

**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. 14504**

**APPLICATION OF CELERO ENERGY II, LP TO  
AMEND THE UNIT AGREEMENT AND THE UNIT  
OPERATING AGREEMENT FOR THE ROCK  
QUEEN UNIT, AND FOR STATUTORY  
UNITIZATION, CHAVES AND LEA COUNTIES,  
NEW MEXICO.**

**CASE NO. 14505**

**APPLICATION OF CELERO ENERGY II, LP TO  
EXPAND THE WATERFLOOD PROJECT AND  
INSTITUTE A TERTIARY RECOVERY PROJECT  
FOR THE ROCK QUEEN UNIT, AND TO QUALIFY  
THE PROJECT FOR THE RECOVERED OIL TAX  
RATE, CHAVES AND LEA COUNTIES,  
NEW MEXICO.**

**ORDER NO. R-1541-A**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

These cases came on for hearing at 8:15 a.m. on August 19, 2010, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 9<sup>th</sup> day of November, 2010, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of these cases and their subject matter.

(2) Cases Nos. 14504 and 14505 were consolidated for hearing. Because the cases involve the same property and subject matter, a single order is being issued for both cases.

(3) In Case No. 14504, (“Applicant”) seeks statutory unitization, pursuant to NMSA 1978 Sections 70-7-1 through 70-7-21, as amended (“the Statutory Unitization Act”), of the **Rock Queen Unit**, an existing voluntary unit comprising 4,899.77 acres, more or less, of federal, state and fee lands, for the purpose of instituting tertiary recovery operations in the Queen formation, and approval of an Amended Unit Agreement and Amended Unit Operating Agreement, which were submitted as Applicant’s Exhibits Nos. 5 and 6 in these cases.

(4) The proposed Unit Area consists of the following described lands:

**TOWNSHIP 13 SOUTH, RANGE 31 EAST, NMPM, CHAVES COUNTY**

Section 22: E/2, NW/4 SW/4, and E/2 SW/4  
Section 23: W/2 NE/4, NW/4 and S/2  
Section 24: SW/4, W/2 SE/4, and SE/4 SE/4  
Section 25: All  
Section 26: All  
Section 27: E/2 and E/2 NW/4  
Section 34: NE/4 and S/2 NW/4  
Section 35: N/2 NW/4  
Section 36: All

**TOWNSHIP 13 SOUTH, RANGE 32 EAST, NMPM, LEA COUNTY**

Section 19: Lot 4, SW/4 NE/4, E/2 SW/4 and SE/4  
Section 30: Lots 1-4, NE/4, E/2 W/2, N/2 SE/4 and SW/4 SE/4  
Section 31: Lot 1

Comprising 4899.77 acres, more or less, of federal, state and fee lands.

(5) The vertical extent of the proposed Unitized Formation is the Queen Sand, being a member of the Queen formation of the Permian Guadalupe series and being the stratigraphic equivalent of the interval from 3,050 feet to 3,066 feet below the surface on the Gamma Ray Neutron Log of the Gulf Oil Corporation, Chaves State BMC Well No. 1, located 660 feet from the South and East lines (Unit P) of Section 23, Township 13 South, Range 31 East, NMPM, in Chaves County, New Mexico.

(6) In Case No. 14505, Applicant seeks approval of an expanded enhanced recovery pilot project involving the injection of water and Carbon Dioxide (CO2) into the Queen formation, within the Unit Area, initially through 12 existing injection wells, to be re-permitted as water-alternating-gas (WAG) injection wells, at following locations:

| <u>Well Name</u> | <u>API No.</u> | <u>Surface Location</u> | <u>USTR</u>  | <u>County</u> |
|------------------|----------------|-------------------------|--------------|---------------|
| Rock Queen U #40 | 30-005-00877   | 1990 FNL & 1980 FWL     | F-26-13S-31E | Chaves        |
| Rock Queen U #42 | 30-005-00871   | 1990 FNL & 660 FEL      | H-26-13S-31E | Chaves        |

