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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. 9750  
ORDER NO. R-9014

APPLICATION OF MERIDIAN OIL, INC.  
FOR COMPULSORY POOLING, SAN JUAN  
COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on September 6, 1989 and on October 4, 1989, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 10th day of October, 1989, 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) At the September 6, 1989 hearing, Division Case Nos. 9744, 9745, 9746 and 9750 were consolidated for the purpose of testimony.

(3) The applicant, Meridian Oil, Inc. (Meridian), originally sought the compulsory pooling of all mineral interests in the Basin-Fruitland Coal Gas Pool underlying Lots 1 and 2, the SE/4 NE/4 and the E/2 SE/4 of Section 8 and the SW/4 of Section 9, both in Township 32 North, Range 6 West,

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NMPM, San Juan County, New Mexico, forming a non-standard 317.51-acre gas spacing and proration unit for said pool, to be dedicated to its Allison Unit Com Well No. 135 to be drilled at a standard coal gas well location in the SW/4 of said Section 9.

(4) Richmond Petroleum Inc. (Richmond) appeared at the September 6, 1989 hearing in opposition to the Meridian application and sought in Division Case No. 9746 to compulsory-pool the Basin-Fruitland Coal Gas Pool interests in the E/2 of said Section 9 and in original Case No. 9745 to compulsory-pool the Basin-Fruitland Coal Gas Pool interests underlying the E/2 equivalent of said Section 9, and finally in Division Case No. 9744 sought to compulsory-pool the Basin-Fruitland Coal Gas Pool interests in the W/2 equivalent of Section 10, Township 32 North, Range 6 West, NMPM, San Juan County, New Mexico.

(5) Subsequent to the September 6, 1989 hearing of these consolidated cases, Meridian Oil, Inc. has amended its application in the immediate case and now seeks an order pooling all mineral interests in the Basin-Fruitland Coal Gas Pool, underlying Lots 3 and 4, the E/2 NW/4, and the SW/4 (W/2 equivalent) of Section 9, Township 32 North, Range 6 West, NMPM, San Juan County, New Mexico, forming a standard 278.2-acre gas spacing and proration unit for said pool, and Richmond has dismissed its application in Case No. 9746 and in Case No. 9745 has amended its application to change the acreage to be pooled in the Basin-Fruitland Coal Gas Pool to the E/2 equivalent of said Section 9.

(6) As a result of the referenced amended and dismissed applications and the stipulation of Meridian and Richmond, each company has withdrawn their respective objections to the application of each other, as amended.

(7) The applicant has the right to drill and proposes to drill a well at a standard coal gas well location 900 feet from the South line and 1490 feet from the West line (Unit N) of said Section 9.

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

(9) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent 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 coal gas in said pool, the subject amended application should be approved by pooling all mineral interests, whatever they may be, within said unit.

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

(11) 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.

(12) The applicant has proposed a 200 percent risk penalty be assessed against those interest owners subject to the force-pooling provisions of this order, and in support thereof presented evidence and testimony at the hearing.

(13) Based on precedent established in compulsory pooling cases in the Basin-Fruitland Coal Gas Pool, the proposed 200 percent risk penalty is excessive and should therefore be reduced to 156 percent.

(14) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 156 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(15) 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.

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(16) 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.

(17) \$3500.00 per month while drilling and \$350.00 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.

(18) 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.

(19) 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 January 1, 1990, the order pooling said unit should become null and void and of no further effect whatsoever.

(20) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(21) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

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**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, in the Basin-Fruitland Coal Gas Pool, underlying Lots 3 and 4, the S/2 NW/4 and the SW/4 (W/2 equivalent) of Section 9, Township 32 North, Range 6 West, NMPH, San Juan County, New Mexico, are hereby pooled to form a standard 278.2-acre gas spacing and proration unit for said pool, said unit to be dedicated to a well to be drilled at a standard coal gas well location 900 feet from the South line and 1490 feet from the West line (Unit N) of said Section 9.

**PROVIDED HOWEVER THAT,** the operator of said unit shall commence the drilling of said well on or before the 1st day of January, 1990, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Basin-Fruitland Coal Gas Pool.

