

BEFORE THE STATE OIL AND GAS BOARD OF ALABAMA

PURSUANT TO A DECISION RENDERED
FOLLOWING A REGULAR SESSION OF THE
STATE OIL AND GAS BOARD OF ALABAMA
ON SEPTEMBER 14, 1990, THE FOLLOWING
ORDER IS HEREBY PROMULGATED:

IN RE: ORDER NO. 90- 375

DOCKET NO. 9-13-90104A

This cause came on for hearing before Marvin Rogers, General Counsel for the Board, acting as hearing officer duly appointed by the State Oil and Gas Board of Alabama, pursuant to Rule 400-1-14 of the State Oil and Gas Board of Alabama Administrative Code, on the amended petition of Bernard/Hickox, Inc., an Alabama corporation requesting the State Oil and Gas Board to enter an order force pooling all tracts and interests in a 40-acre drilling unit to be drilled as a productive extension of the Pollard Field, Escambia County, Alabama. The State Oil and Gas Board, after receiving and reviewing the report of the hearing officer and considering the evidence finds that due and proper notice of the hearing of said cause has been given in the manner and form and for the time required by law and the rules and regulations of this Board, and that the Board has full jurisdiction of this cause, and the Board being fully advised in the premises finds:

FINDINGS OF FACT

I.

Petitioner proposes to drill a well at an exceptional location, a petition for which has been filed bearing Docket No. 9-13-90103B, on a drilling unit consisting of the Southwest Quarter of the Southwest Quarter of Section 7, Township 1 North, Range 9 East, Escambia County, Alabama, as a productive extension of the Pollard Field.

II.

That Petitioner owns or controls a majority of the presently vested interests in the proposed unit; however, the working owner of 2.5 net mineral acres, more or less, or approximately 6.25% of the proposed drilling unit, have yet to agree to voluntarily pool his interest in the unit, and Petitioner is continuing to attempt to obtain such approval in writing from said owner.

III.

That a well completed on the proposed unit should efficiently and economically drain and produce the recoverable hydrocarbons from said unit without avoidable waste, and will protect the coequal and correlative rights of all owners in the unit.

IV.

Petitioner is the owner of the majority of the operating interest within the proposed unit, and is an experienced and competent operator and should be appointed operator for this unit and as such operator proceed in accordance with the provisions of Section 9-17-13, Code of Alabama (1975), as amended, and Rule 400-1-13.01 of the State Oil and Gas Board of Alabama Administrative Code.

V.

That Petitioner has complied with the requirements of said Section 9-17-13, Code of Alabama (1975), as amended, insofar as the risk compensation fee is concerned, and Petitioner requests that the Board's order provide that a risk compensation fee may be charged against the interest of all nonconsenting owners, as provided by law.

CONCLUSIONS OF LAW

Based on the Findings of Fact set forth hereinabove, IT IS THEREFORE, HEREBY ORDERED, ADJUDGED AND DECREED by the State Oil and Gas Board of Alabama that the Petition is GRANTED. Said Petition is granted to approve the force pooling of all tracts and interests in a 40-acre drilling unit consisting of the Southwest Quarter of the Southwest Quarter of Section 7, Township 1 North, Range 9 East, Escambia County, Alabama, as a productive extension of the Pollard Field.

IT IS FURTHER ORDERED that Bernard/Hickox, Inc., be and hereby is appointed as Operator of said unit, and further provided:

(i) That the actual and reasonable costs of developing and operating the pooled integrated unit (including a reasonable charge for supervision) and, if applicable, a risk compensation fee (as hereinafter provided) shall be charged to the separately owned

tracts or interests in the unit in the same proportion that such tracts or interests share in production from the unit;

(ii) That such costs and fee (if any) chargeable to a tract or interest shall be paid by the person or persons not entitled to share in production free of development and operating costs and who, in the absence of the pooling or integration order, would be responsible for the expense of developing and operating such tract or interest and that such person's or persons' interest in the separately owned tract or interest shall be primarily responsible therefor;

(iii) That, if any nonconsenting owner shall fail or refuse to pay the costs and/or fee (if any) chargeable to his tract or interest, such costs and/or fee shall be recoverable solely out of the production allocable to such tract or interest, provided, however, that this limitation shall not apply to a nonconsenting owner who has furnished the operator with a notarized statement agreeing to pay his proportionate share of the drilling and completion costs for a unit well as hereinafter provided;

(iv) That, when the full amount of any charge made against a separately owned tract or interest is not paid when due by the person or persons primarily responsible therefor, as provided above, then 13/16ths (or if said tract or interest is leased, the working interest fraction or percent if it is greater) of the oil and gas production allocated to such separately owned tract or interest may be appropriated by the operator and marketed and sold for the payment of such charge, but that a 3/16ths part (or the actual landowner royalty if it is less) of the unit production allocated to each separately owned tract or interest shall in all events be regarded as royalty and shall, if there be no reasonable question as to good and merchantable title, be distributed to and among, or the proceeds thereof paid to, the person or persons owning royalty or unleased mineral interests (as the case may be) in such tract or interest free and clear of the development and operating costs and of any risk compensation fee and free and clear of any lien for the payment of such costs and fee; and

(v) That any person owning any overriding royalty, oil and

gas payment, royalty in excess of 3/16ths of production, or other interests, who is not primarily responsible for payment of the development and operating costs or risk compensation fee (if any), shall, to the extent of any payment or deduction therefor from his share, be subrogated to all the rights of the operator with respect to the interest or interests primarily responsible for such payment.

IT IS FURTHER ORDERED that if any nonconsenting owner (a) does not pay his proportionate share of the drilling and completion costs for any unit well within 30 days after commencement of actual drilling operations, or prior to reaching total depth, whichever is earlier, or at such other time as may be contracted between the parties, or, alternatively, (b) does not, on or before commencement of actual drilling operations, provide the operator with a notarized statement agreeing to pay such costs, then there shall be charged to the tract or interest of such nonconsenting owner a risk compensation fee equal to 150% of such tract's and interest's share of the actual and reasonable costs of drilling, reworking (prior to initial commercial production), testing, plugging back, deepening (but not below that depth specified in the permit for the well), and completing through the wellhead) said well.

IT IS FURTHER ORDERED that all other provisions of Section 9-17-13, Code of Alabama (1975), as amended, and Rule 400-1-13.01 of the State Oil and Gas Board of Alabama Administrative Code shall apply to this unit, and that this order shall be effective as to Bernard/Hickox, Inc., or any subsequent operator named for this unit.

ORDERED this 4th day of October , 1990.

STATE OIL AND GAS BOARD OF ALABAMA

BY: 
Dr. Ralph Adams, Chairman

BY:  Member

BY: 
Matthew S. Metcalfe, Member

ATTEST:


Ernest A. Mancini, Secretary