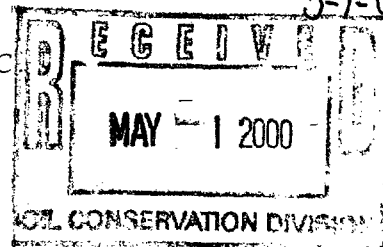




WESTPORT OIL AND GAS COMPANY, INC.

410 Seventeenth Street #2300 Denver Colorado 80202-4436

Telephone: 303 573 5404 Fax: 303 573 5609



VIA OVERNIGHT MAIL

April 26, 2000

Burlington Resources Oil & Gas Company
Attention: Shannon Nichols
P.O. Box 4289
Farmington, NM 87499-4289

**Re: Brookhaven Com #8, #8A, B #3B Wells
San Juan County, New Mexico**

Ladies and Gentlemen:

Enclosed for your further handling are the following:

1. Brookhaven Com #8 Signed AFEs for the Mesaverde and Chacra formations and Westport's check no. 50704 for \$42,666.00
2. Brookhaven Com #8A Signed AFEs for the Mesaverde and Chacra formations and Westport's check no. 50706 for \$35,747.00
3. Brookhaven Com B #3B Signed AFE for the Mesaverde formation and Westport's check no. 50705 for \$42,980.00
4. Westport's Geological Well Information Requirements for the three wells

Westport's approval of the AFEs and checks enclosed herein are requirements of New Mexico Oil Conservation Division orders R-11340 and R-11341 to participate in the drilling of the wells. Westport continues to maintain that the Farmout Agreement and Operating Agreement dated 11/27/53 are still in force and effect and that the operations proposed by the AFEs are subject to such agreements.

Please send joint interest billings to the letterhead address. If you have any questions, please call me at (303) 575-0125.

Sincerely,

Kent S. Davis, CPL
Senior Landman

cc: Mike Morella, Westport

New Mexico Oil Conservation Division ✓
Attention: Mr. Mark Ashley
2040 South Pacheco
Santa Fe, NM 87505

Energen Resources Corporation
Attention: Mr. Rich Corcoran
2198 Bloomfield Highway
Farmington, NM 87401

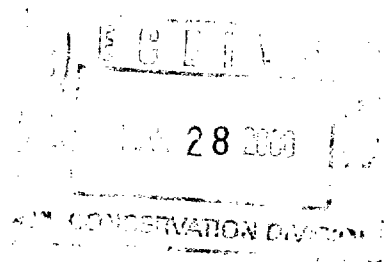
BURLINGTON RESOURCES

SAN JUAN DIVISION

CERTIFIED MAIL-Return Receipt Requested

To: See Attached Distribution List

March 27, 2000



**RE: Compulsory Pooling Order R-11341
Brookhaven Com B #3B
Mesaverde New Drill
E/2 Section 16, T31N, R11W
San Juan County, New Mexico**

Dear Interest Owner:

Burlington Resources Oil & Gas Company, as operator, proposes to drill, complete and equip the Brookhaven Com B #3B as a Mesaverde new drill (proposed depth: 5600'). The well will have an E/2 dedication and has been staked as follows: 1675' FSL & 815' FEL, Section 16, T31N, R11W.

The working interest in the proposed well is shown in the table below.

Working Interest Owner	MV Ownership %
Burlington Resources Oil & Gas Company	50.927120
Cheryl Potenziani	0.926703
Energen Resources Corporation	24.752346
Westport Oil & Gas Company	11.120620
Carolyn Sedberry	1.878502
Roger Nielsen	1.878502
C. Fred Luthy Jr.	1.853198
Cyrene L. Inman	1.853198
FA & HB Cronican Rev Trust	1.052185
William C. Briggs	0.939561
Herbert R. Briggs	0.939561
Marcia Berger	0.939252
WWR Enterprises	0.939252

* Cheryl Potenziani has previously elected to participate in the proposed well under the same AFE furnished herein; however, because of the failure to execute the Joint Operating Agreement as provided, will need to make an election under the Order discussed below.

Please reference our past correspondence on the captioned well. As you are aware, Burlington Resources Oil & Gas Company (Burlington) filed with the New Mexico Oil Conservation Division for compulsory pooling of the drilling unit for said well. After hearing the matter, the Oil Conservation Division issued Order R-11341 (copy enclosed) pooling the acreage and interests necessary for drilling.

Burlington, pursuant to the terms of the enclosed Order, is hereby notifying each of you, as non-consenting working interest owners, of your right to participate in the well pursuant to this Order. For your review, I am enclosing a copy of the itemized estimated well and facility costs, and the Authority for Expenditure.

Burlington would still like to secure your voluntarily execution of the Joint Operating Agreement dated February 1, 1999, that we originally sent to you under cover letter dated May 18, 1999, and provided a second time under cover letter dated September 15, 1999. If you choose to timely execute said Joint Operating Agreement, and make a participation election under the Joint Operating Agreement, we will either make application to vacate the Order or dismiss you from the Order.

If, however, you elect to participate or Farmout in the well pursuant to the terms of the Order you should do the following:

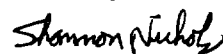
1. Evidence your election to participate by reviewing the estimated well costs and executing the enclosed Authority for Expenditure.
2. Prepay your proportionate share of the \$386,488 total estimated completed well costs. The prepayment should be in the form of a cashiers check or certified bank check.

The executed Authority for Expenditure and the prepayment of well costs must be returned to Burlington at the letterhead address within thirty (30) days of your receipt of this letter.

If you do not voluntarily join in the well within the thirty (30) day period, or if we do not receive your joinder pursuant to the referenced Order within the thirty (30) day period, it will be assumed that you have elected not to participate in the well. Burlington, under the terms of the Order, has the right to drill the well and recover your pro-rata share of reasonable well costs from production. Burlington will also be allowed to recover an additional two hundred percent (200%) of reasonable well costs as a charge for bearing risk of drilling the well.

Any questions may be directed to the undersigned at (505) 599-4010.

