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June 6, 1988

New Mexico Oil Conservation Division
P.O. Box 2088
Santa Fe, New Mexico 87504-2088

Attn: Michael E. Stogner

Re: Application of Sun Exploration and Production Company
for Compulsory Pooling Wildfire #1 Well - Section 26,
Township 26 North, Range 2 West, N.M.P.M.
Rio Arriba County, New Mexico
NMOCD Case No. 9326

Dear Mr. Stogner:

I am in receipt of a copy of Mr. Kellahin's letter to you regarding the above-referenced matter dated June 2, 1988, together with a copy of Sun Exploration and Production Company's First Revised Proposed Order of the Division which has been submitted by Mr. Kellahin for your consideration.

Hixon Development Company submits the following comments regarding the First Revised Proposed Order:

- 1) Finding No. (10)(e) -- The phrase "estimated to be \$115,000.00" should be deleted. Mr. Kellahin's letter to you dated June 2, 1988 reflects his intention to delete that phrase.
- 2) Finding No. (10)(g) -- Finding No. (10)(g) set forth in Sun's original proposed order in the above-referenced matter more accurately states the agreement of the parties. Consequently, Finding No. (10)(g) should read as follows:

"That in the event any working interest owner in the E/2 fails to make timely payment within the period required, that interest shall be deemed to have elected not to participate and Sun shall have the right to recover out of production that party's share of the reimbursement, plus an additional 200%;"

- 3) Finding No. (16) -- Hixon Development Company continues to propose that this finding be changed to read, in its entirety, as follows:

"In the absence of evidence of the actual investment made by the current owners on behalf of the new owners, the Division finds that the method of cost allocation proposed by Sun is reasonable and adequately compensates the current owners for the investment made on behalf of the new owners, which sum is found to be \$255,500.00, plus anticipated future costs attributable to the new owners."

- 4) Finding No. (17) -- For purposes of clarity and in order to more accurately state the agreement of the parties, Hixon Development Company proposes that this finding be changed to read, in its entirety, as follows:

"Hixon and Dugan should be afforded the opportunity to elect to pay to the operator its proportionate share of the sum of \$511,000.00 for participation in the Wildfire Well. Such election should be made by Hixon and any other working interest owner in the E/2 of Section 26 within thirty (30) days after notice is received by them after the issuance of an order in this case by the Division. Upon payment, Hixon and Dugan shall be deemed participating working interest owners and shall be billed for future costs on a joint interest billing basis, as such costs are incurred."

- 5) Finding No. (19) -- For purposes of clarity and in order to provide consistency among various findings in the First Revised Proposed Order, Hixon Development Company proposes that this finding be changed to read, in its entirety, as follows:

"\$3500.00 per month while drilling and \$350.00 per month while producing should be fixed as reasonable charges for supervision of the subject well (combined fixed rates); that in the event working interest owner

elects to pay its proportionate share of the costs identified in Paragraph 10(d) and (e) above out of production, then, from and after the effective date hereof, the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to the interest of said owner 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 that interest."

- 6) Order No. (4)(b) -- The phrase "estimated to be \$115,000.00" should be deleted. Mr. Kellahin's letter to you dated June 2, 1988 reflects his intention to delete that phrase.
- 7) Order No. (5) -- Hixon Development Company proposes that this order provision be changed to read, in its entirety, as follows:

"\$3,500.00 per month while drilling and \$350.00 while producing are hereby fixed as reasonable charges for supervision of the subject well (combined fixed rates). From and after the effective date hereof, the operator is 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 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 the interest of each non-consenting working interest."

Given the impending expiration of the federal lease covering the SE/4NE/4 of Section 26, Hixon Development Company asks that you expedite the issuance of an order in this case.

Sincerely,



TOMMY ROBERTS

TR:nk

xc: Hixon Development Company
Attn: John Corbett

W. Thomas Kellahin, Esq.

KELLAHIN, KELLAHIN and AUBREY

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Santa Fé, New Mexico 87504-2265

June 2, 1988

RECEIVED

JUN 2 1988

OIL CONSERVATION DIVISION

Mr. Michael E. Stogner
Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504

"Hand Delivered"

Re: Sun Exploration & Production Company
Wildfire Force Pooling
Gavilan Mancos Oil Pool
NMOCD Case 9326

Dear Mr. Stogner:

On April 4, 1988 I submitted to you a proposed draft of an order to be entered in the referenced case which was heard by you on March 30, 1988.

Since then I have received from Mr. Tommy Roberts, attorney for Hixon Development Company, a copy of his letter to you dated April 14, 1988 suggesting certain corrections and modifications of my draft order.

This letter is in response to Mr. Robert's suggestions using the same format he used so that it will be easier to follow each point:

In general, we accept the three key points that Mr. Roberts makes concerning the pooling of the Wildfire well. The first point being that the costs are an average well cost and not the actual costs on the Wildfire well. The second point is that Sun is not an original owner of the well and should be referred to as "current owner." The third point stressed throughout is Mr. Robert's urges the effective date should not be June 8, 1987, but the effective date of the order while we are of the opinion that the June 8, 1987 is the proper date to use, the well has not produced during the time frame of June 8, 1987 to April 1, 1988 therefore we do not object to using April 1, 1988 as the effective date. Also, an effective date of April 1, 1988, would be more consistent with the Commission's order concerning the Loddy #1 well. As to his other suggestions and changes, below are our thoughts on each:

KELLAHIN, KELLAHIN & AUBREY

Mr. Michael E. Stogner
June 1, 1988
Page 2

Finding No. 2: The Wildfire well has not produced since May, 1987. Therefore, the change to reflect this is probably appropriate as a practical matter. Also, the location should be 900 feet FSL and 1650 feet FWL.