|                  |                                  |                     |
|------------------|----------------------------------|---------------------|
| Rock Queen U #44 | 30-005-00873 1980 FSL & 1980 FEL | J-26-13S-31E Chaves |
| Rock Queen U #46 | 30-005-00878 1980 FSL & 660 FWL  | L-26-13S-31E Chaves |
| Rock Queen U #48 | 30-005-00868 660 FSL & 1980 FWL  | N-26-13S-31E Chaves |
| Rock Queen U #50 | 30-005-00882 660 FSL & 990 FEL   | P-26-13S-31E Chaves |
| Rock Queen U #52 | 30-005-00865 660 FNL & 1980 FEL  | B-25-13S-31E Chaves |
| Rock Queen U #54 | 30-005-00863 660 FNL & 660 FWL   | D-25-13S-31E Chaves |
| Rock Queen U #62 | 30-005-00851 1980 FSL & 660 FWL  | L-25-13S-31E Chaves |
| Rock Queen U #64 | 30-005-00860 660 FSL & 1980 FWL  | N-25-13S-31E Chaves |
| Rock Queen U #70 | 30-025-00309 660 FNL & 660 FWL   | D-30-13S-32E Lea    |
| Rock Queen U #85 | 30-005-00930 550 FNL & 600 FWL   | D-36-13S-31E Chaves |

In addition, Applicant proposes to utilize five additional WAG injection wells that it will drill in the Unit Area, which it will seek to permit for injection by subsequent administrative applications.

(7) Applicant further proposes to surround the CO<sub>2</sub> injection area within the Unit Area with a ring of water curtain injection (WIW) wells. For this purpose, it will utilize 11 wells presently permitted for water injection and five additional wells (four new wells and one abandoned well it proposes to re-enter) that it will seek to permit for injection by subsequent administrative applications.

(8) All owners of interests within the proposed unit, and all affected persons in all spacing units within the area of review of each of the proposed injectors, were notified of these applications and of the hearing. No party appeared at the hearing to oppose these applications.

(9) Applicant appeared at the hearing through counsel and presented the following land testimony:

- (a) The proposed Unit Area consists of 4,899.77 acres of federal, state and fee lands, comprising the **Rock Queen Unit**, an existing voluntary unit approved by the Oil Conservation Commission in Order No. R-1541, issued in Case No. 1798 on November 30, 1959. The Unit Area is divided into 43 tracts (excluding uncommitted Tract 8) based on lease boundaries and differences in ownership.
- (b) The management of the Unit Area is impracticable under the terms of the existing unit agreement and unit operating agreement. Applicant accordingly proposes that the unit be re-constituted as a statutory unit pursuant to the Statutory Unitization Act, and that Applicant's proposed Amended Unit Agreement (Exhibit 5) and Amended Unit Operating Agreement (Exhibit 6) be adopted by the Division.
- (c) There are 10 working interest owners in the Unit Area, 57 royalty owners, and 72 overriding royalty owners. Parties owning 99.638249% of the working interest have ratified the proposed Amended Unit Agreement.

Preliminary approval has been requested from the United States Bureau of Land Management and the Commissioner of Public Lands of the State of New Mexico, but those agencies have not yet acted on these requests.

- (d) The Amended Unit Agreement will not change any of the unit participation factors, and accordingly will not affect revenues accruing to any royalty or overriding royalty interest.
- (e) Applicant has requested that it be designated operator of the Unit.
- (10) Applicant presented the following geological testimony:
  - (a) The Queen reservoir which constitutes the Unitized Formation, as defined in the Amended Unit Agreement, is continuous throughout the Unit Area, and has been reasonably defined by development.
  - (b) The Ogallala aquifer overlies the Unit Area, and is found at a depth of approximately 200 feet below the surface. There are no fresh water wells within the Unit Area.
  - (c) There are no apparent faults connecting the proposed unitized interval to any fresh water zone.
- (11) Applicant presented the following engineering testimony:
  - (a) There are presently 20 producing wells in the proposed Unit Area, producing an average of 4.5 barrels of oil per day, per well, and 440 barrels of water, per day, per well. Cumulative production from the proposed Unit Area to date is 8.4 million barrels of oil (MBO) and 0.8 billion cubic feet (BCF) of gas. Total primary and secondary recovery is estimated at 37 percent of original oil in place. Gas production has declined to a negligible level.
  - (b) The Unit Area has reached an advanced state of depletion such that the producing wells can be characterized as "stripper" wells.
  - (c) Applicant seeks Division approval to inject CO<sub>2</sub>, in addition to water, into the injection interval by means of, initially, 12 injection wells, as described above in Finding Paragraph (6). In addition five new wells will be drilled to be CO<sub>2</sub> injectors. Eleven existing injection wells already permitted for water injection will be used to create a water curtain around the CO<sub>2</sub> injection area, and four new injection wells will be drilled, and a previously abandoned well will be re-entered, for this purpose. Applicant will seek to permit the new wells and the re-entry well by subsequent administrative application.