Sincerely,



Shannon Nichols
Senior Landman

NM 387A – well file

xc: New Mexico Oil Conservation Division w/AFE
Attn: Mr. Mark Ashley
2040 South Pacheco
Santa Fe, New Mexico 87505

**Brookhaven Com B #3B
Distribution List**

Energen Resources Corporation
Attn: Rich Corcoran
2198 Bloomfield Highway
Farmington, NM 87401

Cheryl L. Potenziani
P.O. Box 36600, Station D
Albuquerque, NM 87176

Marcia Berger
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

Herbert R. Briggs
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

William C. Briggs
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

Cyrene L. Inman
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

Westport Oil & Gas Company
Attn: Kent Davis
410 Seventeenth Street, Ste 2300
Denver, CO 80202-4436

Roger B. Nielsen
1200 Danbury Dr.
Mansfield, TX 76063

Carolyn Nielsen Sedberry
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

WWR Enterprises Inc.
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

F. A. & H. B. Cronican Trust
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

C. Fred Luthy, Jr.
C/o Bank of America
Attn: Ed Di Re
P.O. Box 2546
Fort Worth, TX 76113-2546

BURLINGTON RESOURCES

San Juan Division
Post Office Box 4289
Farmington, New Mexico, 87499

AUTHORITY FOR EXPENDITURE

AFE No.: _____ Property Number: _____ Date: 10/22/98
Lease/Well Name: Brookhaven Com B #3B DP Number: _____
Field Prospect: Blanco Mesaverde Region: Farmington
Location: Unit I, Section 16, T31N, R11W County: San Juan State: New Mexico
AFE Type: Developmental (01) Original ☒ Supplement _____ API Well Type _____
Operator: BURLINGTON RESOURCES
Objective Formation: Blanco Mesaverde Authorized Total Depth: 5600'
Project Description: Drill, complete, and facilitate a Mesaverde well.

Estimated Start Date: Jul-99 Prepared By: Kenneth M. Collins
Estimated Completion Date: Jul-99

GROSS WELL DATA

	Drilling		Workover/ Completion	Construction Facility	Total
Days:	Dry Hole	Suspended			
		<u>7</u>	<u>5</u>	<u>2</u>	<u>14</u>
This AFE:		<u>\$185,600</u>	<u>\$155,888</u>	<u>\$45,000</u>	<u>\$386,488</u>
Prior AFE's:					<u>\$0</u>
Total Costs:	<u>\$0</u>	<u>\$185,600</u>	<u>\$155,888</u>	<u>\$45,000</u>	<u>\$386,488</u>

JOINT INTEREST OWNERS

Company:	Working Interest Percent	Dry Hole \$	Completed \$
BR Oil & Gas Co.:	<u>50.927123%</u>	<u>\$0</u>	<u>\$196,827</u>
TRUST	<u>0.000000%</u>	<u>\$0</u>	<u>\$0</u>
Others:	<u>49.072877%</u>	<u>\$0</u>	<u>\$189,661</u>
AFE TOTAL:	<u>100.000000%</u>	<u>\$0</u>	<u>\$386,488</u>

BURLINGTON RESOURCES APPROVAL

Recommended: Kenneth M. Collins Date: 10-22-98 Recommended: Sam Washington Date: 10/26/98
MV PUD Team MV PUD Team
Approved: David Cloud Date: 10/24/98 Approved: Jim D. Smith Date: 10-9-98
MV PUD Team MV PUD Team

PARTNER APPROVAL

Company Name: _____
Authorized By: _____ Date: _____
Title: _____

**Burlington Resources
Facility Cost Estimate**

Well Name: Brookhaven Com B #3B
 Location: Unit I, Section 16, T31N, R11W
 AFE Type: Developmental (01)
 Formation: Blanco Mesaverde

Prepared By: BWF
 Date: 10/22/98
 Approved By: Kuc
 Date: 10-22-98

Intangible Costs

Estimated Days: 2.0

Account Number		Mesaverde Cost	Total Estimated Cost
247			
2	Labor, Consultants, Roustabout	6,000	6,000
03	Company Vehicles	100	100
08	Location Cost	750	750
12	Overhead		0
17	Damages, Property Losses		0
20	Equip. Coating and Insulation	750	750
26	SWD Filtering		0
27	Separators	14,000	14,000
28	Gas Sweetening		0
29	Pumping Units		0
31	Prime Mover		0
32	Tanks	6,500	6,500
33	Metering Equipment		0
34	Flow Line		0
35	Compressors		0
36	Building		0
39	Flowlines, Piping, Valves & Fittings	5,300	5,300
43	Safety		0
44	Technical Contract Services		0
47	Rental Compressor & Maintenance		0
48	Rental Equipment		0
49	Cathodic Protection	6,000	6,000
50	Right Of Way		0
51	Minor Pipelines		0
53	Surface Pumps		0
54	Electrical Accessories		0
55	Miscellaneous-Facility Expense	800	800
57	Pulling Unit Cost @		0
60	Operator Owned Equip. / Facilities (District Tools)		0
62	Env. Compliance (Assessment)		0
63	Env. Compliance (Remediation)		0
68	Direct Labor	500	500
69	Benefits		0
70	Payroll Taxes and Insurance		0
72	Employee Expenses	300	300
73	Freight / Water Transportation	500	500
81	Tubing		0
82	Rods		0
83	Downhole Pumps		0
84	Alternative Artificial Lift Equip.		0
86	Convent Artificial Lift Wellhead Equip.	3,500	3,500
88	Communication Systems		0
96	Gas Dehydrator		0
	Total Facilities Cost	45,000	45,000

Burlington Resources
Cost Estimate

Well Name: Brookhaven Com B #3B
Location: Unit I, Section 16, T31N, R11W
AFE Type: 01-Development Drilling
Formation: Blanco Mesa Verde
Proposed TD: 5600'

Prepared By: Kurt A. Shipley
Date: 11/18/97
Approved By: _____
Date: _____
Int. TD: 3200'
Cost/ft \$33.14