Finding No. 9: We find no objection to changing the language from "original actual costs" to "calculated average cost."

Finding No. 10: An effective date of April 1, 1988, is acceptable since the well has not produced since June 8, 1987, and would be consistent with the Commission's order concerning the Loddy pooling case. The joint operating agreement referred to in 10 (c), AAPL Form 610-1982 Model Form Operating Agreement, had some modifications made to it originally and the joint operating agreement with Hixon will have to reflect these same changes. Therefore any changes in rewording this finding must make reference to the terms and conditions of the original joint operating agreement including all modifications made. Also, one of the primary reasons to receive a pooling order is to modify the communitization agreement concerning any state and federal leases. This wording must remain in the finding. In Finding 10 (e) the language must be broad enough to include reimbursement out of production in the event Hixon elects NOT to participate. Accordingly, our language is necessary in order to have an order that covers both contingencies. The reference to original owners in 10 (f) should be changed to read current owners. I do believe this subsection should remain in the order. In 10 (h), the joint operating agreement does refer to the \$350/month as a production well rate but the \$350/month should be collected for operating costs even if the well is not physically producing and is shut in.

Finding No. 11: This finding is material, but could be reworded to read "the drilling of a well in the E/2 of Section 26 does not appear to be necessary at this time."

Finding No. 13: No problem with changing the effective date.

Finding No. 14: Should read Section 26.

Finding No. 16: We object to Mr. Robert's proposal and have recommended substitute language in our enclosed First Revised Draft. While we have not proposed it, Order R-8639 finding #12 (Loddy Well) provides alternative language which uses an interest escalator.

KELLAHIN, KELLAHIN & AUBREY

Mr. Michael E. Stogner
June 1, 1988
Page 3

Finding No. 17: We have revised this paragraph in the enclosed redraft. To clarify participation in the well Hixon, et al., need to make their cash contribution for past costs within the time provided. And if they do not then the paragraph provides the necessary alternative language.

Finding No. 19: We have replaced the words "actual costs incurred in the drilling, completion, and operation" with the words "its proportionate share of the \$511,000." No reference is made to the effective date in this finding and, therefore, the suggested change concerning the effective date is not warranted.

Order No. 3: We have changed the effective date.

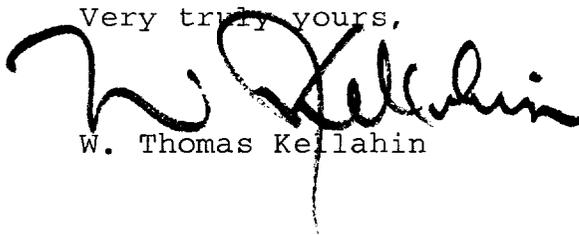
Order No. 4 (b): We have deleted the \$115,000 figure in order to be consistent with deleting it from Finding 10 (e).

Order No. 5: Again no reference has been made in this section about the effective date and we do not understand Hixon's proposed change to incorporate it.

I have enclosed a First Revised Proposed Order which takes our original draft and incorporates those of Mr. Robert's changes with which we agree.

Because of the June 30, 1988 expiration date for the federal lease covering the SE/4NE/4 of Section 26, we would most appreciate your assistance in entering an Examiner Order at your earliest convenience.

Very truly yours,



W. Thomas Kellahin

WTK:ca
Enc.

cc: Tommy Roberts, Esq. (Hixon attorney)
Rick Moore, Esq. (Sun-Dallas)
Mr. Ken Mueller (Sun-Denver)

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

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

APPLICATION OF SUN EXPLORATION &
PRODUCTION COMPANY FOR COMPULSORY
POOLING, RIO ARRIBA COUNTY,
NEW MEXICO.

CASE: 9326
Order R-

SUN EXPLORATION AND PRODUCTION COMPANY'S
FIRST REVISED PROPOSED ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 30, 1988, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this ____ day of April, 1988, 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, Sun Exploration & Production Company ("Sun"), seeks an order pooling all mineral interest in the Gavilan-Mancos Oil Pool underlying a 640-acre tract being all of Section 26, T26N, R2W, NMPM, Rio Arriba County, New Mexico, to be dedicated to the Sun Exploration and Production Company Wildfire Well located 900 feet FSL and 1650 feet FWL (Unit N) of said Section 26, which is completed in and presently capable of production from the Gavilan-Mancos Oil Pool and which is currently dedicated to a previously approved 320-acre non-standard oil spacing and proration unit underlying the W/2 of said Section.

Case No. 9326

(3) Sun Exploration and Production Company ("Sun") is the operator of the subject ~~Wildfire~~ well and is an interest owner in the W/2 of Section 26.

(4) Hixon Development Company ("Hixon"), as a working interest owner in the E/2 of said Section 26, appeared at the hearing in support of the application as more fully set forth in paragraph (10) below.

(5) On December 23, 1983, the Division adopted Order R-7407 which established temporary special rules and regulations for the Gavilan Mancos Oil Pool, effective as of March 1, 1984, including a provision for 320-acre spacing and provided:

Rule 2: No more than one well shall be completed or recompleted on a standard unit containing 320 acres, more or less, consisting of the N/2, S/2, E/2, or W/2 of any governmental section.

and further required:

(2) That any well presently producing from the Gavilan Mancos Oil Pool which does not have standard 320-acre proration unit, an approved non-standard proration unit, or which does not have a pending application for a hearing for a standard or non-standard proration unit by March, 1984, shall be shut-in until a standard or non-standard unit is assigned the well.