**PROVIDED FURTHER THAT,** in the event said operator does not commence the drilling of said well on or before the 1st day of January, 1990, Decretory 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 Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Meridian Oil, Inc. is hereby designated the operator of the subject well and unit.

(3) 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.

(4) 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

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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.

(5) The operator shall furnish the Division and each known working interest owner an itemised 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.

(6) 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.

(7) 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; and
- (B) As a charge for the risk involved in the drilling of the well, 156 percent of the pro rata share of reasonable well costs attributable to each non-

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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.

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

(9) \$3500.00 per month while drilling and \$350.00 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.

(10) Any unleased 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.

(11) 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.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in San Juan 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.

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



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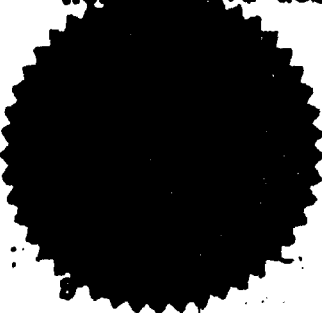
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(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(15) 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 hereinafore designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



*William J. Lemay*  
WILLIAM J. LEMAY  
Director

**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION**

**IN THE MATTER OF THE PROPOSAL OF THE OIL CONSERVATION  
COMMISSION, ON ITS OWN MOTION, TO AMEND OIL CONSERVATION  
DIVISION RULES 104 AND 701.**

**CASE NO. 13453  
ORDER NO. R-12303**

**ORDER INSTITUTING RULEMAKING**

**BY THE COMMISSION:**

This matter having come before the Commission for consideration at a duly called meeting of the Commission on this 8th day of March, 2005, the Commission now

**FINDS:**

1. It has heretofore been the policy of the Oil Conservation Division (the Division) that all wells located in a spacing or proration unit should be operated by the same operator.

2. Division Rule 104 [19.15.3.104 NMAC] provides that any infill well drilled in certain gas pools in certain counties in southeastern New Mexico must be operated by the same operator as any pre-existing well in the same spacing or proration unit. However, Division rules are otherwise silent as to whether different operators may operate different wells within a spacing or proration unit.

3. The Chief of the Engineering and Geological Services Bureau of the Division, in consultation with other members of the Division staff and stakeholder representatives, has developed proposed amendments to Division Rules 104 and 701 to allow operation of wells within a spacing or proration units by multiple operators subject to certain procedures and exceptions. A copy of the proposed rule amendments so formulated is attached to this Order as Exhibit A.

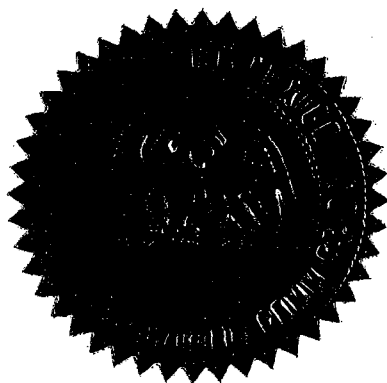
4. The Commission should convene a public hearing to consider the proposed amendments to Rules 104 and 701 to allow and govern the operation of wells within a spacing or proration unit by multiple operators in all counties and pools in the State.

**IT IS THEREFORE ORDERED:**

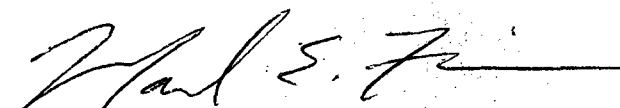
1. The Commission shall conduct a public hearing at its regular meeting on April 14, 2005, or at any subsequent date to which the same may be continued, to consider whether or not to adopt amendments to Division Rules 104 and 701, as proposed in Exhibit A attached hereto, to allow and govern operation of wells within a spacing unit by multiple operators in all counties and pools in the State, subject to regulations and exceptions as therein proposed.
2. The Commission counsel and the Commission Secretary, with the assistance of the Division staff, are directed to cause appropriate notices of the public hearing of this matter before the commission to be published in accordance with the laws of New Mexico and Division rules.
3. The notices so published shall state that any person desiring to file written comments on the proposed rule amendments shall file the same with the Secretary of the Commission not later than five working days prior to the scheduled public hearing, and that persons desiring to be heard thereon may appear at the public hearing and present testimony or oral statements with respect thereto.
4. At such hearing, the Commission counsel shall present the proposed rule amendments, and the Commission shall consider the same, together with any public comments or testimony filed with the Commission or presented at the hearing as above provided.
5. Jurisdiction of this matter is retained for entry of such further orders as may be necessary.