Intangible Costs

		Estimated Days: 7.0	Total Estimated Cost
Account Number			
248			
03	Location Cost		8,000
05	Move-in, Move-out		6,000
07	Rig Cost (7 days @ \$6,000/day)		44,500
08	Safety Equipment		0
10	Drilling Fluid (7 days @ \$1,600/day) + mud		14,900
16	Stimulation Fluids		6,000
17	Bits		11,000
18	Cementing		22,000
22	Coring and Analysis		0
23	Fuel		1,500
25	Rentals		2,000
26	Fishing		0
28	Other Rentals		1,000
29	Transportation		1,500
32	Directional Service		0
33	Inspection		0
34	Logging Services		0
36	Production Testing		0
37	Swabbing, Snubbing, Coiled Tubing		0
39	Stimulation		0
43	Consultants (7 days @ \$500/day)		3,500
44	Technical Services		0
45	Roustabout Labor		4,500
46	Miscellaneous		1,000
49	Packer Rentals		0
53	Environmental Costs		1,000
54	Disposal Costs		1,000
60	District Tools		
72	Overhead (7 days @ \$150/day)		1,100
	Total Intangibles		130,500

Tangible Costs

80	Casing			44,900
	9-5/8" 32.3# WC-50	200'	@ \$11.78/ft	2,400
	7.0" 20.0# J-55	3200'	@ \$9.31/ft	29,800
	4-1/2" 10.5# J-55	2500'	@ \$5.07/ft	12,700
81	Tubing			0
84	Casing & Tubing Equipment			7,200
86	Wellhead Equipment			3,000
	Total Tangibles			55,100

Total Cost	185,600
-------------------	----------------

*Assume 6% sales tax where appropriate

Burlington Resources
Cost Estimate

Well Name: Brookhaven Com B #3B
Location: Unit 1, Section 16, T31N, R11W
AFE Type: Developmental (01)
Formation: Blanco Mesaverde

Prepared By: KMC
Date: 10/22/98
Approved By: KMC
Date: 10-22-98
2-3/8" Tbg: 5600'

Intangible Costs

Estimated Days: 5.0

Account
Number
249

Total
Estimated
Cost

03	Location Cost		4,000
05	Move-in, Move-out		5,000
07	Rig Cost	(5 days @ \$5,500/day)	27,500
08	Safety Equipment		100
10	Air Drilling Fluid	(5 days @ \$1,800/day)	9,000
16	Stimulation Fluids	(4400 Bbls KCL)	10,000
17	Bits		750
18	Cementing		0
22	Coring and Analysis		0
23	Fuel		1,500
25	Rentals (Subsurface)		1,500
26	Fishing		0
28	Other Rental (Surface)	(Twelve 400 bbl frac tanks / misc equip)	1,000
29	Transportation	(frac tanks, misc equip)	2,000
32	Directional Svc.		0
33	Inspection		750
34	Logging Services	(GR/CNL/CBL and perforating)	10,000
36	Production Testing		0
37	Swabbing, Snubbing, Coiled Tubing		0
39	Stimulation	(MV-2 Slickwater)	50,000
43	Consultants	(6 days @ \$450/day)	2,700
44	Technical Contract Svc.		400
45	Roustabout Labor		0
46	Miscellaneous		1,500
49	Packer Rental		0
53	Env. Cost		0
54	Disposal Cost		250
60	District Tools		0
68	Direct Labor		2,000
72	OH Rig Days - 249, \$134	(7 days @ \$134/day)	938
	Total Intangibles		130,888

Tangible Costs

80	Casing		0
81	Tubing	(5600 ft of 2-3/8" 4.7# tubing)	17,700
84	Casing & Tubing Equip.	(1.81" Seat nipples /PO plug)	2,800
86	Wellhead Equipment		4,500
	Total Tangibles		25,000

Total Cost

25,000 155,888

MILLER, STRATVERT & TORGERSON, P.A.
LAW OFFICES

RANNE B. MILLER
ALAN C. TORGERSON
ALICE T. LORENZ
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STEPHEN M. WILLIAMS
STEPHAN M. VIDMAR
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SETH V. BINGHAM
JAMES B. COLLINS
TIMOTHY R. BRIGGS
RUDOLPH LUCERO
DEBORAH A. SOLOVE
GARY L. GORDON
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SHARON P. GROSS
VIRGINIA ANDERMAN
MARTE D. LIGHTSTONE
J. SCOTT HALL
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TERRI L. SAUER
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THOMAS M. DOMME

RUTH O. PREGENZER
JEFFREY E. JONES
MICHAEL I. ARRIETA
ROBIN A. GOBLE
JAMES R. WOOD
DANA M. KYLE
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M. DYLAN O'REILLY
AMINA QUARGNALI-LINSLEY
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ROSS B. PERKAL
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GARY RISLEY

OF COUNSEL

WILLIAM K. STRATVERT
RALPH WM. RICHARDS

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500 MARQUETTE N.W., SUITE 1100
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(800) 424-7585
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FACSIMILE: (505) 989-9857

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300 WEST ARRINGTON, SUITE 300
POST OFFICE BOX 869
FARMINGTON, NM 87499-0869
TELEPHONE: (505) 326-4521
FACSIMILE: (505) 325-5474

LAS CRUCES, NM

500 S. MAIN ST., SUITE 800
POST OFFICE BOX 1209
LAS CRUCES, NM 88004-1209
TELEPHONE: (505) 523-2481
FACSIMILE: (505) 526-2215

PLEASE REPLY TO SANTA FE

February 4, 2000

BY HAND-DELIVERY

Mr. Mark Ashley
New Mexico Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87501

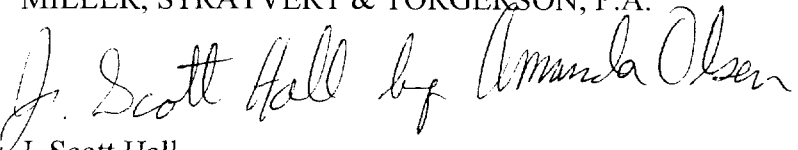
Re: NMOCD Case Nos. 12276 and 12277; Application of Burlington Resources Oil and Gas Company for Compulsory Pooling, San Juan County, New Mexico

Dear Mr. Ashley:

Enclosed herewith are the original and four copies of the draft Order of the Division submitted by Energen Resources Corporation, Westport Oil and Gas Company, Inc., Bank of America, Carolyn Nelson Sedberry, C. Fred Luthy, Jr., Cyrene Inman, The F. A. and H. B. Cronican Revocable Trust, William C. Briggs, Herbert R. Briggs, Marcia Berger, and WWR Enterprises, Inc. For your convenience, I am also enclosing an additional copy on a 3 ½ floppy disk.

