION,  
EDDY COUNTY, NEW MEXICO.

**BTA OIL PRODUCERS'  
PROPOSED  
ORDER OF THE COMMISSION**

BY THE COMMISSION:

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NOW, on this \_\_\_\_ day of July, 1990, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, BTA Oil Producers ("BTA"), operates the SE/4 SW/4 of Section 11, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico on which it has drilled its Pardue "C" 8808 JV-P Well No. 1 ("Pardue No. 1") at a location 176 feet from the South line and 1550 feet from the West line (Unit N) of said Section 11 to test the undesignated East Loving-Delaware Pool.

(3) BTA proposed to drill this well at a standard location but, due to topographic conditions, moved the well to the unorthodox location at which it has been drilled.

(4) BTA sought administrative approval of this unorthodox location but an objection was filed by Bird Creek Resources Inc. ("Bird Creek"), an off-set operator, and the matter was set for hearing before a Division Examiner on March 7, 1990. By Order No. R-9147, the Division approved the unorthodox location of the Pardue No. 1 and imposed a penalty on the well of 12,225 barrels which is an amount equal to 8.15% of the well's recoverable reserves -- the additional recoverable reserves that could be drained from the Bird Creek tract as a result of the unorthodox well location of the Pardue No. 1.

(5) Bird Creek knew the Pardue No. 1 well was being drilled and produced by BTA in accordance with Division Order No. R-9147 and did not seek a stay of the Division order.

(6) BTA's development of this property at all times has been pursuant to a valid order of the Oil Conservation Division.

(7) The evidence presented to the Commission established that the Delaware formation in the subject area is tight and requires stimulation before wells completed therein can produce.

(8) Only the C and D zones are producing in the Pardue No. 1 or in any offsetting well.

(9) The economics of drilling Delaware wells in this area has resulted in no well having been cored or tested. Consequently, the drainage radius for any of the wells involved in this case cannot be calculated.

(10) Volumetric calculations have been made which show the number acres individual wells in the pool will drain.

(11) Although there were discrepancies in the data utilized in calculating drainage areas,<sup>1</sup> BTA presented evidence that showed that the Pardue No. 1 cannot reasonably be expected to drain 40 acres.

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(12) Bird Creek seeks a penalty on the Pardue No. 1 in the C and D zones of the Delaware formation. Their proposed penalty is based on a computer study which estimated the additional drainage area on the Bird Creek tract which would result from the unorthodox location of the Pardue No. 1 (*see*, Bird Creek Exhibit No. 1).

(13) The area upon which Bird Creek's penalty is based, is limited by a no-flow boundary between the Pardue No. 1 and Bird Creek's Teledyne No. 1 Well. This area and resulting penalty calculation, however, did not take into consideration the no-flow boundaries between the Teledyne No. 2 Well and other off-setting wells nor did it exclude acreage in the northern portion of the Teledyne tract which could be drained by a BTA well at the standard location. The acreage utilized in Bird Creek's penalty calculation included substantial acreage that would not be drained by virtue of BTA's proposal and is an improper basis for assessment of a penalty.

(14) When the other no-flow boundaries were considered, the drainage area on Bird Creek's tract is reduced and this results in the number of barrels drained by the Pardue No. 1 from the Bird Creek tract also to be reduced to a number which closely approximates the 12,225 barrels utilized by the Hearing Examiner as a basis for the penalty in Order No. R-9147.

(15) The defined drainage area utilized by Bird Creek for computation of a penalty is also inappropriate for their is insufficient information on this very tight formation to estimate the actual drainage areas or the exact locations of no-flow boundaries in the reservoir.

(16) The volumetric calculation presented by BTA (BTA Exhibit No. 7) which is based on actual data from the Pardue No. 1 and data from other Delaware wells in the area, demonstrates that the Pardue No. 1 will have little or no impact on the off-setting Bird Creek Teledyne Wells.

(17) Bird Creek's proposed doubling the penalty of the Pardue No. 1 to protect potential, unproven, behind the pipe reserves in zones that are not producing in any off-setting well, is not supported by the evidence, is arbitrary, unreasonable and should be rejected by the Division.

(16) Division Order No. R-9147 which approved the location of the Pardue No. 1 and imposed a penalty on the well's ability to produce equal to 53% of the well's allowable until the well is underproduced by 12,225 barrels (an amount equal to 8.15% of the ultimate recoverable reserves attributable to the well), imposes a reasonable and appropriate penalty on the Pardue No. 1, protects the correlative rights of all owners in the pool, will prevent waste and should be affirmed.

IT IS THEREFORE ORDERED THAT:

- (1) Oil Conservation Division Order No. R-9147 is hereby affirmed.
- (2) Jurisdiction of this cause is retained for the entry for such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

WILLIAM R. HUMPHRIES, Member

WILLIAM W. WEISS, Member

WILLIAM J. LEMAY, Chairman and  
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