

KELLAHIN, KELLAHIN AND AUBREY

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN
KAREN AUBREY

CANDACE HAMANN CALLAHAN

JASON KELLAHIN
OF COUNSEL

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

April 26, 1991

HAND DELIVERED

William J. LeMay
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
State Land Office Building
310 Oil Santa Fe Trail
Santa Fe, New Mexico 87501

Re: Case Nos. 10211 and 10219 DeNovo
Application of Hanley Petroleum Inc.
for an Emergency Order

Dear Mr. LeMay

On behalf of Hanley Petroleum Inc., I request that the Oil Conservation Division issue the enclosed Emergency Order to Santa Fe Energy Operating Partners, L.P. to shut in the Kachina "8" Federal No. 1 well.

Hanley Petroleum Inc. is a working interest owner in the acreage immediately adjacent to the Santa Fe Energy Kachina "8" Federal No. 1 and is suffering drainage.

This DeNovo case is currently scheduled for hearing on May 9, 1991 before the Commission. We seek an Emergency Shut-in Order pending further decision by the Commission.

Your attention to this request is appreciated.

Very truly yours



W. Thomas Kellahin

Mr. William J. LeMay
April 26, 1991
Page 2

WTK/tic
Enclosure

cc: Mr. Jim Rogers
Hanley Petroleum Inc.
415 West Wall, Suite 1500
Midland, Texas 79701

James Bruce, Esq.
Hinkle, Cox, Eaton, Coffield & Hensley
500 Marquette, N.W.
Albuquerque, New Mexico 87102

William F. Carr, Esq.
Campbell & Black, P.A.
110 North Guadalupe
Santa Fe, New Mexico 87501

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 SANTA FE
ENERGY OPERATING PARTNERS,
L.P. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

CASE NO. 10211
ORDER NO. R-9480

APPLICATION OF HANLEY PETROLEUM INC.
FOR COMPULSORY POOLING OR, IN THE
ALTERNATIVE, FOR A NON-STANDARD
PRORATION AND SPACING UNIT, LEA
COUNTY, NEW MEXICO.

CASE NO. 10219
ORDER NO. R-9480

APPLICATION OF HANLEY PETROLEUM INC.
FOR AN EMERGENCY ORDER

COMES NOW HANLEY PETROLEUM INC., by and through its attorneys, Kellahin, Kellahin & Aubrey, and in accordance with New Mexico Oil Conservation Division Rule 1202, requests the Division to issue an Emergency Order shutting in the Santa Fe Energy Operating Partners, L.P. Kachina "8" Federal No. 1 well, located in NE/4NW/4 of Section 8, T18S, R33E, Lea County, New Mexico pending the completion of a well to test the Corbin Wolfcamp Oil Pool in the NW/4NW/4 of said Section 8 and in support thereof states:

(1) Hanley Petroleum Inc. ("Hanley") is the 100% working interest owner of the federal lease consisting of the NW/4NW/4 (40 acres) of Section 8, T18S, R33E, Lea County, New Mexico.

(2) Santa Fe Energy Operating Partners, L.P. ("Santa Fe") is the operator of the Kachina "8" Federal No. 1 well located in NE/4NW/4 of said Section 8 immediately east of the Hanley tract.

(3) The Kachina "8" Federal No. 1 well is currently completed in and producing from the Undesignated Corbin Wolfcamp Oil Pool, and on March 5, 1991 Santa Fe reported flowing rates during production testing of the Wolfcamp zone in this well reaching 768 barrels of oil and 680,000 cubic feet of gas per day through a 16-64 inch choke.

(4) At the Division Examiner hearing of the subject cases held on March 7, 1991, Santa Fe's petroleum engineer testified that the Kachina "8" Federal No. 1 well would drain the Hanley tract.

(5) Santa Fe is seeking to pool the Hanley tract and to consolidate the Hanley tract with the SW/4NW/4 in which Santa Fe has a 25% interest to form an 80-acre spacing unit but then proposes that the well be drilled in the south 40 acres rather than on the Hanley tract.

(6) In reply, Hanley has unsuccessfully attempted to have the subject well drilled on the Hanley tract so that the Hanley reserves could be protected from being produced by the Santa Fe operated Kachina "8" Federal No. 1 well in which Hanley has no interest and now seeks to have the Commission resolve this matter.

