

BEFORE THE STATE OIL AND GAS BOARD OF ALABAMA

PURSUANT TO A DECISION RENDERED DURING A  
SPECIAL SESSION OF THE STATE OIL AND GAS  
BOARD OF ALABAMA ON OCTOBER 6, 2000  
THE FOLLOWING ORDER IS HEREBY PROMULGATED:

IN RE: ORDER NO. 2000-173

DOCKET NO. 10-4-200014

THIS CAUSE came on for hearing before the State Oil and Gas Board of Alabama on the petition of RIVER GAS CORPORATION, an Alabama corporation, requesting the State Oil and Gas Board to enter an order force pooling, with imposition of the risk compensation fee, all tracts and interests in oil, gas and other hydrocarbons produced from the Pottsville Formation from a well to be drilled on a 40-acre unit in the Blue Creek Coal Degasification Field, Tuscaloosa County, Alabama. The State Oil and Gas Board 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.

That Petitioner proposes to drill the Baughman 22-06-207 Well at a regular location on a 40-acre unit consisting of the Southeast Quarter of the Northwest Quarter of Section 22, Township 17 South, Range 9 West, Tuscaloosa County, Alabama, in the Blue Creek Coal Degasification Field.

II.

That Petitioner owns or controls a majority of the presently vested interests in the proposed 40-acre unit; however, the owner or claimant of 6.667 net mineral acres, or approximately 16.7% of the unit, has yet to agree to voluntarily pool her interest in said unit.

III.

That 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 400-7-2 of the State Oil and Gas Board of Alabama Administrative Code.

## CONCLUSIONS OF LAW

### IV.

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. Therefore, a risk compensation fee may be charged against the interest of all non-consenting owners below said depth, as provided by law.

### V.

That the granting of the petition will prevent waste and will protect correlative rights.

Based on the Findings of Fact and Conclusions of Law set forth hereinabove, IT IS THEREFORE, HEREBY ORDERED, ADJUDGED AND DECREED by the State Oil and Gas Board of Alabama that the Petition be GRANTED. Said Petition is granted approving the forced pooling, with the imposition of a risk compensation fee, of all tracts and interests in oil, gas and other hydrocarbons produced from the Pottsville Formation from the Baughman 22-06-207 Well to be drilled on a 40-acre drilling unit consisting of the Southeast Quarter of the Northwest Quarter of Section 22, Township 17 South, Range 9 West, Tuscaloosa County, Alabama, in the Blue Creek Coal Degasification Field.

IT IS FURTHER ORDERED that RIVER GAS CORPORATION 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 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 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 non-consenting owner shall fail or refuse to pay the costs and fee chargeable to his tract or interest, such costs and 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 non-consenting 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 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 non-consenting 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 non-consenting 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 400-7-2 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 RIVER GAS CORPORATION or any subsequent operator named for this unit.

ORDERED this 6<sup>th</sup> day of October, 2000.

STATE OIL AND GAS BOARD OF ALABAMA

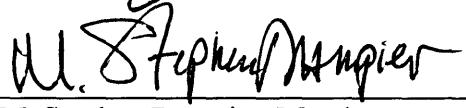
BY:

  
Gaines C. McCorquodale, Chairman

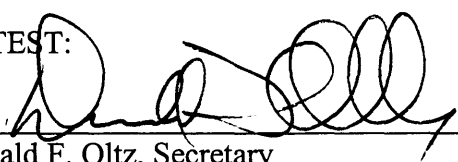
BY:

  
Matthew S. Metcalfe, Member

BY:

  
M. Stephen Dampier, Member

ATTEST:

  
Donald F. Oltz, Secretary