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

IN THE MATTER OF THE APPLICATION OF JOSEPH S. SPRINKLE FOR A DETERMINATION OF REASONABLE WELL COSTS, LEA COUNTY, NEW MEXICO. CASE: 8807

BRIEF IN SUPPORT OF APPLICATION

Joseph S. Sprinkle (Sprinkle) has applied to the Oil Conservation Division for a determination of reasonable well costs for the Sprinkle #1 Well. Sprinkle's application raises three issues for the Examiner's determination. They are: (1) What are reasonable well costs; (2) how should they be allocated between two zones; and (3) how should risk be allocated between two zones.

A brief factual background of this case is necessary to an understanding of these issues. Sprinkle's mineral interests underlying Unit D, Section 26, T18S, R32E were pooled by virtue of Oil Conservation Division Order No. R-7850 entered on March 14, 1985. That Order separately pooled Sprinkle's mineral interests from 4825 feet to the base of the Bone Spring formation for the formation of a 40-acre oil spacing and proration unit and Sprinkle's mineral interests from the base of the

Bone Spring to the base of the Morrow for the formation of a 320-acre gas spacing and proration unit.

The well was dry in the Morrow formation and was recompleted as a producing oil well in the Bone Spring formation. The wellbore was perforated in the Bone Spring sand at approximately 8439 feet. Mr. Sprinkle has approximately a 30% interest in the Bone Spring production and approximately a 15% interest in the Morrow production.

On October 31, 1985 Sprinkle received a letter from TXO attaching a report of "actual well costs to date". That letter and attachment are made a part of Applicant's application in this matter. The attachment, which is Exhibit "A" to the application shows total well costs to total depth of 13,350 of $1,089,429.45.

It is impossible to tell from the documents produced to Sprinkle what costs are attributable solely to the Bone Spring formation.

It is important to note that the pooling Order R-7850 grants a 200% penalty to the operator to be collected against the interest of any non-consenting party. Mr. Sprinkle was a non-consenting working interest owner in the drilling of this well.

I.

REASONABLE WELL COSTS

TXO is asking this Division to endorse its attempt to collect the costs of drilling a well to 13,350 feet from a non-consenting working interest owner when the well was dry in that formation. As the Examiner is aware, both under the terms of the compulsory pooling order and under the terms of N.M.S.A. 70-2-17, a non-consenting working interest owner is not liable for the costs of drilling a well from which no production is achieved:

> Such pooling order of the Division shall make definite provision as to any owner, or owners, who elects not to pay his proportionate share in advance for the pro rata reimbursement solely out of production to the parties advancing the costs of development and operation which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision, and may include a charge for risk involved in the drilling of such well, which charge for risk shall not exceed 200% of the non-consenting working interest owner or owners pro rata share of the costs of drilling and completing the well. N.M.S.A. 70-2-17. [emphasis added]

TXO has not, and, apparently does not intend to, tell Sprinkle what charges for drilling and completion are attributable solely to the Bone Spring

production. Sprinkle was provided with some invoices at the January 9, 1986 hearing, from which this matter has been continued, and he has attempted to break those costs out from a detailed examination of those invoices. The result of Sprinkle's analysis is shown on Exhibit 5.

II.

ALLOCATION OF COSTS BETWEEN THE TWO ZONES

As the Examiner will note, the pooling Order in this case separately pools two different formations. It is only fair that the costs be allocated between the two zones so that Sprinkle is not being asked to pay any costs attributable to the Morrow. Sprinkle has no objection to paying his share of reasonable well costs to the Bone Spring and paying, out of Bone Spring production, a penalty if the Examiner finds that imposition of a Bone Spring penalty is warranted. However, it is not his intent to allow Bone Spring production to pay for the costs of a dry hole in the Morrow. To require him to do so would achieve a result which is clearly in violation of the statutes which govern the Oil Conservation Division.

Had this well been pooled solely for Morrow production and had TXO drilled a dry hole in the Morrow they could not, legally, seek to collect any

of the costs from Sprinkle. However, if the Examiner permits Bone Spring production to pay for Morrow costs then TXO has had a risk free ride to 13,350 feet.

III.