(6) On April 10, 1987, Jerome P. McHugh (now Sun) completed the Wildfire Well No. 1 to which was dedicated 320-acres being the W/2 of said Section 26.

(7) In accordance with Section 70-2-18(a) NMSA-1978 which provides in part "...any division order that increases the size of a standard spacing or proration unit for a pool, or extends the boundaries for such a pool, shall require dedication of acreage to existing wells in the pool in accordance with the acreage dedication requirements for said pool, and all interests in the spacing or proration units that are dedicated to the affected wells shall share in production from the effective date of the said order," the Commission, after notice and hearing, effective as of June 8, 1987, adopted permanent special rules and regulations for the Gavilan Mancos Oil Pool by Order R-7407-E which, among other

Case No. 9326

things, increased the spacing from 320-acres to 640-acres and amended the original Rule 2 substituting the following:

(3) Rule 2 of the temporary special rules and regulations for the Gavilan-Mancos Oil Pool as promulgated by Order R-7407 is hereby amended as follows:

Rule 2(a). A standard proration unit shall consist of between 632 and 648 acres consisting of a governmental section with at least one and not more than two wells drilled or recompleted thereon; provided that if the second well is drilled or recompleted on a standard unit it shall not be located in the same quarter section, nor closer than 1650 feet to the first well drilled on the unit; and provided further that proration units formed prior to the date of this order are hereby granted exception to this rule. (Emphasis added).

(8) On February 9, 1988, Sun as the owner, filed an application with the Division for a compulsory pooling order to pool the E/2 of said Section with the W/2 of Section 26 which is already dedicated to the Wildfire well thereby form a 640 acre proration unit and deleting the exemption of the original 320-acre spacing unit from Rule 2a of Order 7407-E.

(9) In addition, Sun seeks provisions to allow the E/2 working interest owners an opportunity to participate in the recoverable production from the Wildfire well from June 8, 1987, by paying their proportionate share of the calculated average costs of drilling, completing, and equipping of the Wildfire well.

(10) Sun and Hixon have been able to agree upon to the following terms and conditions that would apply the compulsory pooling order to be entered in this case:

(a) That Sun continues as operator of the Wildfire well and the 640-acre spacing unit;

(b) That the subject spacing unit should be dedicated to a 640-acre proration unit as of April 1, 1988 being the 1st day of the month immediately following the hearing in this case;

(c) Except for the modification of the necessary terms to increase the size of the unit from 320-acres to 640-acres, the new communitization agreement and the A.A.P.L Form 610 Model Form Operating Agreement - 1982 shall contain the same terms and conditions as the original agreements that applied to the 320-acre unit and the working interest owners in the E/2 shall be given a thirty day election period to sign the new communitization and joint operating agreements.

(d) It is agreed that \$511,000 represents a reasonable sum for drilling and completing of the Wildfire well and the working interest owners in the E/2 shall be given a thirty day election period to pay their proportionate share of that sum.

(e) In addition, Sun shall be entitled to recover anticipated future costs estimated to be \$115,000 for the installation of a gathering line and the purchase and installation of surface equipment for artificial lift and associated expenditures either on a joint billing basis as such costs are incurred from participating working interest owners or out of production from non-consenting working interest owners.

(f) The sums and methods set forth in this subsection represents a reasonable and fair method to reimburse the current owners and to afford to the new owners a fair and reasonable means of participation.

(g) That in the event any working interest owner in the E/2 fails to make timely payment within the period required and fails to execute the revised operating agreement and communitization agreement, that interest shall be deemed to have elected not to participate and Sun shall have the right to recover out of production that parties share of the reimbursement, plus an additional 200%; and

(h) That the overhead charge should be \$3,500/month while drilling and \$350/month while operating.

(11) Based upon the pressure interference analysis presented by Sun which shows that the Wildfire well is subject to pressure depletion by Gavilan Mancos wells more than one mile away, the drilling of a well in the E/2 of Section 26 does not appear to be necessary at this time.

Case No. 9326

(12) Based upon the reservoir economic analysis presented by Sun for both the W/2 and E/2 of Section 26, the correlative rights of the working interest, royalty and overriding royalty owners in both the W/2 and E/2 of Section 26 will be protected by approval of this application.

(13) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford the owners of each interest in the 640 acre unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the Gavilan Mancos Pool, the exemption for the Wildfire wells original 320-acre unit should be deleted and 640 acre spacing made effective as of April 1, 1988.

(14) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford the owner of each interest in the 640 acre spacing unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the pooled area, all mineral interests in Section 26 should be pooled as a single 640 acre unit for the Gavilan Mancos Oil Pool and dedicated to the Wildfire Well.

(15) That Sun should be designated the operator of the subject well and spacing unit.

(16) The Division finds that the method of cost allocation proposed by Sun is reasonable and adequately compensates the current owners for the investment made on behalf of the new owners, which sum is found to be \$255,500.00 plus anticipated future costs attributed to the new owners.