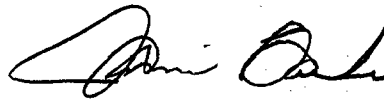
DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION



SEAL

  
MARK E. FESMIRE, P.E., CHAIR

  
JAMI BAILEY, CPG, MEMBER

  
FRANK T. CHAVEZ, MEMBER

## **EXHIBIT A**

### **19.15.3.104 WELL SPACING AND LOCATION:**

#### **B. OIL WELL ACREAGE AND WELL LOCATION REQUIREMENTS.**

(1) Any wildcat well that is projected to be drilled as an oil well to a formation and in an area that in the opinion of the division may reasonably be presumed to be productive of oil rather than gas and each development well for a defined oil pool, unless otherwise provided in special pool orders, shall be located on a spacing unit consisting of approximately 40 contiguous surface acres substantially in the form of a square which is a legal subdivision of the U.S. Public Land Surveys, which is a governmental quarter-quarter section or lot, and shall be located no closer than 330 feet to any boundary of such unit. Only those 40-acre spacing units committed to active secondary recovery projects shall be permitted more than four wells.

(2) If a well drilled as an oil well is completed as a gas well but does not conform to the applicable gas well location rules, the operator must apply for administrative approval for a non-standard location before the well can produce. The Director may set any such application for hearing.

#### **C. GAS WELLS ACREAGE AND WELL LOCATION REQUIREMENTS.**

Any wildcat well that is projected to be drilled as a gas well to a formation and in an area that in the opinion of the division may reasonably be presumed to be productive of gas rather than oil and each development well for a defined gas pool, unless otherwise provided in special pool orders, shall be spaced and located as follows:

(1) 640-Acre Spacing applies to any deep gas well in Rio Arriba, San Juan, Sandoval or McKinley County that is projected to be drilled to a gas producing formation older than the Dakota formation or is a development well within a gas pool created and defined by the division after June 1, 1997 in a formation older than the Dakota formation, which formation or pool is located within the surface outcrop of the Pictured Cliffs formation (i.e., the San Juan Basin). Such well shall be located on a spacing unit consisting of 640 contiguous surface acres, more or less, substantially in the form of a square which is a section and legal subdivision of the U.S. Public Land Surveys and shall be located no closer than: 1200 feet to any outer boundary of the spacing unit, 130 feet to any quarter section line, and 10 feet to any quarter-quarter section line or subdivision inner boundary.

(2) 320-Acre Spacing applies to any deep gas well in Lea, Chaves, Eddy or Roosevelt County, defined as a well that is projected to be drilled to a gas producing formation or is within a defined gas pool in the Wolfcamp or an older formation. Such well shall be located on a spacing unit consisting of 320 surface contiguous acres, more or less, comprising any two contiguous quarter sections of a single section that is a legal subdivision of the U.S. Public Land Surveys provided that:

(a) the initial well on a 320-acre unit is located no closer than 660 feet to the outer boundary of the quarter section on which the well is located and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary;

(b) only one infill well on a 320-acre unit shall be allowed provided that the well is located in the quarter section of the 320-acre unit not containing the initial well and is no closer than 660 feet to the outer boundary of the quarter section and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary; and

~~(c) the division designated operator for the infill well is the same operator currently designated by the division for the initial well~~

(3) 160-Acre Spacing applies to any other gas well not covered above. Such well shall be located in a spacing unit consisting of 160 surface contiguous acres, more or less, substantially in the form of a square which is a quarter section and a legal subdivision of the U.S. Public Land Surveys and shall be located no closer than 660 feet to any outer boundary of such unit and no closer than 10 feet to any quarter-quarter section or subdivision inner boundary.

