

BEFORE THE BOARD OF OIL AND GAS CONSERVATION
OF THE STATE OF MONTANA

IN THE MATTER OF THE REQUEST OF REHEARING OF
KRAKEN OIL & GAS LLC DOCKET 77-2021 BY PHOENIX
CAPITAL HOLDINGS, LLC IN ACCORDANCE WITH
SECTION 82-11-143, M.C.A.

ADMINISTRATIVE ORDER 11-A-2021

At the Board's October 14, 2021, public hearing, the Board approved the application of Kraken Oil & Gas LLC's (Kraken) for pooling within a permanent spacing unit and imposition of risk penalties. At that hearing, Kraken demonstrated that the requirements of § 82-11-202 had been met. The Board issued Board Order 94-2021 providing for pooling and imposition of risk penalties for the RKT Carda 7-6 #2H, RKT Carda 7-6 #3H, and RKT Carda 7-6 #4H wells.

After that hearing, Phoenix Capital filed a rehearing request of Docket 77-2021 under § 82-11-143, MCA. Phoenix Capital argued that Phoenix Capital did not have "actual notice" of the hearing, was not provided an opportunity to conduct discovery in this matter, its predecessor did not receive "proper and sufficient notice," Kraken could not rely on a presumption of non-participation for any interest holder that was based on statutorily deficient notice that did not conform to statute, Kraken could not offer, and the Board could not rely on hearsay evidence, the declaration of non-participation by Phoenix's predecessor in interest or their relatives, Phoenix Capital repeatedly asked Kraken for an opportunity to participate in the development of subject wells before the application of for pooling and recovery of non-consent penalties, Kraken did not make a "good faith effort to acquire voluntary pooling of interests in the spacing unit," and Kraken did not legally satisfy the requirements for forced pooling and assessment of costs.

Kraken filed a response to Phoenix Capital's petition arguing that Phoenix Capital raised no new issues in its rehearing request and that Kraken's pooling order met the statutory requirements and should remain in effect.

At the meeting, the Board considered and discussed the rehearing request. Phoenix Capital did not demonstrate any error in the original hearing for which a rehearing should be granted. To the extent that Phoenix Capital raised procedural issues in its request, it waived these objections by not first making them before the Board. A motion was made and unanimously passed by the Board to deny the request for rehearing of Docket 77-2021.

IT IS THEREFORE ORDERED by the Board that the request to rehear Docket 77-2021 is denied.

Dated this 1st day of December, 2021

Montana Board of Oil and Gas Conservation

James W. Halvorson, Administrator