- (d) The primary source of the injection water will be produced water from the Unit Area. Make up water will be fresh water from the Ogallala formation. These waters are compatible with the formation waters.
- (e) Maximum surface injection pressures will not exceed 800 psig for water and 1,200 psig for CO<sub>2</sub>. Step rate test results in Exhibit 33 demonstrate that these pressures do not exceed the fracture pressure for the injection formation. If a higher injection pressure is required, a subsequent administrative application will be filed.
- (f) All plugged and abandoned wells within the half-mile area of review (AOR) of each proposed initial injection well that penetrate the Unitized Formation are properly plugged and abandoned, and no remedial work is required on these wells to enable safe operation of the project.
- (g) Applicant proposes to allocate production to the various tracts in the same manner as provided in the existing voluntary unit agreement.
- (h) Unitized management of this pool is necessary to effectively implement and carry on the proposed enhanced recovery operations.
- (i) The proposed enhanced recovery operation is economically and technically feasible.
- (j) Incremental recovery through proposed enhanced recovery operations is forecast to be 2.1 MBO. The estimated total value of incremental revenue will be approximately \$132 million.
- (k) The estimated total project costs are approximately \$42 million, of which \$28 million has been incurred to date.
- (l) The proposed enhanced recovery operation will result in recovery of substantially more hydrocarbons from the pool and the Unit than would otherwise be recovered, the value of which will exceed unit costs plus a reasonable profit, and will benefit both working interest and royalty interest owners in the Unit Area.

**The Division concludes as follows:**

(12) Unitized management, operation and further development of the Unit Area are necessary to effectively carry on enhanced recovery operations, in order to substantially increase the ultimate recovery of oil from the Unit Area.

(13) The proposed method of enhanced recovery operations within the Unit Area, as described in the Plan of Unit Operations and in this Order, is feasible, will prevent waste, and will result, with reasonable probability, in the recovery of

substantially more hydrocarbons from the unitized portion of the pool than would otherwise be recovered.

(14) The estimated additional costs of the proposed operations will not exceed the estimated value of the additional hydrocarbons recovered plus a reasonable profit.

(15) Unitization and implementation of enhanced recovery operations in the Unit Area, as described in the Unit Agreement and in this Order, will benefit the working interest and royalty interest owners within the proposed Unit Area, and will protect correlative rights of all parties.

(16) Applicant has made a good faith effort to secure voluntary unitization of the Unitized Formation within the Unit Area.

(17) The provisions of the proposed Unit Agreement and Unit Operating Agreement are fair, reasonable and equitable, contain satisfactory provisions with respect to all of the matters required by NMSA 1978 Section 70-7-7, as amended, and should be incorporated by reference into this order. The participation formula contained in the Unit Agreement allocates the produced and saved, unitized hydrocarbons to the separately owned tracts in the Unit Area on the same basis as the existing voluntary unit agreement. Because substantially all of the owners of these tracts originally agreed to this basis of tract allocation when secondary recovery operations were initially contemplated, the Division concludes that the formula provided in the Unit Agreement and exhibits allocates production on a fair, reasonable and equitable basis.

(18) This Order creating a unit comprising the Unit Area and providing for the unitization and unitized operation of the unit area upon the terms and conditions approved herein is necessary to protect and safeguard the respective rights and obligations of the working interest owners and the royalty interest owners in the Unit Area.

(19) As of the hearing date, owners of 99.638249% of the working interest had voluntarily committed their interests to the Unit.

(20) Applicant argued at the hearing that approval of the owners of royalty and overriding royalty interests should not be required for statutory unitization in this case because no change in the allocation of production attributed to such interests from that provided in the Unit Agreement for the existing voluntary unit is being sought. Thus, according to Applicant's contention, any order in this case would be governed by NMSA 1978, Section 70-7-9, which provides:

An order providing for unit operations may be amended by an order made by the division in the same manner and subject to the same conditions as an original order providing for unit operations, provided:

A. if such an amendment affects only the rights and interests of the

working interest owners, the approval of the amendment by the royalty owners shall not be required [emphasis added]; and

B. no such amendment shall change the percentage for the allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all working interest owners and royalty owners in such tract, or change the percentage for the allocation of costs as established for any separately owned tract by the original order, except with the consent of all working interest owners in such tract.