(7) In the interim, pending resolution of this dispute, Santa Fe continues to produce the offsetting Kachina "8" Federal No. 1 well draining the Hanley tract and Hanley is helpless to avoid the drainage.

(8) An emergency exists pursuant to Division Rule 1202 requiring the Division to issue an Emergency Order to shut in the Kachina "8" Federal No. 1 well to minimize the uncompensated drainage that is occurring and to prevent the impairment of Hanley's correlative rights.

Therefore, Hanley requests the issuance of an Emergency Order of the Division.

Respectfully submitted.

KELLAHIN, KELLAHIN & AUBREY

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

KELLAHIN, KELLAHIN AND AUBREY

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

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SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN
KAREN AUBREY

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JASON KELLAHIN
OF COUNSEL

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

April 8, 1991

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

Re: Application of Santa Fe Energy Operating
Partners, L.P. for Compulsory Pooling,
Lea County, New Mexico
NMOCD Case No. 10211
Order No. R-9135

Application of Hanley Petroleum Inc.
for Compulsory Pooling, Lea County,
New Mexico
NMOCD Case No. 10219
Order No. R-9135

Dear Mr. LeMay:

On behalf of Hanley Petroleum Inc., please find
enclosed our Application for DeNovo Hearing of the
referenced cases and order.

Hanley requests that the hearing be held at the
next available Commission Hearing Docket now scheduled
for May 9, 1990.

Very truly yours,



W. Thomas Kellahin

WTK/tic

cc: James Rogers
William F. Carr, Esq.
James G. Bruce, Esq.

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 NOS. 10211 AND 10219
ORDER NO. R-9480

APPLICATION OF SANTA FE ENERGY OPERATING PARTNERS, L.P. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO. CASE NO. 10211

APPLICATION OF HANLEY PETROLEUM INC. FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO. CASE 10219

APPLICATION BY HANLEY PETROLEUM INC. FOR
DE NOVO HEARING

COMES NOW HANLEY PETROLEUM INC. and in accordance with New Mexico Oil Conservation Division Rule 1220 applies to the Division for a DeNovo hearing of the referenced cases which resulted in the issuance of Division Order R-9480 and request that the hearing be held at the next available Commission Hearing Docket now scheduled for May 9, 1990.

Respectfully submitted:

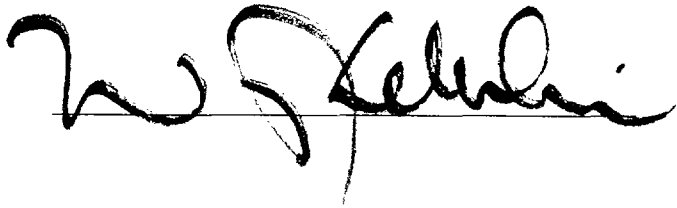
KELLAHIN, KELLAHIN & AUBREY

By: 

W. Thomas Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF SERVICE

I hereby certify that on 8 day of April, 1991, I mailed by first class mail, postage prepaid, a true copy of the foregoing Application of Hanley Petroleum Inc. for DeNovo Hearing to William F. Carr, Esq. Campbell & Black, P.A., Post Office Box 2208, Santa Fe, New Mexico 87504-2208 and James G. Bruce, Esq., Hinkle, Cox, Eaton, Coffield & Hensley, 500 Marquette, N.W., Suite 740, Albuquerque, New Mexico 87102-2121.

A handwritten signature in black ink, appearing to read "W. J. Selby", written over a horizontal line.

KELLAHIN, KELLAHIN AND AUBREY

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

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W. THOMAS KELLAHIN
KAREN AUBREY

CANDACE HAMANN CALLAHAN

JASON KELLAHIN
OF COUNSEL

April 9, 1991

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

HAND DELIVERED

Re: Application of Santa Fe Energy Operating
Partners, L.P. for Compulsory Pooling,
Lea County, New Mexico
NMOCD Case No. 10211
Order No. R-9480

ON CONSERVATION

Application of Hanley Petroleum Inc.
for Compulsory Pooling, Lea County,
New Mexico
NMOCD Case No. 10219
Order No. R-9480

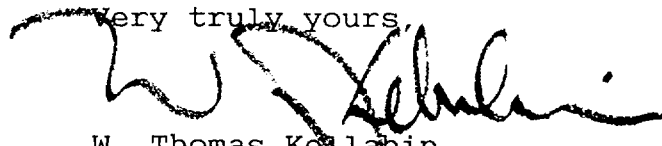
Dear Mr. LeMay:

On behalf of Hanley Petroleum Inc., please find
enclosed our Application for a Stay of Division Order R-
9480.

