

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. 9144  
Order No. R-8190-A

APPLICATION OF HARVEY E. YATES  
COMPANY FOR REVOCATION OF DIVISION  
ORDER NOS. R-7240 AND R-8190 AND  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 3, 1987, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 28th day of July, 1987, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

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

(2) By Division Order No. R-7240 issued in Case No. 7808 and entered March 29, 1983 on behalf of the applicant, Harvey E. Yates Company, the Division compulsorily pooled all mineral interests in the Northeast Lovington-Pennsylvanian Pool underlying the S/2 SE/4 of Section 8, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico, forming a standard 80-acre proration unit to be dedicated to the applicant's East Lovington "8" Well No. 1, which was subsequently drilled at an approved unorthodox location 330 feet from the South line and 660 feet from the East line (Unit P) of said Section 8.

(3) By Division Order No. R-8190 issued in Case No. 8826 and entered March 31, 1986 on behalf of the applicant, Harvey E. Yates Company, the Division compulsorily pooled all mineral interests in the Northeast Lovington-Pennsylvanian Pool underlying the N/2 SE/4 of Section 8, Township 16 South, Range

37 East, NMPM, Lea County, New Mexico, forming a standard 80-acre proration unit to be dedicated to the applicant's East Lovington "8" Well No. 2, which was subsequently drilled at a standard location 1874 feet from the South line and 554 feet from the East line (Unit I) of said Section 8.

(4) The applicant in the present case, Harvey E. Yates Company, seeks an order revoking the provisions of Order No. R-7240 relating to the compulsory pooling of the S/2 SE/4 of said Section 8, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico, and revoking Order No. R-8190 in its entirety.

(5) The applicant further seeks an order pooling all mineral interests in the Northeast Lovington-Pennsylvanian Pool underlying the E/2 SE/4 of said Section 8, forming a standard 80-acre oil spacing and proration unit to be dedicated to its existing East Lovington "8" Well No. 2 located as described above, and further pooling all mineral interests in the Northeast Lovington-Pennsylvanian Pool underlying the W/2 SE/4 of said Section 8, forming a standard 80-acre spacing and proration unit to be dedicated to a well to be drilled at a standard location thereon.

(6) The applicant, by its proposal, seeks to change the two currently approved 80-acre proration units consisting of the N/2 SE/4 and the S/2 SE/4 and currently dedicated, respectively, to the East Lovington "8" Well Nos. 2 and 1, to two new 80-acre proration units consisting of the E/2 SE/4 and the W/2 SE/4 to be dedicated, respectively, to the existing East Lovington "8" Well No. 2 and to the proposed East Lovington "8" Well No. 3.

(7) The applicant testified that the East Lovington "8" Well No. 1 is no longer economical to produce and will be plugged and abandoned by the applicant in the very near future.

(8) The total cumulative production from the East Lovington "8" Well No. 1 has been insufficient to pay the share of well costs and the 200% risk penalty, as directed by Order No. R-7240, attributable to the non-consenting interest owners in said pooled unit.

(9) The plugging of the East Lovington "8" Well No. 1 would effectively cause Order No. R-7240 to expire and otherwise be of no further effect and, therefore, that portion of the present case requesting revocation of the pooling provisions of Order No. R-7240 may be dismissed.

(10) Any approval of proration unit changes authorized by this order should be contingent, however, on the plugging of the East Lovington "8" Well No. 1.

(11) At the time of the hearing, the applicant suggested that the pooling provisions contained in Order No. R-8190 might be amended rather than unnecessarily revoking said order in its entirety.

(12) The East Lovington "8" Well No. 2 was drilled and completed as per the provisions of Order No. R-8190 and is currently producing in the Northeast Lovington-Pennsylvanian Pool.

(13) The applicant proposes to change the 80-acre proration unit for the East Lovington "8" Well No. 2 from the previously approved N/2 SE/4 of said Section 8 to the E/2 SE/4 of said Section 8 by the amendment of Division Order No. R-8190.