(21) The Division concludes, however, that this is not a correct application of Section 70-7-9. That provision is part of the Statutory Unitization Act, which was enacted subsequent to the original formation of the unit that Applicant seeks to bring within its ambit. Accordingly the stipulations in that section regarding an amendment to "an order providing for unit operations" should be construed as referring to an amendment to a prior order issued under that Act. Furthermore, since Section 70-7-9.B stipulates that any amendment to which that section applies which changes royalty allocations would require unanimous approval of royalty owners, applying that section to an initial proceeding under the Statutory Unitization Act would deprive the Division of the authority to establish a fair and equitable allocation, subject to approval of 75 percent in interest of royalty and overriding royalty owners. The Division is unwilling to presume that the Legislature intended to thus limit the Division's authority in the case of previously existing units not established under the Act.

(22) Accordingly, this order should be made contingent upon final, written approval of the plan of unit operations by the owners of at least seventy-five percent of the production or proceeds thereof that will be credited to interests which are free of cost such as royalties, overriding royalties and production payments.

(23) The **Rock Queen Unit** should be approved for statutory unitization in accordance with the Amended Unit Agreement and Amended Unit Operating Agreement.

(24) **Celero Energy II, LP (OGRID No. 247128)** should be designated as the operator of the Unit.

(25) The Queen reservoir within the Unit Area has been so depleted that it is prudent to apply enhanced recovery techniques, as described in this Order, to maximize the ultimate recovery of crude oil from the Unit Area, and this application for approval has not been prematurely filed either for economic or technical reasons.

(26) The proposed enhanced recovery project involving CO<sub>2</sub> injection and a water curtain, as described in this Order, will prevent waste, protect correlative rights, should be called the **Rock Queen CO<sub>2</sub> Pilot Project**, and should be approved.

(27) The area to be affected by the enhanced recovery project herein described (the project area) should consist of:

**TOWNSHIP 13 SOUTH, RANGE 31 EAST, NMPM, CHAVES COUNTY**

Section 25: N/2, SW/4, W/2 SE/4 and NE/4 SE/4  
Section 26: All  
Section 36: N/2 NW/4 and SW/4 NW/4

**TOWNSHIP 13 SOUTH, RANGE 32 EAST, NMPM, LEA COUNTY**

Section 30: Lots 1 and 2 and NE/4 NW/4

(28) An examination of all wellbores within one half-mile of each of the proposed injection wells indicates that all wells in the Area of Review ("AOR") that have penetrated the Unitized Formation are properly cased and cemented to prevent vertical migration of injected fluids. Accordingly no remedial work on wells in the AOR is required prior to commencement of injection.

(29) The proposed injection operation will not pose a threat to protectable underground sources of drinking water.

(30) The evidence establishes that the proposed enhanced recovery project meets all the criteria for certification by the Division as a qualified "Enhanced Oil Recovery (EOR) Project" pursuant to the "Enhanced Oil Recovery Act" [NMSA 1978 Sections 7-29A-1 through 7-29A-5].

(31) The certified project area should initially consist of the area described in Finding Paragraph (27).

(32) The project area within the Unit Area and/or the producing wells within such area eligible for the recovered oil tax rate may be contracted and reduced dependent upon the evidence presented by the Applicant in its demonstration of the occurrence of a positive production response.

**IT IS THEREFORE ORDERED THAT:**

(1) The application of Celero Energy II, LP for the statutory unitization of 4,899.77 acres, more or less, of federal, state and fee land in Chaves and Lea Counties, New Mexico, to be known as the **Rock Queen Unit** (the Unit), is hereby approved pursuant to the Statutory Unitization Act, NMSA 1978, Sections 70-7-1 through 70-7-21.