Very Truly Yours,

MILLER, STRATVERT & TORGERSON, P.A.


J. Scott Hall

Enclosure(s) – as stated
JSH:ao

Cc: W. Thomas Kellahin, Esq. (with order) (by hand-delivery)

6621/23699/Ashley ltr.doc

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

**IN THE MATTER OF THE APPLICATION
OF BURLINGTON RESOURCES OIL & GAS
COMPANY FOR COMPULSORY POOLING
SAN JUAN COUNTY, NEW MEXICO**

CASE NO. 12276

**IN THE MATTER OF THE APPLICATION
OF BURLINGTON RESOURCES OIL & GAS
COMPANY FOR COMPULSORY POOLING
SAN JUAN COUNTY, NEW MEXICO**

CASE NO. 12277

ORDER OF THE DIVISION
(Energen's Draft)

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 20, 2000, at Santa Fe, New Mexico, before the Examiner Mark Ashley.

NOW, on this ____ day of _____, 2000, 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 of this proceeding requesting relief under NMSA 1978, Section 70-2-17(C), having been given as required by law, the Division has jurisdiction of this case and its subject matter thereof.

(2) At the request of the Applicant, Burlington Resources Oil and Gas Company ("Burlington"), Case No. 12276 and Case No. 12277 were consolidated for purposes of hearing.

(3) Burlington seeks an order pooling all mineral interests underling the following described acreage within Section 36, T27N, R8W, NMPM, San Juan County, New Mexico, in the following manner:

(a) a 320-acre gas spacing unit consisting of the W/2 of this section for gas production from the Blanco-Mesaverde Gas Pool to be dedicated to the proposed Brookhaven Com Well No. 8 to be located in the NW/4 and

to the Brookhaven Com Well No. 8-A to be located in the SW/4 of this section;

(b) for a standard 160-acre gas spacing unit consisting of the NW/4 of this section for gas production from the Otero-Chacra Gas Pool to be dedicated to the Brookhaven Com Well No. 8; and

(c) for a standard 160-acre gas spacing unit consisting of the SW/4 of this section for gas production from the Otero-Chacra Gas Pool to be dedicated to the Brookhaven Com Well No. 8-A.

(4) Burlington also seeks an order pooling all mineral interests in the Mesaverde formation within the E/2 of Section 16, T31N, R11W, NMPM, San Juan County, New Mexico, for a 320-acre gas spacing unit consisting of the E/2 of said Section 16 for gas production from the Blanco-Mesaverde Gas Pool to be dedicated to Applicant's proposed Brookhaven Com B Well No. 3-B, to be located in the NE/4, SE/4 of said Section 16.

(5) Energen Resources Corporation, Westport Oil & Gas Company, Inc., Bank of America (Oil & Gas Assets Management Division), Carolyn Nelson Sedberry, C. Fred Luthy, Jr., Cyrene Inman, the F. A. and H. B. Cronican Revocable Trust, William C. Briggs, Herbert R. Briggs, Marcia Berger, and WWR Enterprises, Inc. (referred herein as "the GLA-46 Interest Owners") appeared at the hearing through counsel and opposed the applications on the basis that their interests are governed by a Farmout and Operating Agreement dated November 27, 1951 (the "GLA-46 Agreement"), as amended, between Brookhaven Oil Company, predecessor-in-interest to the GLA-46 Interest Owners and San Juan Production Company, predecessor-in-interest to Burlington.

(6) The evidence establishes that the GLA-46 Agreement has been amended twenty-seven times to, *inter alia*, include the acreage that is the subject of these consolidated compulsory pooling applications.

(7) It is the position of the GLA-46 Interest Owners, that under the express provisions of Section 70-2-17 (C) of the New Mexico Oil and Gas Act of NMSA 1978, that a voluntary agreement governing the drilling and development of the subject lands exists, and therefore, the Division may not force pool this acreage.

(8) Burlington, also represented by counsel, contends that the November 27, 1951 GLA-46 Agreement set forth a drilling obligation for eighteen Mesaverde wells to be drilled within the contract area. Burlington contends that the eighteen well drilling obligation was satisfied in 1956 and consequently the agreement no longer applies.

(9) The GLA-46 Interest Owners presented witness testimony and documentary evidence establishing that the parties' predecessors-in-interest, as well as

Burlington drilled more than ninety wells under the agreement, beginning in 1951 and continuing through the 1990's.

(10) Burlington and the GLA-46 Interest Owners both presented evidence showing that Burlington had solicited participation in the drilling of the wells that are the subject of these consolidated applications under the terms of a new farmout agreement or, alternatively, under a new joint operating agreement, both of which were intended to release the parties and the subject acreage from the terms of the GLA-46 Agreement.

(11) The GLA-46 Interest Owners presented evidence establishing that they consistently notified Burlington of their intention to participate in the drilling of the wells under the terms of the GLA-46 Agreement. The GLA-46 Interest Owners also presented a significant amount of documentary evidence establishing that Burlington and its predecessors consistently and continuously regarded the GLA-46 Agreement as an "active" and "governing" agreement applicable to "all depths" and to all acreage, including the lands that are the subject of Burlington's applications.

(12) Although the preponderance of the evidence established that Burlington recognized the continuing applicability of the GLA-46 Agreement, it was further established that Burlington no longer intended to honor the Agreement for the reason that its terms were not economically favorable. Witness and exhibit testimony established that the force majeure provisions of the the GLA-46 Agreement (Para. 14) do not include a change in economic circumstances as an event excusing Burlington's performance.

(13) During the course of the hearing on the consolidated applications, Burlington, through its counsel, moved to amend its pleadings to seek alternative relief under NMSA 1978, Section 70-2-17(E) in order to invoke the Division's authority to modify the terms of the GLA-46 Farmout and Operating Agreement. The GLA-46 Interest Owners objected to the motion for the reason that Burlington's request was untimely, constituted surprise, resulted in prejudice and would violate their rights to due process. Subsequently, on January 24, 2000, Burlington filed amended applications in Case No. 12276 and Case No. 12277. On February 2, 2000, the GLA-46 Interest Owners filed a Motion to Strike the amended applications. Both parties provided the hearing examiner with legal memoranda addressing the propriety of Burlington's motion to amend its pleadings. Counsel for the parties also presented oral argument on the Motion to Strike on February 3, 2000.