The DeNovo hearing on the Commission Hearing
Docket is now scheduled for May 9, 1990.

Attorneys for Santa Fe Energy and for Heyco
have each informed me they are not opposed to the entry
of the Stay Order. A proposed Stay Order is enclosed.

Very truly yours,



W. Thomas Kellahin

WTK/tic
Enclosure

Mr. William J. LeMay
April 9, 1991
Page 2

cc: Robert G. Stovall, Esq. (Hand Delivered)
William F. Carr, Esq. (Hand Delivered)
James G. Bruce, Esq. (Fax)
James Rogers (Fax)

1987/ltrt409.215

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 NOS. 10211 AND 10219
ORDER NO. R-9480

APPLICATION OF SANTA FE ENERGY OPERATING PARTNERS, L.P. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO. CASE NO. 10211

APPLICATION OF HANLEY PETROLEUM INC. FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO. CASE NO. 10219

ORDER OF THE DIVISION
STAYING ORDER R-9480

BY THE DIVISION:

This matter having come before the Division upon the request of Hanley Petroleum Inc. for a Stay of Division Order 9480 and the Division Director having considered the Request and being fully advised in the premises,

NOW, on this _____ day of April, 1991, the Division Director:

FINDS:

(1) That Division Order R-9480 was entered on March 29, 1991, upon the application of Santa Fe Energy Operating Partners, L.P. for a compulsory pooling order of the Hanley Petroleum Inc. interests.

(2) That on April 8, 1991, Hanley Petroleum Inc. filed with the Division a request for a DeNovo Hearing in this

case which will be set for hearing by the Commission on May 9, 1991.

(3) That pursuant to the terms of the Division Order R-9480 Santa Fe Energy Operating Partners, L.P. has sent to Hanley Petroleum Inc. a notice by which it must make an election to participate in the subject well on or before May 4, 1991.

(4) That unless Division Order R-9480 is stayed, Hanley Petroleum Inc. will be denied a reasonable opportunity to make an election following the entry of an order by the Commission.

(5) That unless Division Order R-9480 is stayed the matters in dispute at the DeNovo Hearing before the Commission will be moot.

(6) That the entry of this order will not adversely affect the correlative rights of any party.

(7) That Hanley has complied with the provision of Division Memorandum 3-85 and has filed its request for a stay on April 10, 1991.

IT IS THEREFORE ORDERED:

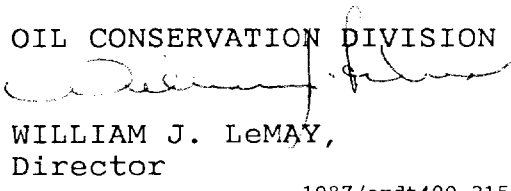
(1) That Division Order R-9480 is hereby stayed in its entirety.

(2) That Santa Fe Energy Partners, L.P.'s notification on April 4, 1991 to Hanley Petroleum Inc. of its thirty day election period pursuant to Order 9480 is void and of no effect.

(3) That 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 date and year hereinabove designated.

OIL CONSERVATION DIVISION


WILLIAM J. LeMAY,
Director

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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 NOS. 10211 AND 10219
ORDER NO. R-9480

APPLICATION OF SANTA FE ENERGY
OPERATING PARTNERS, L.P. FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

CASE NO. 10211

APPLICATION OF HANLEY PETROLEUM
INC. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

CASE No. 10219

APPLICATION BY HANLEY
PETROLEUM INC. REQUEST
FOR A STAY OF DIVISION ORDER R-9480

COMES NOW HANLEY PETROLEUM INC. and in accordance
with New Mexico Oil Conservation Division Memorandum No.
3-85 (attached as Exhibit "A") requests the Division to
Stay Division Order-9480 which has been appealed
DeNovo to the Commission and in support thereof states:

BACKGROUND:

1. On March 7, 1991, the Division held a consolidated hearing of the Hanley pooling case (10219) and the Santa Fe Energy pooling case (10211) before Examiner Jim Morrow.

2. Santa Fe Energy, with a 25% working interest, sought to be operator of a standup 80-acre spacing unit for Wolfcamp oil production with and based upon its geologic evidence proposed the well be located in the south 40-acres at an estimated cost of \$721,942.