(2) The Unit shall consist of the following described lands:

**TOWNSHIP 13 SOUTH, RANGE 31 EAST, NMPM, CHAVES COUNTY**

Section 22: E/2, NW/4 SW/4, and E/2 SW/4  
Section 23: W/2 NE/4, NW/4 and S/2  
Section 24: SW/4, W/2 SE/4, and SE/4 SE/4  
Section 25: All



Section 26: All  
Section 27: E/2 and E/2 NW/4  
Section 34: NE/4 and S/2 NW/4  
Section 35: N/2 NW/4  
Section 36: All

**TOWNSHIP 13 SOUTH, RANGE 32 EAST, NMPM, LEA COUNTY**

Section 19: Lot 4, SW/4 NE/4, E/2 SW/4 and SE/4  
Section 30: Lots 1-4, NE/4, E/2 W/2, N/2 SE/4 and SW/4 SE/4  
Section 31: Lot 1

(3) The Unitized Formation shall consist of the Queen formation, which is the stratigraphic equivalent of the interval from 3,050 feet to 3,066 feet below the surface on the Gamma Ray Neutron Log of the Gulf Oil Corporation, Chaves State BMC Well No. 1, located 660 feet from the South and East lines (Unit P) of Section 23, Township 13 South, Range 31 East, NMPM, in Chaves County, New Mexico.

(4) This Order shall not be effective until the plan of unit operations provided herein has been approved in writing by the owners of at least seventy-five percent of the production or proceeds thereof that will be credited to interests which are free of cost such as royalties, overriding royalties and production payments [NMSA 1978, §70-7-8 (1975)], and the Division has made a finding in a supplemental order that the plan for unit operations has been so approved.

(5) The proposed AMENDED UNIT AGREEMENT and the AMENDED UNIT OPERATING AGREEMENT, admitted as EXHIBITS 5 and 6, respectively, at the hearing of these cases, are hereby approved and incorporated into this Order by reference.

(6) **Celero Energy II, LP [OGRID No. 247128]** (Operator) is hereby designated the operator of the Unit.

(7) The Operator shall notify the Division in writing of its removal or the substitution of any other working interest owner within the Unit Area as operator, or of the transfer or assignment of its entire remaining working interest in the Unit Area.

(8) The unit established hereby shall terminate upon the plugging and abandonment of the last well in the Unit Area completed in the Unitized Formation.

**IT IS FURTHER ORDERED THAT:**

(9) Operator is hereby authorized to institute enhanced recovery operations within the Unit Area initially by the injection of CO<sub>2</sub> and water (WAG) into the Unitized Formation through the following wells:

| Well Name        | API No.      | Surface Location    | USTR         | County |
|------------------|--------------|---------------------|--------------|--------|
| Rock Queen U #40 | 30-005-00877 | 1990 FNL & 1980 FWL | F-26-13S-31E | Chaves |
| Rock Queen U #42 | 30-005-00871 | 1990 FNL & 660 FEL  | H-26-13S-31E | Chaves |
| Rock Queen U #44 | 30-005-00873 | 1980 FSL & 1980 FEL | J-26-13S-31E | Chaves |
| Rock Queen U #46 | 30-005-00878 | 1980 FSL & 660 FWL  | L-26-13S-31E | Chaves |
| Rock Queen U #48 | 30-005-00868 | 660 FSL & 1980 FWL  | N-26-13S-31E | Chaves |
| Rock Queen U #50 | 30-005-00882 | 660 FSL & 990 FEL   | P-26-13S-31E | Chaves |
| Rock Queen U #52 | 30-005-00865 | 660 FNL & 1980 FEL  | B-25-13S-31E | Chaves |
| Rock Queen U #54 | 30-005-00863 | 660 FNL & 660 FWL   | D-25-13S-31E | Chaves |
| Rock Queen U #62 | 30-005-00851 | 1980 FSL & 660 FWL  | L-25-13S-31E | Chaves |
| Rock Queen U #64 | 30-005-00860 | 660 FSL & 1980 FWL  | N-25-13S-31E | Chaves |
| Rock Queen U #70 | 30-025-00309 | 660 FNL & 660 FWL   | D-30-13S-32E | Lea    |
| Rock Queen U #85 | 30-005-00930 | 550 FNL & 600 FWL   | D-36-13S-31E | Chaves |

(10) Operator shall take all steps necessary to ensure that the injected water enters only the proposed injection interval and is not permitted to escape to other formations or onto the surface from injection, production, or plugged and abandoned wells.

(11) Injection into each of the wells identified above shall be accomplished through 2 3/8-inch plastic coated tubing installed in a packer located within 100 feet of the uppermost injection perforations or casing shoe. The casing-tubing annulus shall be filled with an inert fluid, and a gauge or approved leak-detection device shall be attached to the annulus in order to determine leakage in the casing, tubing, or packer.

(12) The injection wells or pressurization system shall be equipped with pressure control devices or acceptable substitute that will limit the surface injection pressure to no more than **800 pounds per square inch (psi)**, while injecting water, and no more than **1,200 psi** while injecting CO<sub>2</sub>.