(14) Section 70-2-17(C) of the New Mexico Oil and Gas Act says, in part, "...where, however, such owner or owners have not agreed to pool their interests...the Division...shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit."

(15) It has been the longstanding administrative interpretation of Section 70-2-17(C) by the Division, that an applicant has the burden of affirmatively proving that the owners of mineral interests in a spacing unit "have not agreed to pool their interests..."

It has also been the Division's interpretation that such a showing is a mandatory precondition to the exercise of the Division's authority to pool property interests under Section 70-2-17(C), and where the evidence adduced at hearing is not sufficient to substantiate such a finding in an order, then the Division is obliged to deny the application. This interpretation is consistent with prior Division precedent in cases with similar factual circumstances.

(16) The applicant in these consolidated cases failed to provide sufficient evidence to refute that the GLA-46 Agreement does exist, is binding and does govern the drilling and development of the subject proration units.

(17) The GLA-46 Interest Owners established, by preponderance of the evidence, that the GLA-46 Farmout and Operating Agreement was in existence and continued to apply to the subject acreage.

(18) In addition to the findings in the foregoing Paragraphs 15 and 16 above, the Division accords significant weight to the effect of Burlington's motion to amend its applications in order to invoke relief under Section 70-2-17(E), requesting that the Division modify the GLA-46 Agreement. Burlington's motion, itself, is an admission of the existence and applicability of the GLA-46 Agreement.

(19) Since under the "forced pooling" statutes (Section 70-2-17 of the NMSA 1978), there exists in this matter an agreement between the parties owning undivided interests in the proposed gas spacing and proration units, an order from the Division pooling the interest of said parties is unnecessary.

(20) The applications for compulsory pooling should be denied.

(21) Pursuant to the oral arguments of counsel on February 3, 2000, it was ruled that the GLA-46 Interest Owners' Motion to Strike was granted.

(22) Burlington's motion to amend its applications to invoke relief under Section 70-2-17(E) should also be denied.

IT IS THEREFORE ORDERED:

(1) The application of Burlington Resources Oil and Gas Company in Case No. 12276 seeking an order pooling all mineral interests in the Mesaverde formation and Chacra formation underlying the acreage described in Paragraph 3, above, and located within Section 36, T27N, R8W NMPM, San Juan County, New Mexico, is hereby denied.

(2) The application of Burlington Resources Oil and Gas Company in Case No. 12277 seeking an order pooling all mineral interests in the Mesaverde formation

CASE NO. 12276 & 12277

Order No. R-

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within the E/2 of Section 16, T31N, R11W, NMPM San Juan County, New Mexico, is hereby denied.

(3) Burlington's motion to amend its applications in Case No. 12276 and Case No. 12277 is denied. The Amended Applications filed by Burlington on January 24, 2000 are hereby stricken.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

LORI WROTENBERY, DIRECTOR

SEAL

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

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W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

February 3, 2000

HAND DELIVERED

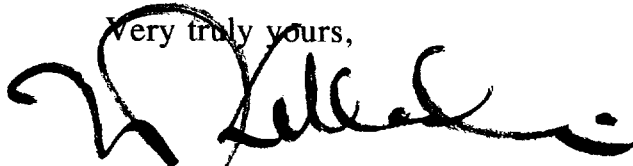
Mr. Mark Ashley, Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: *NMOCD Case No. 12277*
Application of Burlington Resources
Oil & Gas Company for compulsory pooling
San Juan County, New Mexico
Brookhaven 3B Well

Dear Mr. Ashley:

On behalf of Burlington Resources Oil & Gas Company, please find enclosed a proposed order for entry in the referenced case heard on January 20, 2000.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over the typed name.

W. Thomas Kellahin

cc: *Burlington Resources Oil & Gas Company*
Attn: Alan Alexander
J. Scott Hall, Esq.
Attorney for Energen et al.

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

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

CASE NO. 12277

**IN THE MATTER OF THE APPLICATION
OF BURLINGTON RESOURCES OIL & GAS
COMPANY FOR COMPULSORY POOLING,
SAN JUAN COUNTY, NEW MEXICO**

**BURLINGTON RESOURCES OIL & GAS COMPANY'S
PROPOSED
ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 20, 2000, at Santa Fe, New Mexico, before Examiner Mark Ashley.

NOW, on this _____ day of February, 2000, 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 over the parties, of this cause and the subject matter thereof.

(2) The applicant, Burlington Resources Oil & Gas Company, in accordance with Section 70-2-17.C NMSA (1978), or in the alternative in accordance with Section 70-2-17.E NMSA (1978), seeks an order pooling all uncommitted owners of mineral interests in the Mesaverde formation underlying the E/2 of Section 16, T31N, R11W, NMPM, San Juan County, New Mexico for a 320-acre gas spacing unit consisting of the E/2 of this section for gas production from the Blanco-Mesaverde Gas Pool to be dedicated to the proposed Brookhaven Com B Well No. 3B to be located within the NE/4SE/4 of this section.

BACKGROUND

(3) Burlington is a 50.927120% working interest owner in the Mesaverde formation in the E/2 of Section 16, T31N, R11W, NMPM, San Juan County, New Mexico and is the proposed operator for the Brookhaven Com B Well No 3B to be located within the NE/4SE/4 of this section and to be drilled as a gas well in the Blanco Mesaverde Gas Pool.

(4) This proposed spacing unit was included within acreage subject to a November 27, 1951 farmout/operating agreement between Brookhaven Oil Company and San Juan Production Company, and as subsequently amended, (collectively the "GLA-46 Agreement") which set forth a drilling obligation for 18 Mesaverde wells to be drilled within the contract area and which entitled San Juan Production Company to earn 50% of Brookhaven Oil Company's interest in the contract area.

(5) This drilling obligation has been satisfied and San Juan Production Company has earned 50% of the Brookhaven Oil Company's interest in the contract area.

(6) Since all earning provisions of GLA-46 Agreement were satisfied, thereafter and only by agreement made on an individual well basis, did the parties decide to make any future well subject to the cost limitations and carrying provisions of the GLA-46 Agreement.

