

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE NO. 8859 DE NOVO  
Order No. R-8047-C

APPLICATION OF ROBERT E. CHANDLER  
CORPORATION FOR AN AMENDMENT TO  
DIVISION ORDER NO. R-8047, LEA  
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on August 7, 1986, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 22nd day of August, 1986, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) By Order No. R-8047, entered on October 3, 1985, all mineral interests, whatever they may be, from the surface to the base of the Granite Wash formation underlying the NE/4 SW/4 of Section 7, Township 22 South, Range 38 East, NMPM, Lea County, New Mexico, were pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard oil well location thereon.

(3) Robert E. Chandler was designated the operator of said well and unit.

(4) Said order further provided in decretory paragraph (7) that:

"The operator is hereby authorized to withhold the following costs and charges from production:

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.
- (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 non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him."

(5) On March 10, 1986, Robert E. Chandler made application seeking amendment of said Order No. R-8047 to extend the effective date thereof including the commencement date of the well to be drilled, and to clarify the treatment of various interests subject to the forced pooling for purposes of allocation of costs and application of the penalty provisions.

(6) The matter came on for hearing at 8:15 a.m. on March 19, 1986, at Santa Fe, New Mexico, before Oil Conservation Division Examiner David R. Catanach and, pursuant to his hearing, Order No. R-8047-A was issued on May 9, 1986.

(7) On June 2, 1986, application for Hearing De Novo was made by Michael L. Klein, John H. Hendrix, John H. Hendrix Corporation, and Ronnie Westbrook and Order No. R-8047-A was stayed by Order No. R-8047-B.

(8) The matter came on for hearing de novo before the Commission on August 7, 1986.

(9) The Findings in Order No. R-8047-A should be incorporated by reference into this order.

(10) De Novo applicants, Klein et al, are owners of a net profits interest in the pooled unit as referred to in Finding No. (5) in said Order No. R-8047-A.

(11) De Novo applicants contend that the 200 percent risk charge imposed under the terms of Order No. R-8047 is not a well cost for determining when well costs have been paid and for determining when they should begin to receive income from the subject well and unit under their net profits overriding royalty referenced in Finding No. 5 of said Order No. R-8047-A.

(12) The compulsory pooling of the subject acreage was ordered under provisions of Section 70-2-17(c) (NMSA 1978).

(13) That Section of the Oil and Gas Act provides in part that:

"All orders effecting such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil or gas, or both."..."Such pooling order of the division shall make definite provision as to any owner, or owners, who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of production to the parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision and may include a charge for the risk involved in the drilling of such well, which charge for risk shall not exceed two hundred percent of the nonconsenting working interest owner's or owners' prorata share of the cost of drilling and completing the well."

(14) It appears clear that the statutes intend for the risk charge to be considered a well cost chargeable to the interest of any owner who elects not to pay his share in advance and as such must be factored in when determining when and if such interest has paid out and when profits begin to accrue thereto.

(15) Under the terms of Order No. R-8047, as amended, any well costs, attributable to any non-consenting owner, including risk charges and reasonable charges for well operations, should be recovered before profits accrue for which any associated net profits interest would be eligible.

(16) The terms of Finding No. (15) above should not apply to any royalty interest.

(17) Because of the delay resulting from the De Novo hearing in this case, the date for beginning drilling operations on the subject well and unit should be further extended to December 1, 1986.

(18) Order No. R-8047-A and Order No. R-8047-B should be rescinded.

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Case No. 8859 De Novo  
Order No. R-8047-C

IT IS THEREFORE ORDERED THAT:

(1) Ordering Paragraph No. (1) of Division Order No. R-8047 is hereby amended to read as follows:

"(1) All mineral interests, whatever they may be, from the surface to the base of the Granite Wash formation underlying the NE/4 SW/4 of Section 7, Township 22 South, Range 38 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard oil well location thereon.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of December, 1986, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Granite Wash formation;

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day December, 1986, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Ordering Paragraph No. (1) of this order should not be rescinded."

(2) The findings contained in Order No. R-8047-A are hereby adopted by the Commission.

(3) Except as provided in decretory Paragraph (2) above, Order No. R-8047-A is hereby rescinded.

(4) Order No. R-8047-B is hereby rescinded.

(5) Distribution of proceeds to the Klein et al net profits interest shall be made in accordance with Findings Nos. (14) and (15) of this order and appropriate terms and conditions of Order No. R-8047 as amended.

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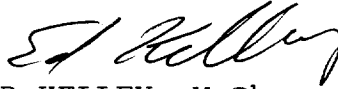
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(6) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

JIM BACA, Member



ED KELLEY, Member



R. L. STAMETS, Chairman and  
Secretary

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