3. Hanley Petroleum, with a 50% working interest, sought to be named the operator of the same spacing unit, but based upon its geologic evidence, proposed the well be located in the north 40-acres with the total well estimated to cost \$667,782 and also proposing a split cost allocation between the shallow 40-acre potential production and the deeper 80-acre potential oil production.

4. On March 29, 1991, the Division entered Order R-9480 granting the Santa Fe Energy application and denying the Hanley Petroleum application, a copy of which is attached as Exhibit "B."

5. On April 4, 1991, Santa Fe Energy notified Hanley that it must make an election within 30-days in order to participate in the well to be drilled pursuant to Order R-9480. See Exhibit "C."

6. On April 8, 1991, Hanley, a party adversely affected by Order R-9480, filed its DeNovo Application with the Division. See Exhibit "D."

ARGUMENTS

POINT I

A DENOVO APPLICATION WHEN FILED AUTOMATICALLY MAKES THE EXAMINER ORDER INVALID AND UNENFORCEABLE

DE NOVO means trying the matter anew, the same as if it had not been heard before. See Mason v. World War II Service Compensation Board, 51 N.W. 2d 432. When hearing de novo is granted, it furthermore is as if no decision had previously been rendered. In Horton v. Liberty Mutual Insurance Company, 367 U.S. 348, 6 L.Ed.2d 980, the United States Supreme Court in reviewing a dispute involving a worker's compensation award stated that the lower court was not making an appellate review of the action of the Texas Industrial Accident Board, but that

the proceeding before the lower court had been a trial denovo and as such, the proceeding was to be conducted wholly without reference to what the Board may have decided.

When the Oil Conservation Commission reviews the decision of the Division, it does so without statutory limitations and therefore makes an entirely independent review as if the new hearing was an original proceeding. Section 70-2-13, N.M.S.A. 1978, provides in part:

...any party of record adversely affected shall have the right to have the matter heard de novo before the Commission upon application filed with the Division within thirty days from the time any such decision is rendered.

There are no other provisions in statute or Oil Conservation Division Rules which relate to or impose restrictions upon denovo hearings before the Commission.

Therefore, there is nothing which would modify, restrict or give the concept of hearings denovo a unique or unusual meaning as it applies to the hearings before the Oil Conservation Commission.

Since denovo means "anew" and "denovo" proceedings are to be conducted without reference to the previous decision, the filing of an Application for DeNovo automatically makes the examiner order invalid and unenforceable.

POINT II

DIVISION SHOULD GRANT A STAY OF ORDER R-9480 IN ORDER TO PROTECT CORRELATIVE RIGHTS AND TO INSURE DUE PROCESS

Section 70-2-11, N.M.S.A. 1978, empowers the Division "... to do whatever may be reasonably necessary to carry out the purposes of this act, whether or not indicated or specified in any section hereof." Section 70-2-6, N.M.S.A. 1978, defines the Division's powers and duties to include "... authority and control of and over all persons, matters or things necessary or proper to enforce effectively the provisions of this act or any other law of this state relating to the conservation of oil or gas ..."

A court entering an order may stay its execution pending further proceedings in the case. See Rule 62 of the New Mexico Rules of Civil Procedure. In this case, Hanley Petroleum is asking the Division Director, the

individual who entered the order, to stay its effect pending denovo review for reasons which include, but not by way of limitation, the following:

(1) The Examiner's Order was issued in violation of Section 70-2-13 N.M.S.A. 1978 because it was entered prior to receipt of the transcript in the case. An Examiner does not have the authority to enter an order in a case he hears but must provide to the Division Director his recommended order based "upon the transcript of testimony and record made by or under the supervision of the examiner..." There was no transcript available and therefore the order was entered prematurely.

(2) The Examiner's order failed to decide the case on the merits of each party's geologic evidence but instead ignored that dispute and resolved the case in favor of Santa Fe Energy based upon a theoretical 80-acre diagonal offset well pattern which was certainly not mandatory or even preferred in the Special Field Rules for the South Corbin Wolfcamp Pool (Reference Order No. R-8181-B 5-20-86). The Examiner also ignored the undisputed fact that Santa Fe Energy's Kachine 8 #1 well is closer to Hanley's lease line and more like to drain

Hanley's share of Wolfcamp hydrocarbons than the south location granted in the Order.