ALLOCATION OF RISK

At the initial hearing on this matter, no working interest owner appeared or opposed the 200% risk penalty which was granted by the Examiner. An examination of the transcript reveals that one of the reasons TXO used for justifying this 200% penalty request was the penalty amount contained on page 5 of the Operating Agreement (Exhibit 5). At page 9 of the hearing transcript the following transpired:

> Q. Mr. Bourgeois, refer the Examiner to the provision in that Joint Operating Agreement which governs risk factors imposed upon the parties to the Agreement in the event of nonconsent operations conducted under that Agreement.
>
> A. O.K. On Page 5 of the Operating Agreement itself, near the bottom on line 60, 300% of non-consenting shares.

It is unfortunate that TXO was permitted to mislead the Examiner into believing that the 300% penalty found on page 5 of the Operating Agreement had any

relationship to this case whatsoever. An examination of the Operating Agreement reveals that the 300% penalty is applicable only to subsequent wells drilled under the Operating Agreement. It is undisputed that this was the initial test well.

TXO also attempted to justify its penalty request through its engineering witness. A review of Mr. Tittl's testimony will reveal that there was no testimony whatsoever on the risk attributable to the Bone Spring zone. All the testimony with regard to risk is based upon Morrow production.

While the applicant agrees that Order R-7850 is a final Order of the Division, Sprinkle believes that the Division continues to retain the jurisdiction under Paragraph ___ of the Order to allocate risk between the two pooled zones. Clearly the well was not productive in the Morrow and, based upon that, perhaps the imposition of a 200% penalty was appropriate for that zone. However, as the Examiner is aware, the Sprinkle No. 1 Well is offset in the Bone Spring by at least three (3) producing wells and TXO has proposed at least five (5) more. The intent of the risk penalty is to compensate the working interest owner who takes the risk and pays the costs up front and should be tied in some way to the risk of commercial production. Sprinkle would submit that

there is virtually no risk of a successful completion in the Bone Spring and that there never was.

CONCLUSION

For the reasons set forth above Sprinkle requests that the Examiner require TXO separately allocate the costs attributable to the Morrow and Bone Spring formations, to have an audit performed by an independent CPA and Professional Engineer at TXO's expense to prevent TXO from recovering any costs attributable to the Morrow formation from Bone Spring production, and to allocate, in a fair and equitable manner, the risk penalty between the two zones.

Respectfully submitted,

KELLAHIN & KELLAHIN
Post Office Box 2265
Santa Fe, New Mexico 87504-2265
Telephone: (505) 982-4285

By: Karen Aubrey
Karen Aubrey

Attorneys for Applicant,
Joseph S. Sprinkle

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

IN THE MATTER OF THE APPLICATION OF JOSEPH S. SPRINKLE FOR A DETERMINATION OF REASONABLE WELL COSTS, LEA COUNTY, NEW MEXICO. CASE: 8807

SUPPLEMENTAL BRIEF IN SUPPORT OF APPLICATION

Examiner Stogner has asked the parties to brief their respective positions on the following question:

> Must the Division allocate well costs between multiple zones in a "reasonable well cost" case?

The answer to this question depends on the answer to the following questions:

> I. Does the Division have jurisdiction and power to determine and re-determine reasonable well costs?
>
> II. Is a re-determination of reasonable well costs a collateral attack on Order 7850?
>
> III. May the Division allocate well costs between zones?
>
> IV. May the Division require the shallower zone to pay for the deeper zone?

Preliminary Statement

The ultimate question which the Division must decide is whether it is "just and reasonable" to

require Bone Spring production to pay for the cost of a wellbore to the Morrow. This decision is required because a non-consenting working interest owner is only liable for his share of costs and penalty out of production Section 70-2-17(C), N.M.S.A. 1978.

Here there is no Morrow production out of which to recover the cost of drilling the well to the Morrow.

I.