#### **D. ACREAGE ASSIGNMENT.**

(1) Well Tests and Classification. It is the responsibility of the operator of any wildcat or development gas well to which more than 40 acres has been dedicated to conduct a potential test within 30 days following completion of the well and to file the test with the division within 10 days following completion of the test. (See Rule 401)

(a) The date of completion for a gas well is the date of the conclusion of active completion work on the well.

(b) If the division determines that a well should not be classified as a gas well, the division will reduce the acreage dedicated to the well to the standard acreage for an oil well.

(c) Failure of the operator to file the test within the specified time will also subject the well to such acreage reduction.

(2) Non-Standard Spacing Units. Any well that does not have the required amount of acreage dedicated to it for the pool or formation in which it is completed may not be produced until a standard spacing unit for the well has been formed and dedicated or until a non-standard spacing unit has been approved.

(a) Division District Offices have the authority to approve non-standard spacing units without notice when the unorthodox size or shape is necessitated by a variation in the legal subdivision of the U. S. Public Land Surveys and/or consists of an entire governmental section and the non-standard spacing unit is not less than 70% or more than 130% of a standard spacing unit. The operator must obtain division approval of division Form C-102 showing the proposed non-standard spacing unit and the acreage contained therein.

(b) The Director may grant administrative approval to non-standard spacing units after notice and opportunity for hearing when an application has been filed and the unorthodox size or shape is necessitated by a variation in the legal subdivision of the U.S. Public Land Surveys or the following facts exist:

(i) the non-standard spacing unit consists of: (A) a single quarter-quarter section or lot or (B) quarter-quarter sections or lots joined by a common side; and

(ii) the non-standard spacing unit lies wholly within: a single quarter section if the well is completed in a pool or formation for which 40, 80, or 160 acres is the standard spacing unit size; a single half section if the well is completed in a pool or formation for which 320 acres is the standard spacing unit size; or a single section if the well is completed in a pool or formation for which 640 acres is the standard spacing unit size.

(c) Applications for administrative approval of non-standard spacing units pursuant to Subsection D, Paragraph (2), Subparagraph (b) of 19.15.3.104 NMAC shall be submitted to the division's Santa Fe Office and accompanied by: (i) a plat showing the spacing unit and an applicable standard spacing unit for that pool or formation, the proposed well dedications and all adjoining spacing units; (ii) a list of affected persons as defined in Rule 1207.A (2); and (iii) a statement discussing the reasons for the formation of the non-standard spacing unit.

(d) The applicant shall submit a statement attesting that the applicant, on or before the date the application was submitted to the division, sent notification to the affected persons by submitting a copy of the application, including a copy of the plat described in Subparagraph (c) above, by certified mail, return receipt requested, advising them that if they have an objection it must be filed in writing within 20 days from the date the division receives the application. The Director may approve the

application upon receipt of waivers from all the notified persons or if no person has filed an objection within the 20-day period.

(e) The Director may set for hearing any application for administrative approval.

(3) Number of Wells Per Spacing Unit. Exceptions to the provisions of statewide rules or special pool orders concerning the number of wells allowed per spacing unit may be permitted by the Director only after notice and opportunity for hearing. Notice shall be given to those affected persons defined in Rule 1207.A (2).

#### **E. FORMS**

~~Form C 102 "Well Location and Acreage Dedication Plat" for any well shall designate the exact legal subdivision dedicated to the well. Form C 101 "Application for Permit to Drill, Deepen, or Plug Back" will not be approved without an acreage designation on Form C 102.~~

#### **SPECIAL RULES FOR MULTIPLE OPERATORS WITHIN A SPACING UNIT**

(1) Allowable production. If an operator completes a well in an oil pool or prorated gas pool, located within a proration unit containing an existing well or wells producing from that pool and operated by a different operator, unless otherwise agreed by all operators of wells producing from that proration unit, the allowable production from such newly completed well shall not exceed the difference between the allowable production for such proration unit and the actual production from such pool of the existing well or wells within such proration unit. The division may authorize exceptions to this provision after hearing following appropriate notice.