(17) Hixon and Dugan should be afforded the opportunity to elect to either pay to the operator its proportionate share of the sum of \$511,000.00 for participation in the Wildfire well. Such election should be made by Hixon and any other working interest owner in the E/2 of Section 26 within thirty (30) days after notice is received by them after the issuance of an Order in this case by the Division; and upon execution of the operating agreement and communitization agreement and payment, then and in that event Hixon and Dugan shall be deemed participating working interest owners and shall be billed for future costs on a joint interest billing basis, as such costs are incurred.

Case No. 9326

(18) Should Hixon or any working interest owner in the E/2 of Section 26 not so elect to pay its share of such well costs within said period, it should have withheld from production its share of \$511,000.00, plus its share of future costs, plus an additional 200 percent thereof as a reasonable charge for the risk involved in the well.

(19) \$3,500 per month while drilling and \$350 per month while producing should be fixed as reasonable charges for supervision of the subject well (combined fixed rates); that in the event working interest owner elects to pay its proportionate share of the costs identified in paragraph 10 (d) and (e) above, then the operator should be authorized to withhold from production the proportionate share of actual expenses required for operating the subject well and for such supervision charges attributable to the interest of said owner 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 that interest.

(20) 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 forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be within the Mancos formation underlying all of Section 26, Township 26 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a standard 640 acre oil spacing and proration unit to be dedicated to the Sun Wildfire #1 well which has been drilled and completed at a standard location thereon.

(2) Sun Exploration and Production Company is hereby designated the operator of the subject well and unit.

(3) Within 30 days after receipt of this order, Hixon and any other working interest owner in the E/2 of said Section 26 shall have the right to pay its share of the \$511,000.00 to the operator in lieu of paying its share out of production and any such owner who so pays its share as provided shall remain liable for future

Case No. 9326

costs, including gathering lines and artificial lift equipment, and for operating costs from April 1, 1988 forward, but shall not be liable for risk charges.

(4) The operator is hereby authorized to withhold the following costs and charges from production:

(a) The pro rata share of said \$511,000.00 sum attributable to each non-consenting working interest owner who has not paid his share of said sum as provided in Paragraph (3) of this order; and

(b) The prorata share of future costs of gathering lines and lift equipment estimated to be \$115,000 attributable to each non-consenting working interests owners who has not paid his share of the sum provided in paragraph (3) of this order; and

(c) As a charge for the risk involved in the drilling of the well, 200 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 said sum as provided in Paragraph (3) of this order.

(5) \$3,500.00 per month while drilling and \$350.00 per month while producing are hereby fixed as reasonable charges for supervision of the subject well (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 the subject well, not in excess of what are reasonable, attributable to the interest of each non-consenting working interest.

(6) 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.

(7) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Rio Arriba 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.

Case No. 9326

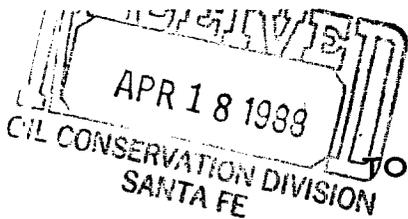
(8) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

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

DONE at Santa Fe, new Mexico, on the date and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION Division

William J. LeMay
Director



TOMMY ROBERTS
ATTORNEY-AT-LAW
(505) 326-3359

P. O. BOX 129
FARMINGTON, NEW MEXICO 87499

OFFICE
3005 NORTHRIDGE DR. • SUITE G

April 15, 1988

Michael E. Stogner
New Mexico Oil Conservation Division
P.O. Box 2088
Santa Fe, New Mexico 87504-2088

Re: Application of Sun Exploration and
Production Company for Compulsory Pooling
Wildfire #1 Well - Section 26,
Township 26 North, Range 2 West, N.M.P.M.,
Rio Arriba County, New Mexico
Case No. 9326

Dear Mr. Stogner:

I am in receipt of a copy of Sun Exploration and Production Company's Proposed Order of the Division in the above-referenced matter which has been submitted by Mr. Kellahin for your consideration.

Hixon Development Company is the owner of certain operating rights and working interest in the E/2 of Section 26 and is, consequently, a party affected by any Order issued by the New Mexico Oil Conservation Division in the above-referenced matter. In addition, Hixon Development Company entered an appearance at the hearing of Case No. 9326 held on March 30, 1988.

Hixon Development Company submits the following comments regarding the proposed order:

1) Finding No. (2) -- It is the understanding of Hixon Development Company that the Wildfire #1 Well is not presently producing from the Gavilan-Mancos Oil Pool. This finding should be changed to reflect that the Wildfire #1 Well is presently capable of production from the Gavilan-Mancos Oil Pool.

2) Finding No. (9) -- Sun Exploration and Production Company has proposed to allow the E/2 working interest owners an opportunity to participate in the recoverable production from the Wildfire #1 Well, from June 8, 1987, by paying their proportionate share of the sums set forth in proposed Finding Nos. (10)(d) and (e). These sums do not reflect original actual costs of drilling, completing and equipping the Wildfire #1 Well. Finding No. (9) should be changed to accurately reflect the basis for participation actually proposed by Sun Exploration and Production Company.

3) Finding No. (10)(b) -- It is the position of Hixon Development Company that the spacing unit for the Wildfire #1 Well should be reformed to a 640-acre spacing unit as of the date of the issuance of an Order in Case No. 9326.

4) Finding No. (10)(c) -- This finding should be changed to reflect the pre-hearing agreement between Sun Exploration and Production Company and Hixon Development Company that the format of the joint operating agreement applicable to the reformed spacing unit would be the A.A.P.L. Form 610 - Model Form Operating Agreement - 1982.