(7) Burlington is the successor to San Juan Production Company and Energen Resources Corporation "Energen" (formerly Total Minatome) and others are successors to Brookhaven Oil Company, (the "GLA-46 Group")

(8) On December 14, 1998, Burlington proposed to the other working interest owners in this spacing unit the drilling of this well as a Mesaverde well at an estimated well cost of \$386,488.00 to be governed by the parties signing a new joint operating agreement instead of adopting the cost limitations and carrying provisions of the GLA-46 Agreement.

(9) On September 15, 1999, Burlington made its second request to the other working interest owners in this spacing unit again proposing the drilling of this well as a Mesaverde completion at an estimated well costs of \$386,488.00 to be governed by the parties signing a new joint operating agreement instead of adopting the cost limitations and carrying provisions of the GLA-46 Agreement.

(10) The GLA-46 Group admits that Burlington's AFE estimate of \$386,488.00 for this well represents a fair and reasonable estimate of the costs of such well as of October 22, 1998.

GLA-46 GROUP'S POSITION

(11) The GLA-46 Group contends it can adopt and participate in the Brookhaven Com B Well No. 3B under the terms of the GLA-46 Agreement which are very favorable to GLA-46 Group and, if adopted, include the right for the GLA-46 Group to be a "carried interest" so that as to the GLA-46 acreage in a spacing unit:

- (a) Burlington pays for the total cost of the well, including casing;
- (b) then from 25 % of the production, Burlington recoups 50 % of the costs of a Mesaverde well (excluding casing);
- (c) the total costs (excluding casing) of a Mesaverde well cannot exceed \$90,000.00 of which Brookhaven's share is not more than \$45,000.00;
- (d) the GLA-46 Group keeps its share of 25 % of the production until payout of the recoverable costs and then keeps its share of 50 % of the production.

BURLINGTON'S POSITION

(12) Burlington contends that:

- (a) the 1951 GLA-46 Agreement imposed an obligation on Burlington's predecessor to drill 18 single completion Mesaverde wells which entitled it to earn 50 % of the GLA-46 Group's interest in the contract area;

(b) Burlington's predecessor completed that drilling obligation and earned a 50% interest in the contract acreage and therefore Burlington has no obligation to the GLA-46 Group, including Energen, to drill any more Mesaverde wells;

(c) the drilling of more wells on the acreage has been and can be accomplished only upon consent of the parties as to costs and payment provisions;

(d) since all earning provisions of GLA-46 Agreement were satisfied, thereafter and only by agreement made on an individual well basis, did the parties decide to make any future well subject to the cost limitations or carrying provisions of the GLA-46 Agreement;

(e) beginning on November 20, 1953, the parties started adopting and amending the GLA-46 Agreement to either increase the amount of drilling costs for wells or to alter the carrying provision;

(f) as a result, after the drilling of the obligatory 18 Mesaverde wells, the GLA-46 Agreement has been amended and adopted at least 26 times to deal with the drilling of additional wells and address the issue of the costs recoverable from the carried parties necessitated by increasing well costs;

(g) because those maximum recoupments do not adequately cover present drilling costs, the GLA-46 Agreement has been amended and adopted for certain wells to provide for the recoupment of **actual** drilling costs or for participation by the non-operating working interest owners in the drilling and completing of the wells;

(h) despite Burlington's efforts, we have been unable to reach an agreement with the GLA-46 Group as to the costs and allocations for this new Mesaverde well;

(i) the absence of agreement on cost and allocation permits Burlington to properly invoke compulsory pooling procedures;

(j) Burlington contends that the Brookhaven Com B Well No. 3B is not subject to the cost limitations or carrying provisions of the GLA-46 Agreement and therefore has filed this compulsory pooling case.

**CLAIM FOR RELIEF PURSUANT
TO
SECTION 70-2-17.C NMSA (1978)**

(13) **The Division finds** as to Burlington's claim for relief pursuant to Section 70-2-176.C NMSA (1978) that:

(a) Section 70-2-17.C NMSA (1978) provides, in part:

"Where, however, such owner or owners have not agreed to pool their interests,...the Division, to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste shall pool all or any part of such lands or interest or both in the spacing unit or proration unit as a unit."

(b) despite Burlington's good faith efforts to reach a voluntary agreement concerning well costs and payment of well costs, the GLA-46 Group has refused to (i) pay their proportionate share of those fair and current well costs and (ii) demands that Burlington carry their interests by adopting the provisions of GLA-46 Agreement;

(c) the GLA-46 Group has attempted to elect to participate in this well by attempting to adopt the terms of the November 27, 1951 GLA-46 Agreement and contends that their share of current well costs is (i) limited to their proportionate share of \$90,000 for a Mesaverde well and not their proportionate share of \$386,488.00 which is the cost of Mesaverde well as of October 22, 1998; and (ii) that Burlington can recover their share only out of 25% of their share of production as set forth in the GLA-46 Agreement;

(d) pursuant to Section 70-2-17.C NMSA (1978), the owners indicated on Exhibit "A" of Burlington's application have not signed Burlington's proposed Joint Operating Agreement and therefore have not agreed to pool their interest for purposes of paying for the drilling and completion this well as proposed by Burlington;

(e) as set forth in Division Order R-10877 and Order R-10878, the Division has already decide this issue in favor of issuing a compulsory order which pooled the GLA-46 Group's interest for the drilling of other wells because:

(i) if the Division does not pool the interests of the GLA-46 Group, and subsequent litigation determines that the GLA-46 Group's interpretation of the GLA-46 Agreement is incorrect, Burlington will be forced to consolidate the interests once again, either by a new agreement or by compulsory pooling. The well will have been drilled by that time, and the GLA-46 Group, in deciding whether or not to voluntarily participate in the well will have knowledge as to its success giving them an unfair advantage over Burlington; or

(ii) if Burlington's interpretation of the GLA-46 Agreement is subsequently determined to be incorrect, the GLA-46 Group will have been voluntarily committed under the terms of the GLA-46 Agreement and will simply be dropped from the compulsory pooling order.

(iii) it is the Division's position that the interpretation of the GLA-46 Agreement should be deferred to the courts;

(f) the Division need not attempt to engage in such an adjudication of a contractual dispute. Burlington's compulsory pooling case against the GLA-46 Group is appropriate and the Division can decide this pooling case despite this contractual dispute for the reasons set forth in Division Order R-10878.