(13) The Division Director may administratively authorize pressure limitations in excess of those above provided upon a showing by the operator that such higher pressures will not result in the fracturing of the injection formation or confining strata.

(14) The Division Director may administratively authorize expansion of the certified project area and additional injection wells, within the Unit Area, as provided in Division Rule 19.15.26.8.A NMAC.

(15) Prior to commencement of injection operations, the casing in each injection well shall be pressure tested throughout the interval from the surface down to the proposed packer setting depth to assure the integrity of such casing. Mechanical integrity tests (MITs) shall be conducted at least once every five years thereafter.

(16) The Operator shall give at least 48 hours advance notice to the supervisor of the Division's Hobbs District Office of the date and time (i) injection equipment will

be installed, and (ii) the mechanical integrity pressure tests will be conducted on each proposed injection wells, so that these operations may be witnessed.

(17) The Operator shall immediately notify the supervisor of the Division's Hobbs District Office of any failure of the tubing, casing or packer in any of the injection wells, or the leakage of water, oil or gas from or around any producing or plugged and abandoned well within the Unit Area, and shall promptly take all steps necessary to correct such failure or leakage.

(18) The Operator shall conduct injection operations in accordance with Division Rules No. 19.15.26.1 through 19.15.26.15 NMAC, and shall submit monthly progress reports in accordance with Division Rules No. 19.15.26.11.B and 19.15.7.8.D.

(19) The injection authority granted herein shall terminate one year after the date of this order if the Operator has not commenced CO2 injection operations into at least one of the herein-authorized injection wells; provided, however, the Division, upon written request filed with the Division's Santa Fe Office prior to the termination date herein provided, may grant an extension for good cause. The injection authority shall also terminate *ipso facto*, one year after injection operations into all the wells in the Unit Area have ceased.

(20) The project authorized by this order shall be known as the **Rock Queen CO2 Pilot Project**.

(21) The injection authority granted under this order is **not** transferable except upon Division approval. The Division may require the Operator to demonstrate mechanical integrity of each injection well that will be transferred, prior to approving transfer of authority to inject.

(22) The Division may revoke this injection permit at any time after notice and hearing if the operator is in violation of Rule 19.15.5.9 NMAC.

(23) The Rock Queen CO2 Pilot Project is hereby **certified** to the New Mexico Taxation and Revenue Department as an "Enhanced Oil Recovery Project" pursuant to the "Enhanced Oil Recovery Act" (NMSA 1978 Sections 7-29A-1 through 7-29A-5). The area to be affected by the enhanced recovery project (the project area) shall consist of:

**TOWNSHIP 13 SOUTH, RANGE 31 EAST, NMPM, CHAVES COUNTY**

Section 25: N/2, SW/4, W/2 SE/4 and NE/4 SE/4  
Section 26: All  
Section 36: N/2 NW/4 and SW/4 NW/4

**TOWNSHIP 13 SOUTH, RANGE 32 EAST, NMPM, LEA COUNTY**

Section 30: Lots 1 and 2 and NE/4 NW/4

Provided, the area and/or the producing wells eligible for the enhanced oil recovery (EOR) tax rate may be contracted and reduced based upon the evidence presented by the Operator in its demonstration of a positive production response.

(24) At such time as a positive production response occurs, and within seven years from the date the project was certified to the New Mexico Taxation and Revenue Department, the Operator shall apply to the Division for certification of a positive production response. This application shall identify the area benefiting from enhanced oil recovery operations and the specific wells eligible for the EOR tax rate. The Division may review the application administratively or set it for hearing. Based upon the evidence presented, the Division will certify to the New Mexico Taxation and Revenue Department those wells that are eligible for the EOR tax rate.

(25) This order does not relieve the Operator of responsibility should its operations cause any damage or threat of damage to protectable fresh water, human health or the environment, nor does it relieve the operator of responsibility for complying with applicable Division rules or other federal, state or local laws or regulations.

(26) Upon failure of the Operator to conduct operations (1) in such manner as will protect fresh water or (2) in a manner consistent with the requirements in this Order, the Division may, after notice and hearing, (or without notice and hearing in event of an emergency, subject to the provisions of NMSA 1978 Section 70-2-23), terminate the injection authority granted herein.

(27) Jurisdiction is hereby 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**

**MARK E. FESMIRE, P. E.  
Acting Director**