5) Finding No. (10)(e) -- This finding should be changed to reflect the pre-hearing agreement between Sun Exploration and Production Company and Hixon Development Company that participating working interest owners will be billed for future costs, on a joint billing basis, as such costs are incurred.

6) Finding No. (10)(f) -- It is the contention of Hixon Development Company that this proposed finding is immaterial to Sun's application, particularly in light of proposed Finding No. (16), and should not be included in the Division Order. In the event this finding is included in the Order issued by the New Mexico Oil Conservation Division in Case No. 9326, then the phrase "original owners" should be changed to the phrase "current owners" so as to avoid confusion as to the relationship of Sun Exploration and Production Company to the Wildfire #1 Well.

7) Finding No. (10)(h) -- In order to achieve consistency with other provisions in the proposed Order, the word "operating" should be changed to the word "producing".

8) Finding No. (11) -- It is the contention of Hixon Development Company that this proposed finding is immaterial to the application of Sun Exploration and Production Company for compulsory pooling and, therefore, that it should be deleted from any Order issued by the New Mexico Oil Conservation Division in Case No. 9326.

9) Finding No. (13) -- This proposed finding should be changed to provide that the spacing unit for the Wildfire #1 Well should be reformed to a 640-acre spacing unit effective as of the date of the issuance of an Order by the New Mexico Oil Conservation Division in Case No. 9326.

10) Finding No. (14) -- The reference in this proposed finding to "Section 20" should be changed to "Section 26".

11) Finding No. (16) -- Hixon Development Company proposes that this finding be changed in its entirety to read as follows:

"In the absence of evidence of the actual investment made by the current owners on behalf of the new owners, the Division finds that the method of cost allocation proposed by Sun is reasonable and adequately compensates the current owners for the investment made on behalf of the new owners, which sum is found to be \$255,500.00, plus anticipated future costs attributable to the new owners."

12) Finding No. (17) -- This finding should be changed to reflect the pre-hearing agreement between Sun Exploration and Production Company and Hixon Development Company that participating working interest owners will be billed for future costs, on a joint billing basis, as such costs are incurred.

13) Finding No. (19) -- The phrase "actual costs incurred in the drilling, completion and operation of the subject well" should be changed to the phrase "costs identified in Finding Nos. (10)(d) and (e) above".

In addition, this finding should be changed to provide that the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well from the date of the issuance of an Order by the New Mexico Oil Conservation Division in Case No. 9326, not in excess of what are reasonable, attributable to the interest of each non-consenting working interest.

14) Order Provision No. (3) -- This provision should state that any participating working interest owner shall remain liable for operating costs from the date of the issuance of an Order by the New Mexico Oil Conservation Division in Case No. 9326, not from June 8, 1987.

15) Order Provision No. (5) -- This provision should state that the operator is authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well from the date of the issuance of an Order by the New Mexico Oil Conservation Division in Case No. 9326, not in excess of what are reasonable, attributable to the interest of each non-consenting working interest.

Michael E. Stogner
N.M. Oil Conservation Division
April 15, 1988
Page 4

In conclusion, Hixon Development Company believes the above comments are consistent with the evidence presented at the hearing on the Application of Sun Exploration and Production Company in Case No. 9326 and with the pre-hearing agreement between Sun Exploration and Production Company and Hixon Development Company.

Sincerely,



TOMMY ROBERTS

TR:nk

xc: Hixon Development Company
Attn: John Corbett
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Karen Aubrey

Jason Kellahin
Of Counsel

April 4, 1988

RECEIVED

APR 5 1988

Mr. Michael E. Stogner
Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504

OIL CONSERVATION DIVISION

"Hand Delivered"

Re: Sun Exploration & Production Company
Case 9326

Dear Mr. Stogner:

In accordance with your request at the hearing of the referenced case held on March 30, 1988, please find enclosed a suggested order for entry in this case. Please call me if you have any questions about the proposed order.

Very truly yours,



W. Thomas Kellahin

WTK:ca
Enc.

cc: Tommy Roberts, Esq. (Farmington-Hixon)
Allen Tubb, Esq. (Sun-Dallas)
Ken Mueller, (Sun-Denver)

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

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

APPLICATION OF SUN EXPLORATION &
PRODUCTION COMPANY FOR COMPULSORY
POOLING, RIO ARRIBA COUNTY,
NEW MEXICO.

CASE: 9326
Order R-

~~THE~~ EXPLORATION AND PRODUCTION
COMPANY'S PROPOSED ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 30, 1988, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this ____ day of April, 1988, 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, Sun Exploration & Production Company ("Sun"), seeks an order pooling all mineral interest in the Gavilan-Mancos Oil Pool underlying a 640-acre tract being all of Section 26, T26N, R2W, NMPM, Rio Arriba County, New Mexico, to be dedicated to the Sun Exploration and Production Company Wildfire Well located 990 feet FSL and 1650 feet FWL (Unit N) of said Section 26, which is presently completed in and producing from the Gavilan-Mancos Oil Pool and which is currently dedicated to a previously approved 320-acre non-standard oil spacing and proration unit underlying the W/2 of said Section.

Case No. 9326

(3) Sun Exploration and Production Company ("Sun") is the operator of the subject Wildfire well and is an interest owner in the W/2 of Section 26.

(4) Hixon Development Company ("Hixon"), as a working interest owner in the E/2 of said Section 26, appeared at the hearing in support of the application as more fully set forth in paragraph (10) below.