(g) Burlington's compulsory pooling case against the GLA-46 Group is appropriate, and in order to consolidate all of the interest within the proposed spacing unit, the interest of the GLA-46 Group should be pooled by this order;

(h) pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of production from this well and this spacing unit, Burlington needs an order of the Division pooling the described spacing unit and described mineral interests involved.

**CLAIM FOR RELIEF PURSUANT TO
SECTION 70-2-17.E NMSA (1978)**

(14) In the alternative, Burlington claims that should the Division determine that the GLA-46 Agreement cost limitations and carrying provisions apply to this well such that (i) Burlington's recovery of the GLA-46 Group's share of the current estimated Mesaverde well costs of \$386,488.00 as of October 22, 1998, is limited to a total Mesaverde well cost ceiling of \$90,000 and (ii) is to be recovered by Burlington out of 25 % of the GLA-46 Group's interest in production, then, and in that event, the provisions of Section 70-2-17.E NMSA (1978) apply and Division must modify the GLA-46 Agreement to the extent necessary to prevent waste in accordance with this statutory provision of the New Mexico Oil & Gas Act.

(15) In support of its claim Burlington introduced evidence which demonstrates that

(a) this well is necessary in order to recover Mesaverde reserves which will not otherwise be recovered;

(b) this Mesaverde well will be a marginal well;

(c) if Burlington is not subject to the cost limitations and carrying provisions of the GLA-46 Agreement, then Burlington will spend \$196,000 to realize an expected profit of \$158,000 on the Brookhaven Com B Well No. 3B;

(d) however, if Burlington is subject to the cost limitations and carrying provisions of the GLA-46 Agreement, then Burlington will spend \$386,000 but realize a profit of only \$53,000 on the Brookhaven Com B Well No. 3B;

(e) correspondingly, if the GLA-46 Group enjoys the cost limitations and carrying provisions of the GLA-46 Agreement then for no investment is expected to enjoy a profit of \$259,000 on the Brookhaven Com B Well No. 3B;

(f) however, if the GLA-46 Group's interest is not subject to the cost limitations and carrying provisions of the GLA-46 Agreement then the GLA-46 Group will invest \$190,000 and enjoy an estimated profit of \$153,000 on the Brookhaven Com B Well No. 3B;

(g) waste will occur because it is uneconomic for Burlington to drill this marginal well under the economic limitations imposed by the GLA-46 Agreement and the reserves which could have been produced by this well will be left unrecovered in the reservoir.

(16) **The Division finds** as to Burlington's claim for relief pursuant to Section 70-2-17.E NMSA (1978) that:

(a) this well is necessary in order to recover Mesaverde reserves which will not otherwise be recovered;

(b) the cost limitations and the carrying provision of the GLA-46 Agreement preclude the economic drilling of this well;

(c) waste will occur in the event the Division fails to modify the GLA-46 Agreement because it is uneconomic for Burlington to drill this marginal well under the economic limitations imposed by the GLA-46 Agreement and the reserves which could have been produced by this well will be left unrecovered in the reservoir;

(d) the provisions of Section 70-2-17.E NMSA (1978) apply and Division should modify the GLA-46 Agreement to the extent necessary to prevent waste in accordance with this statutory provision of the New Mexico Oil & Gas Act; and

(e) Pursuant to Section 70-2-17.E NMSA (1978) and in order to obtain its just and equitable share of production from this well and this spacing unit, the Division should pool the described spacing unit and described mineral interests involved.

Risk Factor Penalty

(17) In support of a 200% risk factor penalty, Burlington introduced evidence which demonstrates that:

(a) if Burlington is not subject to the cost limitations and carrying provisions of the GLA-46 Agreement, then Burlington will recover its investment in 2.52 years on the Brookhaven Com B Well No. 3B;

(b) if Burlington is subject to the cost limitations and carrying provisions of the GLA-46 Agreement, then Burlington will recover its investment in 8.07 years on the Brookhaven Com B Well No. 3B;

(c) if the GLA-46 Group is allowed to participate under a cost limitations and carrying provisions of the GLA-46 Agreement, then Burlington estimates it will receive only a 15.1 % rate of return on its investment for the Brookhaven Com B Well No. 3B and it will not be economic to drill this well;

(d) if the GLA-46 Group participates under a pooling order and pays its share of current well costs, then Burlington estimates it will receive a 43.2 % rate of return on its investment for the Brookhaven Com B Well No. 3B;

(e) however, if the GLA-46 Group does not participate under a pooling order with a -0-% risk factor penalty, then Burlington will pay for the GLA-46 Group's share of the well, but Burlington estimates it will receive only a 29.1 % rate of return on its investment for the Brookhaven Com B Well No. 3B;

(f) if the GLA-46 Group does not participate under a pooling order with a 200 % risk factor penalty, then Burlington estimates it will receive a 40.4 % rate of return on its investment for the Brookhaven Com B Well No. 3B which will be less than but close to the 43.2 % rate of return Burlington would receive if the GLA-46 Group pays its share of current well costs and electing to voluntarily participate pursuant to a compulsory pooling order as described in subparagraph (d) above.

(18) The Division finds that:

(a) Burlington seeks a pooling order providing options to participate or to be a carried interest subject to a non-consent penalty;

(b) The Division is authorized to approve a maximum 200 % risk factor penalty in pooling cases. The Division should approve Burlington's request for the adoption of the maximum penalty;

(c) the risk penalty to be applied to the compulsory pooled parties who elect to be carried should be set at 200 % of their proportionate share of actual total current completed well costs;

(d) joint operating agreements currently being used in New Mexico commonly provide for risk factor penalties equal to and in excess of 200 % for subsequent operations and that such practice is not contrary to the Division's statutory authority to apply a maximum of 200 % to uncommitted interest owners who are compelled to participate pursuant to a compulsory pooling order;

(e) in the event a working interest owner fails to elect to participate in each well, then provision be made to recover out of production the costs of the drilling, completing, equipping and operating for each well including a risk factor penalty of 200 %.