(3) The Examiner's order failed to make essential finds of ultimate facts concerning dispute over which party's AFE was reasonable and failed to adopt either AFE whether reasonable or not.

(4) The Examiner's Order incorrectly pooled all mineral interests from the surface to the base of the Wolfcamp in direct conflict with both parties stated purposes which was to pool only those interest for 80-acre spaced oil production, including the Wolfcamp pool. That mistake results in 40-acre spaced mineral production being pooled into an 80-acre spacing unit in violation of Section 70-2-17(C) N.M.S.A. 1978.

(5) The Examiner's Order failed to make findings of ultimate facts from which to understand the reasoning of the Division on the cost allocation issue raised by Hanley Petroleum. The Examiner, having determined that the well would be located in the south 40-acres in which Hanley had no interest above the top of the Wolfcamp, failed to allocate costs between the shallow versus the deep oil zones thereby requiring Hanley to pay a disproportionately higher share of the

costs of the well than is allowed under COPAS Bulletin #2. This oversight by the Examiner is contrary to the requirements set forth for the Division by the New Mexico Supreme Court in Fasken v. Oil Conservation Commission, 87 N.M. 588 (1978).

(6) The Examiner's order failed to take into proper consideration that Hanley Petroleum is the largest single working interest owner in the spacing unit.

(7) The Examiner's Order ignored the undisputed evidence that the Santa Fe location was estimated to recover only 130,000 barrels of oil while the Hanley location was estimated to recover 260,000 barrels of oil.

(8) On April 4, 1991 Hanley received Santa Fe Energy's notification pursuant to the pooling order demanding it to pay its share of the well costs within 30 days (see Exhibit "C").

(9) Hanley's election period under the order will expire on May 4th, five days prior to the DeNovo hearing before the Commission.

(10) Unless the Division Order is stayed, Hanley Petroleum will be denied a reasonable period of

time in which to make an election following the Commission hearing.

(11) Santa Fe Energy has attempted to enforce against Hanley the terms of the Division Order that Hanley has appealed. Such action for all practical purposes will force Hanley Petroleum to make an election to participate under the terms of a pooling order which is still being contested and will make a DeNovo hearing meaningless.

(12) Neither Hanley nor Santa Fe has any expiring contractual or leasehold interest which will be jeopardized if this stay is approved. However, no drilling or other continuous operations can be commenced before June 1, 1991 due to the Lesser Prairie Chicken mating season.

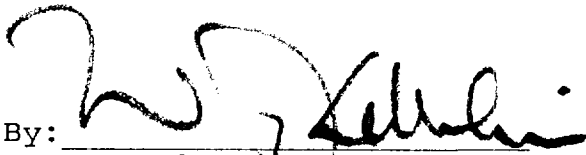
(13) Attorneys for both Santa Fe Energy and Heyco have been notified of this request and neither is opposed to entry of a Stay Order.

WHEREFORE, in order to protect the correlative rights of Hanley Petroleum and to prevent possible waste of hydrocarbons by the drilling of a well at an unfavorable geologic location, we request that the

Division Order R-9480 be stayed in its entirety pending entry of the Commission order in this case.

Respectfully submitted,

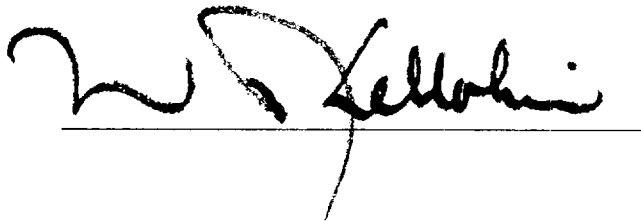
KELLAHIN, KELLAHIN & AUBREY

By: 

W. Thomas Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF SERVICE

I hereby certify that on 9th day of April, 1991, I had a true copy of the foregoing Application of Hanley Petroleum Inc. Request for a Stay of Division Order served by personal delivery to Robert G. Stovall, Esq., Oil Conservation Division, Post Office Box 2088, Santa Fe, New Mexico 87504-2088 and William F. Carr, Esq. Campbell & Black, P.A., Post Office Box 2208, Santa Fe, New Mexico 87504-2208; and by facsimile to James G. Bruce, Esq., Hinkle, Cox, Eaton, Coffield & Hensley, 500 Marquette, N.W., Suite 740, Albuquerque, New Mexico 87102-2121.

A handwritten signature in black ink, appearing to read "W. A. Lelohi", is written over a horizontal line.