(5) On December 23, 1983, the Division adopted Order R-7407 which established temporary special rules and regulations for the Gavilan Mancos Oil Pool, effective as of March 1, 1984, including a provision for 320-acre spacing and provided:

Rule 2: No more than one well shall be completed or recompleted on a standard unit containing 320 acres, more or less, consisting of the N/2, S/2, E/2, or W/2 of any governmental section.

and further required:

(2) That any well presently producing from the Gavilan Mancos Oil Pool which does not have standard 320-acre proration unit, an approved non-standard proration unit, or which does not have a pending application for a hearing for a standard or non-standard proration unit by March, 1984, shall be shut-in until a standard or non-standard unit is assigned the well.

(6) On April 10, 1987, Jerome P. McHugh (now Sun) completed the Wildfire Well No. 1 to which was dedicated 320-acres being the W/2 of said Section 26.

(7) In accordance with Section 70-2-18(a) NMSA-1978 which provides in part "...any division order that increases the size of a standard spacing or proration unit for a pool, or extends the boundaries for such a pool, shall require dedication of acreage to existing wells in the pool in accordance with the acreage dedication requirements for said pool, and all interests in the spacing or proration units that are dedicated to the affected wells shall share in production from the effective date of the said order," the Commission, after notice and hearing, effective as of June 8, 1987, adopted permanent special rules and regulations for the Gavilan Mancos Oil Pool by Order R-7407-E which, among other

Case No. 9326

things, increased the spacing from 320-acres to 640-acres and amended the original Rule 2 substituting the following:

(3) Rule 2 of the temporary special rules and regulations for the Gavilan-Mancos Oil Pool as promulgated by Order R-7407 is hereby amended as follows:

Rule 2(a). A standard proration unit shall consist of between 632 and 648 acres consisting of a governmental section with at least one and not more than two wells drilled or recompleted thereon; provided that if the second well is drilled or recompleted on a standard unit it shall not be located in the same quarter section, nor closer than 1650 feet to the first well drilled on the unit; and provided further that proration units formed prior to the date of this order are hereby granted exception to this rule. (Emphasis added).

(8) On February 9, 1988, Sun as the owner, filed an application with the Division for a compulsory pooling order to pool the E/2 of said Section with the W/2 of Section 26 which is already dedicated to the Wildfire well thereby form a 640 acre proration unit and deleting the exemption of the original 320-acre spacing unit from Rule 2a of Order 7407-E.

(9) In addition, Sun seeks provisions to allow the E/2 working interest owners an opportunity to participate in the recoverable production from the Wildfire well from June 8, 1987, by paying their proportionate share of the original actual costs of drilling, completing, and equipping of the Wildfire well.

(10) Sun and Hixon have been able to agree upon to the following terms and conditions that would apply the compulsory pooling order to be entered in this case:

(a) That Sun continues as operator of the Wildfire well and the 640-acre spacing unit;

(b) That the subject spacing unit should be dedicated to a 640-acre proration unit as of June 8, 1987 in order to comply with Section 70-2-18 NMSA-1978;

Case No. 9326

(c) Except for the modification of the necessary terms to increase the size of the unit from 320-acres to 640-acres, the new communitization and joint operating agreements shall contain the same terms and conditions as the original agreements that applied to the 320-acre unit and the working interest owners in the E/2 shall be given a thirty day election period to sign the new communitization and joint operating agreements.

(d) It is agreed that \$511,000 represents a reasonable sum for drilling and completing of the Wildfire well and the working interest owners in the E/2 shall be given a thirty day election period to pay their proportionate share of that sum.

(e) In addition, Sun shall be entitled to recover anticipated future costs estimated to be \$115,000 for the installation of a gathering line and the purchase and installation of surface equipment for artificial lift and associated expenditures either on a joint billing basis from participating working interest owners or out of production from non-consenting working interest owners.

(f) The sums and methods set forth in this subsection represents a reasonable and fair method to reimburse the original owners and to afford to the new owners a fair and reasonable means of participation.

(g) That in the event any working interest owner in the E/2 fails to make timely payment within the period required, that interest shall be deemed to have elected not to participate and Sun shall have the right to recover out of production that parties share of the reimbursement, plus an additional 200%; and

(h) That the overhead charge should be \$3,500/month while drilling and \$350/month while operating.

(11) Based upon the pressure interference analysis presented by Sun which shows that the Wildfire well is subject to pressure depletion by Gavilan Mancos wells more than one mile away, the drilling of a well in the E/2 of Section 26 does not appear to be necessary.

Case No. 9326

(12) Based upon the reservoir economic analysis presented by Sun for both the W/2 and E/2 of Section 26, the correlative rights of the working interest, royalty and overriding royalty owners in both the W/2 and E/2 of Section 26 will be protected by approval of this application.

(13) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford the owners of each interest in the 640 acre unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the Gavilan Mancos Pool, the exemption for the Wildfire wells original 320-acre unit should be deleted and 640 acre spacing made effective as of June 8, 1987.

(14) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford the owner of each interest in the 640 acre spacing unit the opportunity to recover or receive without unnecessary expense its just and fair share of production from the pooled area, all mineral interests in Section 20 should be pooled as a single 640 acre unit for the Gavilan Mancos Oil Pool and dedicated to the Wildfire Well.

(15) That Sun should be designated the operator of the subject well and spacing unit.