Jurisdiction

This Division retains jurisdiction over reasonable well costs in two ways. The first is the language of the Order which provides:

> ... if there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.
>
> and
>
> Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

The second basis for jurisdiction is the language of the statute. Section 70-2-17(C) provides:

> In the event of any dispute relative to such costs, the Division shall determine the proper costs after due notice to

> interested parties and a hearing thereon. The decision is specifically authorized to provide that the owner or owners drilling or paying for the drilling, or for the operation of a well for the benefit of all shall be entitled to all production from such well which would be received by the owner, or owners, for whose benefit the well was drilled or operated after payment of royalty as provided in the lease, if any, applicable to each tract or interest, and obligations payable out of production, until the owner or owners drilling or operating the well or both have been paid the amount due under the terms of the pooling order or order settling such dispute. No part of the production or proceeds accruing to any owner or owners of a separate interest in such unit shall be applied toward the payment of any cost chargeable to any other interest in said unit.

In W. L. Kirkman, Inc. v. Oklahoma Corporation Commission, 676 P.2d 283 (Okla. App. 1983) the Oklahoma Court of Appeals examined the Oklahoma statute, similar to ours, which provides for Commission determination of reasonable well costs. The Court said:

> The statute requires a determination on the Commission's part as to the proper costs whenever disputes occur. An evaluation of proper costs encompasses two determinations. First, the Commission must determine whether an actual expenditure was required to be

made. Secondly, the Commission must examine that expenditure to determine whether it is in excess of what is reasonable. Thus, a proper cost is one that is both required and reasonable.

The statute clearly authorizes the Commission to retain jurisdiction to settle disputes concerning costs. Participants may challenge an expenditure as one which was either not required or if a required expense, one which may have been incurred at unreasonable cost. Certainly the Commission cannot contend that its power is limited to perfunctory approval of every invoice submitted by an operator. Such a contention would render the statutory language totally meaningless.

As stated in Crest Resources and Exploration Corp. v. Corporation Commission, 617 P.2d 215, 218 (Okla. 1980) [emphasis added; footnote omitted]:

> In the event of a cost overrun, if a dispute does arise as to the reasonableness of the expenditures to be charged, the Commission retains primary jurisdiction to adjudicate finally the liability attachable to the interest holders. At 287. [emphasis in original].

In Amarex v. Baker, 655 P.2d 1040 (Okla. 1982), the Oklahoma Supreme Court said:

> The continuing jurisdiction of the Commission to determine and re-determine provisions for the payment of development and operation costs in connection with the development of the

> spacing and drilling unit is no longer in question. At 1043.

There can be no doubt that this Division has, and always will have, jurisdiction to decide the reasonableness of well costs.

II.

No Collateral Attack

The suggestion has been made by TXO that Sprinkle's position constitutes a collateral attack on Order R-7850. Since we have shown that the Division has continuing jurisdiction, there can be no collateral attack. In Amarex v. Baker, cited above, the Oklahoma Court said:

> Since the determination of development costs is a matter of continuing jurisdiction of the Commission, and since the clarification of the language used in the Commission's order does not assail the order but illuminates its meaning, such matters do not constitute a collateral attack upon Commission's order within the meaning of 52 O.S. 1981 §111. At 1046.

Our own statute contemplates subsequent orders in determining reasonable costs. Section 70-2-17(C), N.M.S.A. 1978.

III.

May the Division Allocate Well Costs?

The Division, under the "just and reasonable" portion of the pooling statute, has the ability to allocate costs between multiple zones. The most recent case in which the Commission has done so is Case 8631 De Novo. A copy of the Order in that case is attached. That Order provides:

> The owners of interest in the deeper interval should be responsible for 100% of the costs of drilling from the shallower interval to total depth. At 3.

The Division clearly has the power to allocate costs between zones.

TXO cited Viking Petroleum v. Oil Conservation Commission, 100 N.M. 451, 672 P.2d 280 (1983) to the Examiner as supporting its opposition to cost allocation. Viking does not hold that cost allocation is improper. In fact the court stated just the opposite:

> The granting or refusal to grant forced pooling of multiple zones with an election to participate in less than all zones, the amount of costs to be reimbursed to the operator, and the percentage risk charges to be assessed, if any are determinations to be made by the Commission on a case-to-case basis and upon the particular facts in each case. At 455.

The Viking case is irrelevant here, except to the extent that it clarifies what we already know: the Division must base its finding of what is fair, just and reasonable on the facts before it which can include allocations of costs between multiple zones.