1987/regt408.215



TONEY ANAYA
GOVERNOR

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION



1935 - 1985

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501
(505) 827-5800

No. 3-85

M E M O R A N D U M

TO: ALL ATTORNEYS PRACTICING BEFORE THE DIVISION

FROM: R. L. STAMETS, DIRECTOR *RLS*

SUBJECT: APPLICATION FOR HEARING DE NOVO AND GUIDELINES
FOR REQUESTS FOR STAYS OF ORDERS

The Division has recently been receiving requests for stays of orders appealed De Novo to the Commission. To assure a fair opportunity for all participants to comment on any proposed stay, The Division intends to follow the guidelines listed below:

- (1) Requests for stays must be filed with the Division at least seven day prior to the last day a De Novo hearing may be sought.
- (2) A copy of the request for stay must concurrently be furnished the attorney(s) for the other party(ies) in the case.
- (3) The request shall be accompanied by a draft stay order.

Notwithstanding these guidelines, the Director of the Division may grant stays under other circumstances should it prove necessary to prevent waste, to protect correlative rights, to protect fresh water, or to prevent gross negative consequences to any affected party.

September 23, 1985

Exhibit A

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:

CASES NOS. 10211 AND 10219
Order No. R-9480

APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L.P. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

APPLICATION OF HANLEY PETROLEUM INC. FOR
COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 7, 1991, at Santa Fe, New Mexico, before Examiner Jim Morrow.

NOW, on this 29th day of March, 1991, 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 in Case 10211, Santa Fe Energy Operating Partners, L.P., (Santa Fe), seeks an order pooling all mineral interests from the surface to the base of the Wolfcamp formation underlying the following described acreage in Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, in the following manner:
 - (a) The W/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated South Corbin-Wolfcamp Pool;

- (b) The SW/4 NW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated West Corbin-Delaware, Undesignated Central Corbin-Queen, Undesignated West Corbin-San Andres and Undesignated Corbin-Bone Spring Pools.

Both units are to be dedicated to a single well to be drilled at a standard oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of said Section 8.

(3) The applicant in Case 10219, Hanley Petroleum Inc. (Hanley), originally sought an order pooling all mineral interests from the surface to the base of the Wolfcamp formation underlying the following described acreage in Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, in the following manner:

- (a) The W/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated South Corbin-Wolfcamp Pool;
- (b) The SW/4 NW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated West Corbin-Delaware, Undesignated Central Corbin-Queen, Undesignated West Corbin-San Andres, and Undesignated Corbin-Bone Spring Pools.

Both units would have been dedicated to a single well to be drilled at a standard oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of said Section 8.

(4) Hanley amended its application in Case 10219 and at the hearing requested approval for an 80-acre oil spacing and proration unit as described in Finding No. (3)(a) above with said unit to be dedicated to a well to be drilled at a standard oil well location 660 feet from the North and West lines (Unit D) of said Section 8. A 40-acre oil spacing and proration unit in Unit D would not require compulsory pooling since Hanley's working interest in the NW/4 NW/4 of said Section 8 is 100%.

(5) Each applicant (Santa Fe and Hanley) has the right to drill and each proposes to drill a well on their respective units, as described above in Findings (2) and (4), to a depth sufficient to test the Wolfcamp formation.

(6) Cases Nos. 10211 and 10219 were consolidated for the purpose of hearing and should be consolidated for purpose of issuing an order since the cases involve common acreage and the granting of one application would require the denial of the other.

(7) This matter has been the subject of previous Oil Conservation Division and Oil Conservation Commission actions involving Hanley's subpoena request for certain Santa Fe records.

(8) A representative of the Harvey E. Yates Company appeared at the hearing in support of Santa Fe's application.

(9) There are interest owners in the proposed units who have not agreed to pool their interests.

(10) The primary objective of either proposed well would be a Wolfcamp completion in the Undesignated South Corbin-Wolfcamp Pool to offset Santa Fe's recently completed Kachina "8" Federal Well No. 1 in the NE/4 NW/4 of said Section 8. It flowed 411 barrels of oil, 59 barrels of water and 577 MCF of gas per day on initial potential on January 13, 1991. Santa Fe's Form C-115 production report shows that the well produced 8143 barrels of oil, 213 barrels of water and 9374 MCF of gas during January, 1991.