(16) The Division finds that the method of cost allocation proposed by Sun is reasonable and adequately compensates the original owners for the investment made on behalf of the new owners, which sum is found to be \$625,333.00.

(17) Hixon and Dugan should be afforded the opportunity to elect to either pay to the operator its proportionate share of the sum of \$511,000.00 for participation in the Wildfire well, or to pay its proportionate share of such costs out of production; such election should be made by Hixon and any other working interest owner in the E/2 of Section 26 within thirty (30) days after notice is received by them after the issuance of an Order in this case by the Division; and the operator should be entitled to withhold from production said owner and working interest owners proportionate share of such costs, plus his share of future costs, unless any working interest owner so elects and tenders payment of its proportionate share of such costs to operator within thirty (30) days after receipt of notice.

Case No. 9326

(18) Should Hixon or any working interest owner in the E/2 of Section 26 not so elect to pay its share of such well costs within said period, it should have withheld from production its share of \$511,000.00, plus its share of future costs, plus an additional 200 percent thereof as a reasonable charge for the risk involved in the well.

(19) \$3,500 per month while drilling and \$350 per month while producing should be fixed as reasonable charges for supervision of the subject well (combined fixed rates); that in the event working interest owner elects to pay its proportionate share of the actual costs incurred in the drilling, completion, and operation of the subject well out of production, then the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to the interest of said owner 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 that interest.

(20) 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 forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be within the Mancos formation underlying all of Section 26, Township 26 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a standard 640 acre oil spacing and proration unit to be dedicated to the Sun Wildfire #1 well which has been drilled and completed at a standard location thereon.

(2) Sun Exploration and Production Company is hereby designated the operator of the subject well and unit.

(3) Within 30 days after receipt of this order, Hixon and any other working interest owner in the E/2 of said Section 26 shall have the right to pay its share of the \$511,000.00 to the operator in lieu of paying its share out of production and any such owner who so pays its share as provided shall remain liable for future

Case No. 9326

costs, including gathering lines and artificial lift equipment, and for operating costs from June 8, 1987 forward, but shall not be liable for risk charges.

(4) The operator is hereby authorized to withhold the following costs and charges from production:

(a) The pro rata share of said \$511,000.00 sum attributable to each non-consenting working interest owner who has not paid his share of said sum as provided in Paragraph (3) of this order; and

(b) The prorata share of future costs of gathering lines and lift equipment estimated to be \$115,000 attributable to each non-consenting working interests owners who has not paid his share of the sum provided in paragraph (3) of this order; and

(c) As a charge for the risk involved in the drilling of the well, 200 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 said sum as provided in Paragraph (3) of this order.

(5) \$3,500.00 per month while drilling and \$350.00 per month while producing are hereby fixed as reasonable charges for supervision of the subject well (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 the subject well, not in excess of what are reasonable, attributable to the interest of each non-consenting working interest.

(6) 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.

(7) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Rio Arriba 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.

Case No. 9326

(8) 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 forced pooling provisions of this order.

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

DONE at Santa Fe, new Mexico, on the date and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION Division

William J. LeMay
Director

OIL CONSERVATION DIVISION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

9:20AM 3/9/88

~~Handwritten signature~~

Attn: William J. Lehay

to Vic - I think we
should hear the case

Paul

RECEIVED
MAR - 9 1988

TOMMY ROBERTS
ATTORNEY-AT-LAW
(505) 326-3359

P. O. BOX 129
FARMINGTON, NEW MEXICO 87499

OFFICE
3005 NORTHRIDGE DR. • SUITE G

March 8, 1988

Michael E. Stogner
New Mexico Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504-2088

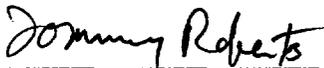
Re: Application of Sun Exploration
and Production Company for Compulsory Pooling
New Mexico Oil Conservation Division Case No. 9326

Dear Mr. Stogner:

Enclosed please find Motion to Dismiss, filed herein on behalf of Hixon Development Company, applicable to the above-referenced application of Sun Exploration and Production Company.

The above-referenced application is currently set on the Examiner Hearing Docket for March 16, 1988. Hixon Development Company will be prepared to present argument on this motion at the time Case No. 9326 is called on March 16, 1988.

Sincerely,



TOMMY ROBERTS

TR:nk
Enclosure

xc: Hixon Development Company
Attn: John Corbett

W. Thomas Kellahin, Esq.

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

IN THE MATTER OF THE HEARING CALLED
BY THE NEW MEXICO OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING THE APPLICATION OF
SUN EXPLORATION AND PRODUCTION
COMPANY FOR COMPULSORY POOLING,
RIO ARRIBA COUNTY, NEW MEXICO

Case No. 9326

MOTION TO DISMISS

COMES NOW Hixon Development Company, by and through its attorney, Tommy Roberts, and moves that the New Mexico Oil Conservation Division dismiss with prejudice the application of Sun Exploration and Production Company for compulsory pooling in Case No. 9326.

As grounds for said motion, Hixon Development Company states as follows:

1. Sun Exploration and Production Company has filed its application for compulsory pooling whereby it seeks an order of the New Mexico Oil Conservation Division pooling all mineral interests in the Gavilan-Mancos Oil Pool underlying all of Section 26, Township 26 North, Range 2 West, N.M.P.M., Rio Arriba County, New Mexico, to form a standard 640-acre oil spacing and proration unit to be dedicated to the Sun Exploration and Production Company Wildfire #1 Well which is presently completed in and producing from the Gavilan-Mancos Oil Pool.