Overhead Rates

(19) Burlington proposes to use its COPAS Accounting Procedures attached as Exhibit "C" to its Joint Operating Agreement, dated February 1, 1999 with overhead rates of \$4,500/month drilling and \$450/month producing which the Division finds to be fair

(20) The Division finds that provision for overhead rates of \$4500 per month drilling and \$450 per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS are appropriate in the case.

Authority For Expenditures "AFE"

(21) The Division's determination of the reasonableness of an AFE is based upon the undisputed testimony that an estimated total completed well costing \$386,488.00 was reasonable and accurate as of October 22, 1998.

Other findings

(22) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owners of each interest in said units the opportunity to recover or receive without unnecessary expense his just and fair share of hydrocarbon production in any pool, the subject application should be approved by compulsory pooling of any working interest owner who owned an interest not voluntarily committed to the drilling of this well by signing Burlington's joint operating agreement as of October 12, 1999, (date the application was filed) and any these party's successors, grantees, or assignees.

(23) Approval of the application will afford the applicant the opportunity to produce its just and equitable share of the gas in this formation/pool, will prevent the economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells and will otherwise prevent waste and protect correlative rights.

(24) Pursuant to Section 70-2-17.C and 70-2-17.E NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Burlington Resources Oil & Gas Company should be granted an order by the Division pooling the identified and described working interest owners set forth in Exhibit "A" of Burlington Resources Oil & Gas Company's application (hereinafter "compulsory pooled parties") so as to prevent waste and protect correlative rights for the drilling of this well at standard well location upon terms and conditions which include:

- (a) Burlington Resources Oil & Gas Company be named operator;
- (b) Provisions for all compulsory pooled parties to participate in the costs of drilling, completing, equipping and operating this well;
- (c) In the event a compulsory pooled party fails to timely elect to voluntarily commit its interest and participate pursuant to this order, then said compulsory pooled party's interest is hereby involuntarily committed to participation pursuant to the terms and conditions of the compulsory pooling provisions of this order and shall be deemed a non-consenting owner whose interest shall be carried so that the carrying parties can recover out that compulsory pooled party's share of production, that compulsory pooled party's share of the costs of the drilling, completing, equipping and operating the well, including a risk factor penalty of 200 %;

(d) Provisions for a compulsory pooled party who timely elects to join in the well to pay his share of overhead rates per month for drilling and operating costs and a provision providing for an adjustment method of the overhead rates as provided by COPAS;

(25) Approval as set forth above and in the following order will avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Burlington Resources Oil & Gas Company in this case is hereby **GRANTED** and Burlington Resources Oil & Gas Company is hereby designated operator of this well and its corresponding spacing unit.

(2) Each and every compulsory pooled party received actual notice of this hearing in accordance with Division Rule 1207 which the Division finds to have afforded each said party a fair and reasonable opportunity to appear and participate.

(3) Effective as of the date of the filing of the application in this case, the interests of the working interest owners ("compulsory pooled parties") identified in Exhibit "A" of Burlington's application, including, if any, their assignees, successor and grantees, in the Mesaverde formation underlying the E/2 of Section 16, T31N, R11W, NMPM, San Juan County, New Mexico **are hereby pooled** for purposes of involuntary commitment to participate in a 320-acre gas spacing unit consisting of the E/2 of this section for gas production from the Blanco-Mesaverde Gas Pool to be dedicated to the proposed Brookhaven Com B Well No. 3B to be located within the NE/4SE/4 of this section.

(4) Applicant is hereby designated as the operator of this well and authorized to drill this well and to dedicate the above described acreage to this unit.

(5) The terms and conditions of the AAPL Form 610-1982 Model Form Operating Agreement submitted as Burlington's Exhibit 4 are incorporated herein by reference and shall be binding upon all compulsory pooled parties, **including the** provision for overhead rates of \$4500 per month drilling and \$450 per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;

PROVIDED HOWEVER THAT, the operator of this unit shall commence the drilling of these wells on or before the 1st day of June, 2000, and shall thereafter continue the drilling of this well with due diligence to a depth sufficient to test the Mesaverde formation.

PROVIDED FURTHER THAT, in the event the operator does not commence the drilling of this well on or before the 1st day of June, 2000, Decretory Paragraph No. (3) of this order shall be null and void and of no effect whatsoever, unless said operator obtains an extension of time from the Division for good cause shown.

PROVIDED FURTHER THAT, should this well not be drilled to completion, or abandonment, within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(6) After the effective date of this order, the operator shall furnish the Division and each compulsory pooled party in the subject unit an itemized schedule of estimated total well costs.

(7) Within 30 days from the date the schedule of estimated well costs is furnished to him, any compulsory pooled party shall have the right to make an **election** by paying his share of estimated well costs to the operator in lieu of paying his share of reasonable total well costs out of production, and any such compulsory pooled party who pays his share of estimated total completed well costs as provided above shall remain liable for operating costs but shall not be liable for risk factor penalty charges.

(8) The operator shall furnish the Division and each compulsory pooled party with an itemized schedule of actual well costs within 180 days following completion of the well; if no objection to the actual well cost 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.

(9) Within 60 days following determination of reasonable well costs, any compulsory pooled party who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(10) The operator is hereby authorized to withhold from the compulsory pooled party the following costs and charges from production:

- A. The pro rata share of reasonable well costs attributable to each compulsory pooled party who has not paid his share of estimated well costs within 30 days from the date of schedule of estimated well costs is furnished to him; and
- B. 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 compulsory pooled party who has not paid his share of estimated total completed well costs within 30 days from the date the schedule of estimated costs is furnished to him.

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

(12) \$4,500 per month while drilling and \$450 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 compulsory pooled party, 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 compulsory pooled party's interest.

(13) The operator shall furnish the Division and each compulsory pooled party with an itemized schedule of actual well costs to be charged on a monthly basis in the form of a joint interest billing within 90 days, or as soon thereafter as is practical, following completion of the well; if no objection to the actual well cost or the joint interest billing 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.

(14) Any unleased mineral interest who is a compulsory pooled party 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.

(15) 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.

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

(17) Should all the compulsory pooled parties reach voluntary agreement with the applicant subsequent to the entry of this order, this order shall thereafter be of no further effect.

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

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

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

LORI WROTENBERY, DIRECTOR