(11) Pool rules for the South Corbin-Wolfcamp pool provide for 80-acre standard spacing and proration units with wells to be located within 150 feet of the center of a governmental quarter-quarter section or lot.

(12) In support of its application in Case No. 10211, Santa Fe submitted the following information through its exhibits and the testimony of its witnesses:

- (a) Santa Fe's proposed location for its Kachina 8 Federal Well No. 2 in the SW/4 NW/4 of said Section 8 would conform to an 80-acre diagonal spacing pattern. Santa Fe believes this would provide better recovery than Hanley's location which would be a direct West offset to Santa Fe's Kachina 8 Federal Well No. 1.
- (b) Cross-sections, structure maps and isopach maps were submitted to show the favorable conditions at the Santa Fe location. Their geology shows that the proposed location would be approximately 20 feet lower on the Wolfcamp structure than their Kachina 8 Well No. 1 and would have about the same thickness of clean Wolfcamp carbonate. The Santa Fe location is 50 feet lower structurally than

the Hanley location but would encounter a great thickness of clean carbonate in the Wolfcamp according to Santa Fe's testimony.

- (c) Santa Fe's witnesses testified that lower structural position would not necessarily result in increased water production from the Wolfcamp.
- (d) Santa Fe's engineering witness estimated that a well at the Santa Fe location would recover 50,000 to 60,000 barrels more oil than one at the Hanley location.
- (e) Cross-sections, structure maps and porosity maps submitted by Santa Fe indicate that the Bone Spring formation would be productive at the Hanley location but would be water productive at the Santa Fe location. Santa Fe recommended allocation of well costs between the Wolfcamp and the Bone Spring if the Hanley location is approved.
- (f) Santa Fe's estimated well cost is \$721,942. They expect to recover 100,000 barrels of oil from the Wolfcamp. Monthly overhead rates of \$6,260 while drilling and \$626 while producing were requested along with a 200% risk penalty.
- (g) Santa Fe and the Harvey E. Yates Company each have 50% working interest in the SW/4 NW/4 of said Section 8.

(13) To support its application in Case No. 10219, Hanley presented the following information through its exhibits and the testimony of its witnesses:

- (a) Structure and isopach maps and cross-sections were submitted to show that their proposed location is the better choice. Their geology shows that the Hanley location would be approximately 25 feet higher on the Wolfcamp structure than Santa Fe's location and would encounter approximately the same thickness of net clean Lower Wolfcamp limestone.
- (b) Decline curves to estimate the reserves for Wolfcamp completions in the area were submitted. This data along with an estimate of the reserves for Santa Fe's Kachina "8" Federal Well No. 1 was used to construct an "Iso-Production" map for use in estimating ultimate recovery. Hanley's Wolfcamp recovery estimates are 260,000 barrels

for their location and 130,000 barrels for the Santa Fe location.

- (c) Water production data from Wolfcamp completions in the Corbin area was used by Hanley to support their testimony that wells lower on the Wolfcamp structure produce more water.
- (d) Hanley submitted a Bone Spring structure map indicating their proposed location would be approximately 100 feet higher on the Bone Spring structure than the Santa Fe location.
- (e) Hanley's estimated cost for a Wolfcamp well is \$667,782. They proposed a method for allocating and amortizing well costs in the event the well is eventually plugged back for a completion attempt in the Bone Spring or other zone in which the ownership differs from that in the Wolfcamp. Monthly overhead rates of \$5,184 while drilling and \$485 while producing were suggested based on the mean rates in the Ernst and Young 1990 survey. A risk penalty of 150% was recommended at the Hanley location. Hanley's witnesses testified that the risk would be higher at the Santa Fe location.
- (f) Payout calculations prepared by Hanley show that a Wolfcamp well will payout in four months at their location and in eight months at the Santa Fe location.

(14) Santa Fe's compulsory pooling application was received by OCD on December 12, 1990, Hanley's initial application was received by OCD on January 2, 1991, and their amended application was received on February 12, 1991. Hanley began efforts to develop their acreage after Santa Fe filed its application.