IV.

Should the Shallower Zone Pay For a Dry Hole In the Lower Zone

Sprinkle's position is that he is obligated to pay out of production well costs attributable only to the Bone Spring production. He was pooled in both zones and did not participate in either. Therefore, as to both zones, he is a non-consenting working interest owner. But that does not mean that TXO can use Bone Spring's production to pay for the costs attributable to the Morrow dry hole. Even TXO does not dispute the proposition that if this was a single completion, dry in the Morrow, Sprinkle would not owe any money at all. They could not dispute this because a non-consenting working interest owner's cost and penalty obligations are payable only out of production. If there is no production there is no payment. TXO takes the entire risk and must use its own money, without reimbursement, for the wellbore.

Why, then, are they attempting to recover Morrow costs out of Bone Spring's production and a penalty against Sprinkle? Because they know that, if they are successful, they will have a free ride from the Bone Spring to the Morrow. The difference between a Bone Spring completion and a Morrow completion is approximately $500,000. Sprinkle's 15% share of costs plus penalty in the Morrow would be $499,950.00. TXO will have paid virtually nothing to go to the Morrow. Where will the $499,950.00 come from? It will come from production in the Bone Spring.

This offends not only logic, but the pooling statute which provides:

> No part of production or proceeds accruing to any owner or owners of a separate interest in such unit shall be applied toward the payment of any cost properly chargeable to any other interest in said unit.

This was not a case of pooling from the surface to the base of the Morrow into one unit. The pooling order requested by TXO and entered by the Division in this case creates two separate spacing units: a 320-acre unit in the Morrow and a 40-acre unit in the Bone Spring.

The Division itself has discontinued that practice even if requested by an applicant. That

change in practice must have been for a reason. The obvious reason is to preclude applicants, such as TXO in this case, from using the forced pooling of low risk shallow production to offset its greater risk of a dry hole in deeper formations.

The Supreme Court of Oklahoma in C. F. Braun & Co. v. Corporation Commission, 609 P.2d 1268 (Okla. 1980) has recognized cost allocation between separate common sources of supply:

> If the parties treat the different common sources of supply or spacing units as separate and distinct spacing units, and the evidence discloses an intent or desire on the owners' part that they be considered separately, an owner may not be required to have his rights under one spacing unit be dependent or contingent upon his rights or his election in another spacing unit. But the rights of all owners, including the owner seeking the pooling order, must be considered, because all orders requiring pooling shall be [made] upon such terms and conditions as are just and reasonable and will afford to the owner of such tract in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil and gas. § 87.I(e), supra. At 1271.

Here the Applicant (TXO) sought a separate treatment of the two units, the Order treats the units separately, the testimony described the units separately and this Division must treat them as

separately pooled. Sprinkle's right to be free of cost to the Morrow must not depend on the presence or absence of Bone Spring production. It is clear that the pooling statute will not permit the Bone Spring to pay for the Morrow. Each formation must stand on its own individual merit. To do otherwise is contrary to the statutory mandates of this Division and violates Mr. Sprinkle's correlative rights.

Respectfully submitted,

KELLAHIN & KELLAHIN
Post Office Box 2265
Santa Fe, New Mexico 87504-2265
Telephone: (505) 982-4285

By: Karen Aubrey
Karen Aubrey

Attorneys for Applicant,
Joseph S. Sprinkle

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was mailed to Chad Dickerson, Esq., DICKERSON, FISK & VANDIVER, Seventh and Mahone, Suite E, Artesia, New Mexico 88210 and Joseph S. Sprinkle, Post Office Box 6483, Denver, Colorado 80206 on this 17th day of February, 1986.

Karen Aubrey

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 8631 DE NOVO
Order No. R-8007-B

APPLICATION OF LYNX PETROLEUM
CONSULTANTS, INC. FOR AN UNORTHODOX
GAS WELL LOCATION, COMPULSORY POOLING,
AND DUAL COMPLETION, LEA COUNTY,
NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on October 17, 1985, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 19th day of November, 1985, 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, Lynx Petroleum Consultants, Inc., seeks an order pooling all mineral interests in the Queen formation underlying the SW/4 of Section 25, Township 16 South, Range 36 East, NMPM, Lea County, New Mexico, to form a standard 160 acre gas spacing unit to be dedicated to its Geraldine Doughty Well No. 1 located at an unorthodox gas well location 1650 feet from the South line and 2100 feet from the West line of said Section 25.