(14) At the time of issuance of this order, the total cumulative production from the East Lovington "8" Well No. 2 will have been sufficient to pay out the share of the well costs and the 200% risk penalty, as directed by Order No. R-8190, attributable to the non-consenting interest owners in said pooled unit.

(15) Approval of the proposed change in proration units for the East Lovington "8" Well No. 2 should have no adverse effect on the non-committed interest owners in the existing or the proposed new unit as the uncommitted interest ownership is common in the SE/4 of said Section 8.

(16) The applicant further testified that the proposed amendment should not have any adverse effects on any other interest owners in the SE/4 of said Section 8 and no interest owner objected to the proposed realignment of the proration units.

(17) Order No. R-8190 should be amended to pool all mineral interests in the Northeast Lovington-Pennsylvanian Pool underlying the E/2 SE/4 of said Section 8.

(18) The applicant further seeks an order pooling all mineral interests in the Northeast Lovington-Pennsylvanian Pool underlying the W/2 SE/4 of Section 8, Township 16 South, Range 37 East, NMPM, forming a standard 80-acre oil proration unit.

(19) The applicant has the right to drill and proposes to drill its East Lovington "8" Well No. 3 to be located 1980 feet from the North and West lines of said Section 8.

(20) There are interest owners in the proposed proration unit who have not agreed to pool their interest.

(21) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(22) The applicant should be designated the operator of the subject well and unit.

(23) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(24) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(25) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(26) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(27) \$4000.00 per month while drilling and \$400.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate

share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(28) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(29) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before November 1, 1987, the order pooling said unit should become null and void and of no effect whatsoever.

(30) Should all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(31) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The provisions of this order shall not become effective until such time as the East Lovington "8" Well No. 1, located 330 feet from the South line and 660 feet from the East line of Section 8, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico, is plugged and abandoned by the applicant.

(2) Ordering Paragraph No. (2) of Division Order No. R-8190 is hereby amended to read in its entirety as follows:

"All mineral interests, whatever they may be, in the Northeast Lovington-Pennsylvanian Pool underlying the E/2 SE/4 of Section 8, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 80-acre oil spacing and proration unit to be dedicated to a well drilled at a standard location thereon."

(3) All other provisions contained in Division Order No. R-8190 shall remain in full force and effect.

IT IS FURTHER ORDERED THAT:

(4) All mineral interests, whatever they may be, in the Northeast Lovington-Pennsylvanian Pool underlying the W/2 SE/4

of Section 8, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 80-acre oil spacing and proration unit to be dedicated to the applicant's proposed East Lovington "8" Well No. 3 to be located 1980 feet from the North and West lines of Said Section 8.

PROVIDED HOWEVER, the operator of said unit shall commence the drilling of said well on or before the 1st day of November, 1987, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Pennsylvanian formation;

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of November, 1987, Ordering Paragraph No. (4) 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. (4) of this order should not be rescinded.

(5) Harvey E. Yates Company is hereby designated the operator of the subject well and unit.

(6) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(7) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(8) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall

be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(9) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(10) 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.

(11) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(12) \$4000.00 per month while drilling and \$400.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(13) Any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8)

royalty interest for the purpose of allocating costs and charges under the terms of this order.

(14) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(15) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

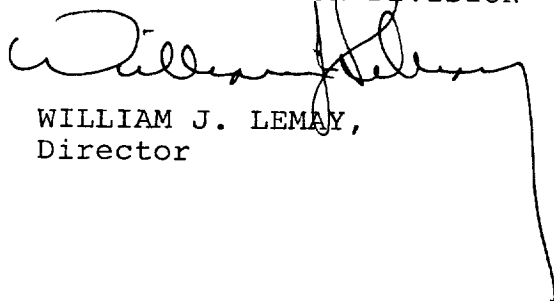
(16) Should all parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(18) Jurisdiction of this cause is 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



WILLIAM J. LEMAY,  
Director

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