(15) Based on the evidence and testimony received in these cases, either the Santa Fe or the Hanley location should result in a successful Wolfcamp completion. Evidence shows that Santa Fe's is the more appropriate location since it conforms to an 80-acre diagonal spacing pattern and should therefore result in better recovery of reserves. Santa Fe's application should be approved and they should be designated as operator. Overhead charges for supervision should be set at \$5,184 while drilling and \$485 while producing. Since risk of an unsuccessful completion is low, the risk penalty should be set at 100%. The 40-acre spacing unit applied for in Santa Fe's application is not required since all of the working interests in

Cases Nos. 10211 and 10219

Order No. R-9480

Page 6

the SW/4 NW/4 of said Section 8 have reached voluntary agreement concerning the pooling of their interests.

(16) Approval as set out in Finding (15) above and in the following order will avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford 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 resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Hanley Petroleum Inc. in Case No. 10219 as described in Findings (3) and (4) of this order is hereby denied.

(2) All mineral interests, whatever they may be, from the surface to the base of the Wolfcamp, underlying the W/2 NW/4 of Section 8, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, are hereby pooled to form an 80-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard oil well location 1980 feet from the North line and 660 feet from the West line (Unit E) of said Section 8.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of June, 1991, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Wolfcamp formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of June, 1991, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension 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 Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Santa Fe Energy Operating Partners, L.P. is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and 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.

(5) Within 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 operating costs but shall not be liable for risk charges.

(6) 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 an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated 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.

(8) 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 30 days from the date the schedule of estimated well costs is furnished to him; and
- B. As a charge for the risk involved in the drilling of the well, 100 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 within 30 days from the date the schedule of estimated well costs is furnished to him.

(9) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(10) \$5,184 per month while drilling and \$485 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 operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(11) 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.

(12) 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.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Lea 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.

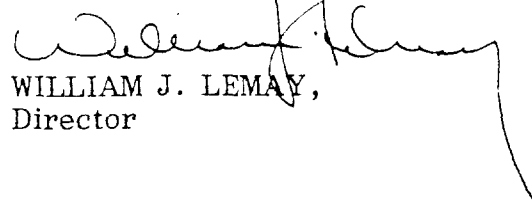
(14) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

(16) 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

dr/

Santa Fe Energy Operating Partners, L.P.

Santa Fe Pacific Exploration Company
Managing General Partner

CERTIFIED MAIL - RETURN RECEIPT

RECEIVED
APR 4 1991

April 3, 1991

Hanley Petroleum Inc.

Hanley Petroleum, Inc.
415 West Wall, Suite 1500
Midland, Texas 79701-4473

ATTN: James W. Rogers

Re: SFEOP Cont. #NM-4257
Kachina "8" Fed Com #2
Wolfcamp Test - 11,500'
W/2NW/4 Section 8
T-18-S, R-33-E
Lea County, New Mexico

Gentlemen:

Please find enclosed a copy of the Order No. R-9480 in the matter of the Hearing for Compulsory Pooling the above described acreage.

In accordance with the order, please find enclosed Santa Fe Energy Operating Partners, L.P.'s Well Cost Estimate for the drilling of the above captioned well. Please note, that Hanley has 30 days from receipt of the Well Cost Estimate to make its election to join or being carried non-consent under the order.

If you wish to discuss these options, or if you have any questions concerning this matter, please do not hesitate to contact the undersigned.

Thank you in advance for your cooperation in this matter.

Sincerely yours,

SANTA FE ENERGY OPERATING PARTNERS, L.P.
By: Santa Fe Pacific Exploration Company
Managing General Partner

By: Larry Murphy
Larry Murphy Senior Landman

LM/efw
2 Encls a/s

cc: Harvey E. Yates Company
P.O. Box 1933
Roswell, New Mexico 88202

ATTN: Melissa Randle

EFW1830

Permian Basin District
550 W. Texas, Suite 1330

Exhibit C

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 NOS. 10211 AND 10219
ORDER NO. R-9480

RECEIVED
APR 1991
OIL CONSERVATION DIVISION

APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L.P. FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

CASE NO. 10211

APPLICATION OF HANLEY PETROLEUM INC.
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

CASE 10219


APPLICATION BY HANLEY PETROLEUM INC. FOR
DE NOVO HEARING

COMES NOW HANLEY PETROLEUM INC. and in accordance with
New Mexico Oil Conservation Division Rule 1220 applies to the
Division for a DeNovo hearing of the referenced cases which
resulted in the issuance of Division Order R-9480 and request
that the hearing be held at the next available Commission
Hearing Docket now scheduled for May 9, 1990.

Respectfully submitted:

KELLAHIN, KELLAHIN & AUBREY

By:


W. Thomas Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285