(3) Applicant further seeks determination of the cost of drilling and completing a similar well from the surface to the base of the Queen formation and the allocation of the cost thereof as well as actual operating costs and charges for supervision.

(4) The applicant has drilled to and completed the subject well in the Lovington Paddock Pool pursuant to Division Order No. R-7689, dated September 28, 1984, which authorized the compulsory pooling of all mineral interests from the surface to the base of the Paddock formation underlying the NE/4 SW/4 of said Section 25. Although the Queen formation was penetrated in the drilling of the well, it was not tested.

(5) The applicant now desires to test the Queen formation, and if the Queen is found to be productive of gas, to dually complete the well in such a manner that the Lovington Paddock production would continue to be produced through tubing in a conventional manner while the Queen production would be produced through the casing-tubing annulus.

(6) There are interest owners in the proposed 160-acre Queen gas spacing and proration unit who have not agreed to pool their interests.

(7) The matter came on for hearing at 8 a.m. on June 19 and July 17, 1985, at Santa Fe, New Mexico, before Oil Conservation Division (Division) Examiner Michael E. Stogner and, pursuant to his hearing, Order No. R-8007 was issued on August 15, 1985, which granted the application for compulsory pooling, denied the application for dual completion, and allocated well costs on the basis of the salvage value of the equipment in said well plus the actual costs of recompletion into the Queen formation.

(8) On September 13, 1985, application for Hearing De Novo was made by Lynx Petroleum Consultants, Inc. and the matter was set for hearing before the Commission.

(9) The matter came on for hearing de novo on October 17, 1985.

(10) The applicant objects to any order which does not require those parties pooled in the Queen formation to pay their proportionate share of the tangible and intangible drilling costs associated with drilling to that interval.

(11) Texaco Inc., a 50 percent divided interest holder in the proposed 160-acre gas unit, appeared and objected to sharing in the costs of drilling this well from the surface to the Queen formation.

(12) Texaco Inc. was not a party to the forced pooling that resulted in said Division Order No. R-7689 since they have no working interest within the NE/4 SW/4 of said Section 25.

(13) Texaco's objection is based upon their contention that applicant's proposed allocation of costs (57 percent to the Queen horizon and 43 percent to the deeper Paddock horizon) is unfair to the owners in the shallower Queen interval in that it does not reflect the benefits derived by the owners of the deeper horizon of having the upper portion of the hole drilled.

(14) Texaco presented evidence to show that in older wells being recompleted uphole, it is common to charge affected interest owners only for salvage value and recompletion costs.

(15) When Lynx initially approached Texaco relative to dually completing the subject well it was only a few weeks following initial completion and it should not be considered an older well thereby retaining essentially all of its initial value as a wellbore.

(16) When the ownership varies between completion intervals of a dual completion, the owners in each interval derive some benefit from the drilling of the well.

(17) Looking at only the lower interval, those benefits, exclusive of special equipment or drilling cost attributable to either individual interval, may be defined and quantified by the following logic:

(a) If no hole to a shallower interval would be drilled, the value would be zero.

(b) If the depth to the shallower interval would be an absolute minimum distance above the lower interval, the value would be essentially 50 percent of the well costs.

(c) This concept may be restated that the value of the costs of drilling to the shallower interval to the owners in the lower interval should be a percentage of the costs equal to one-half the percentage derived by dividing the depth to the upper interval by the total depth.

(d) The owners of interest in the deeper interval should be responsible for 100 percent of the costs of drilling from the shallower interval to total depth.

(18) The depth to the shallower interval and the total depth in the well in question in this case are 4075 feet and 6360 feet respectively.