1
202 206

2. Hixon Development Company is the owner of certain oil and gas leasehold operating rights interests in Section 26, Township 26 North, Range 2 West, N.M.P.M., Rio Arriba County, New Mexico and, consequently, is a party interested in the application of Sun Exploration and Production Company for compulsory pooling in Case No. 9326.

3. Case No. 9326 is currently set for hearing before the New Mexico Oil Conservation Division on March 16, 1988.

4. The Wildfire #1 Well was drilled and completed on the basis of a standard 320 acre oil spacing and proration unit consisting of the W/2 of Section 26, Township 26 North, Range 2 West, N.M.P.M., Rio Arriba County, New Mexico, pursuant to Special Rules and Regulations for the Gavilan-Mancos Oil Pool adopted by the New Mexico Oil Conservation Commission in Order No. R-7407.

5. On June 8, 1987, Permanent Special Rules and Regulations for the Gavilan-Mancos Oil Pool were adopted by the New Mexico Oil Conservation Commission in Order No. R-7407-E, which rules and regulations contained an amendment to the spacing and proration unit requirements for wells within the boundaries of the Gavilan-Mancos Oil Pool to provide for standard spacing and proration units consisting of between 632 and 648 acres with at least one and not more than two wells drilled or recompleted thereon and to provide that spacing and proration units formed prior to the adoption of the Permanent Special Rules and Regulations be granted exception to the rule.

6. New Mexico Oil Conservation Commission Order No. R-7407-E sets forth valid and binding pool rules applicable to the Gavilan-Mancos Oil Pool, which pool rules, as amended, ratify the validity and continuing existence of spacing and proration units formed prior to June 8, 1987.

7. Given the fact that New Mexico Oil Conservation Commission Order No. R-7407-E specifically provides that spacing and proration units formed prior to June 8, 1987 are granted exception to the amended rule promulgated by said Order, then the application of Sun Exploration and Production Company in New Mexico Oil Conservation Division Case No. 9326 constitutes an impermissible collateral attack on a valid and binding rule applicable to the Gavilan-Mancos Oil Pool. *Not so!*

WHEREFORE, Hixon Development Company requests that the New Mexico Oil Conservation Division enter an appropriate Order dismissing with prejudice the application of Sun Exploration and Production Company in Case No. 9326.

Respectfully submitted,

Tommy Roberts

TOMMY ROBERTS, Attorney for
Hixon Development Company
P. O. Box 129
Farmington, New Mexico 87499

I hereby certify that a true copy of the foregoing was mailed to opposing counsel this 8th day of March, 1988.

Tommy Roberts

Tommy Roberts



ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

GARREY CARRUTHERS
GOVERNOR

March 10, 1988

POST OFFICE BOX 2089
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87504
(505) 827-5800

Tommy Roberts, Esq.
P. O. Box 129
Farmington, New Mexico 87499

Re: Case 9326, Application of Sun Exploration and
Production Company for Compulsory Pooling

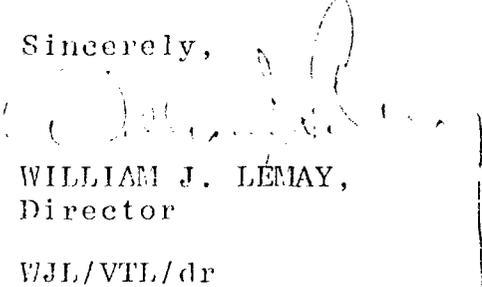
Dear Mr. Roberts:

Your letter of March 8 forwarding motion to dismiss the subject case has been received and duly noted. We believe you have misinterpreted the language and intent of Rule 2(A) of Order R-7407-E. That order established 640 acres as the standard proration unit size. It also granted exceptions to existing proration units.

The order thus enables parties within a section having only one well to enlarge the non-standard unit to a standard unit in order to avoid the waste of drilling a second, unnecessary, well. We consider this to be the appropriate action in cases where (1) the ownership in the section is common, (2) where the parties can agree on the terms of communitizing and operating the section and, (3), in cases where the parties cannot agree, to force-pool the parties on terms determined by OCD to be fair and reasonable. An application for forced pooling is not a collateral attack on the spacing order.

Your motion to dismiss is hereby denied.

Sincerely,


WILLIAM J. LEMAY,
Director

WJL/VTL/dr

cc: Michael E. Stogner
W. Thomas Kellahin

KELLAHIN, KELLAHIN AND AUBREY

Attorneys at Law

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Telephone 982-4285

Area Code 505

W. Thomas Kellahin

Karen Aubrey

Jason Kellahin

Of Counsel

February 25, 1988

Mr. Michael E. Stogner
Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87504

Re: Sun Exploration and Production Co.
NMOCD Case 9326

Dear Mr. Stogner:

Mr. Tommy Roberts, attorney for Hixon Development Company has requested that the Sun Case 9326 now set for hearing on March 2, 1988 be continued and consolidated with the Hixon Case 9295 which is set on the March 16, 1988 examiner's docket.

I have advised Mr. Roberts that Sun has no objection to his request for a continuance and accordingly request that Case 9326 be continued and consolidated with Case 9295 to be heard on March 16th.

Very truly yours,



W. Thomas Kellahin

WTK:ca

cc: Allen Tubb, Esq. (Sun-Dallas)
Tommy Roberts, Esq.
Ken Mueller (Sun-Denver)