(19) Based upon Findings Nos. 16 and 17 above, the allocation of original tangible and intangible well costs, exclusive of any costs attributable and chargeable solely to either individual zone, should be as follows:

(a) owners of interests in the shallow interval should pay for 64 percent of the costs of drilling to the depth of 4075 feet; and

(b) owners of interests in the deeper interval should pay for 36 percent of the costs of drilling to the depth of 4075 feet and 100 percent of the costs for drilling from 4075 feet to total depth.

(20) In addition, all owners in the Queen formation should be liable for the costs of the proposed completion in said formation.

(21) No offset operator objected to the unorthodox gas well location.

(22) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in the Queen formation, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit at the above-described unorthodox location.

(23) The applicant should be designated the operator of the subject well and unit.

(24) Any non-consenting working interest owner should be afforded the opportunity to pay his share of previous well costs and recompletion costs attributable to such owner as described in Findings Nos. (18) and (19) above to the operator in lieu of paying his share of such well costs out of production.

(25) Any non-consenting working interest owner who does not pay his share of costs (estimated well costs) should have withheld from production his share of the reasonable well costs plus an additional 100 percent thereof as a reasonable charge for the risk involved in the re-entry and completion of the subject well to the Queen formation.

(26) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs, including original well costs and recompletion costs, but such costs

should be adopted as the reasonable well costs in the absence of such objection.

(27) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(28) $3,500.00 per month while re-entering the subject well and its completion in the Queen formation and $350.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates) while producing from the Queen formation; the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(29) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(30) Upon the failure of the operator of said pooled unit to commence re-entry and completion operations in the Queen formation on the subject well to which said unit is dedicated on or before March 1, 1986, the order pooling said unit should become null and void and of no effect whatsoever.

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

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

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, in the Queen formation underlying the SW/4 of Section 25, Township 16 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 160-acre gas spacing and proration unit to be dedicated to the Lynx Petroleum Consultants

Geraldine Doughty Well No. 1 located at an unorthodox gas well location 1650 feet from the South line and 2100 feet from the West line of said Section 25, said location being hereby approved.

PROVIDED HOWEVER THAT, the operator of said unit shall commence completion operations to the Queen formation of said well on or before the first day of March 1986, and shall thereafter continue the completion of said well with due diligence;

PROVIDED FURTHER THAT, in the event said operator does not commence the completion of said well in the Queen formation on or before the first day of March 1986, Ordering Paragraph No. (1) 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 completed or abandoned in the Queen formation, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Ordering Paragraph No. (1) of this order should not be rescinded.

(2) Lynx Petroleum Consultants is hereby designated the operator of the subject well and unit.

(3) Within 90 days after the effective date of this order, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated additional well costs to re-enter and complete said well from the Lovington Paddock Pool to the Queen formation.

(4) The applicant shall concurrently furnish the Division and each known working interest owner in the subject unit an itemized schedule of the reallocation of the original costs of said Geraldine Doughty Well No. 1 prepared in accordance with Finding No. (18) of this order.

(5) Within 30 days from the date the schedules of actual and estimated additional well costs is furnished to him, any non- consenting working interest owner shall have the right to pay his share of such 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 such 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 attributable to all parties within 90 days following completion of the well to the Queen formation; 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 actual and estimated additional well costs, as provided above, shall pay to the operator his pro rata share of the amount that reasonable well costs exceed said actual and estimated additional well costs and shall receive from the operator his pro rata share of the amount that such 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 as set forth in Ordering Paragraphs Nos. (3) and (4) above, attributable to each non-consenting working interest owner who has not paid his share of reallocated initial well costs and estimated additional well costs within 30 days from the date said schedules of well costs are furnished to him.

(B) As a charge for the risk involved in re-entering said 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 actual and estimated 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) $3,500.00 per month while re-entering the subject well and its completion in the Queen formation and $350.00 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 unsevered 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 immediately 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 forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

(16) The portion of the applicant's Lynx Petroleum Consultants, Inc. request for the unconventional dual completion of its Geraldine Doughty Well No. 1 located 1650 feet from the North line and 2310 feet from the East line of Section 25, Township 16 South, Range 36 East, NMPM, Lea County, New Mexico, is hereby denied.

(17) 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 COMMISSION

JIM BACA, Member

ED KELLEY, Member

R. L. STAMETS, Chairman
and Secretary

S E A L