(2) Any operator who intends to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall, prior to filing the application for permit to drill for such well, furnish written notification of its intent to the operator of each such existing well, and if the unit includes state or federal minerals, to the State Land Office or United States Bureau of Land Management, as applicable; provided that separate notification to the Bureau of Land Management shall not be required if the application is filed with that agency Pursuant to 19.15.1.14 NMAC. The applicant shall submit with its application for permit to drill a statement attesting that applicant, on or before the date that the application was submitted to the division, sent notices to the designated parties, together with a copy of the application for permit to drill and accompanying well location and acreage dedication plat, by certified mail, return receipt requested, advising them that if they have an objection it must be filed in writing within twenty days of the date the application is filed. The District Supervisor may approve the application upon receipt of written waivers from all persons required to be notified (approval of the application by the United States Bureau of Land Management being deemed



equivalent to waiver by that agency), or if no objection has been filed with the division within twenty days from the date when the application is filed.

(3) If an operator transfers operation of less than all of its well located within a spacing or proration unit to another operator, and such spacing unit includes any state or federal minerals, the operator shall, prior to filing form C-104A to effectuate such transfer, provide written notification to the State Land Office or United States Bureau of Land Management, as applicable, of such transfer.

(4) No provision of 19.15.3.104 NMAC shall authorize the operation of any producing well within a unit described in an existing compulsory pooling order by any operator other than the operator designated in such order.

(5) No provision of 19.15.3.104 NMAC shall authorize the operation of any producing well within any federal exploratory unit or state exploratory unit by an operator other than the designated operator of such unit except as provided in the rules of the United States Bureau of Land Management or State Land Office applicable to such unit.

**F. through I. [Unchanged]**

**19.15.9.701 INJECTION OF FLUIDS INTO RESERVOIRS**

**F. Pressure Maintenance Projects**

- (1) Pressure maintenance projects are defined as those projects in which fluids are injected into the producing horizon in an effort to build up and/or maintain the reservoir pressure in an area which has not reached the advanced or "stripper" state of depletion.
- (2) All applications for establishment of pressure maintenance projects shall be set for hearing. The project area and the allowable formula for any pressure maintenance project shall be fixed by the Division on an individual basis after notice and hearing.
- (3) Pressure maintenance projects may be expanded and additional wells placed on injection only upon authority from the Division after notice and hearing or by administrative approval.
- (4) The Division Director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for the conversion to injection of additional wells within a project area provided that any such well is necessary to develop or maintain efficient pressure

maintenance within such project and provided that no objections are received pursuant to Subsection C of 19.15.9.701 NMAC.

- (5) An established pressure maintenance project shall have only one designated operator. Any exception must be set for hearing.

**G. Water Flood Projects**

- (1) Water flood projects are defined as those projects in which water is injected into a producing horizon in sufficient quantities and under sufficient pressure to stimulate the production of oil from other wells in the area, and shall be limited to those areas in which the wells have reached an advanced state of depletion and are regarded as what is commonly referred to as "stripper" wells.
- (2) All applications for establishment of water flood projects shall be set for hearing.
- (3) The project area of a water flood project shall comprise the proration units owned or operated by a given operator upon which injection wells are located plus all proration units owned or operated by the same operator which directly or diagonally offset the injection tracts and have producing wells completed on them in the same formation; provided however, that additional proration units not directly nor diagonally offsetting an injection tract may be included in the project area if, after notice and hearing, it has been established that such additional units have wells completed thereon which have experienced a substantial response to water injection.
  - (4) The allowable assigned to wells in a water flood project area shall be equal to the ability of the wells to produce and shall not be subject to the depth bracket allowable for the pool nor to the market demand percentage factor.
- (5) Nothing herein contained shall be construed as prohibiting the assignment of special allowables to wells in buffer zones after notice and hearing. Special allowables may also be assigned in the limited instances where it is established at a hearing that it is imperative for the protection of correlative rights to do so.
- (6) Water flood projects may be expanded and additional wells placed on injection only upon authority from the Division after notice and hearing or by administrative approval.

- (7) The Division Director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for conversion to injection of additional wells provided that any such well is necessary to develop or maintain thorough and efficient water flood injection for any authorized project and provided that no objections are received pursuant to Subsection C of 19.15.9.701 NMAC.
- (8) An established water flood project shall have only one designated operator. Any exception must be set for hearing.

*See Also Order  
No. R-12303*

**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION**

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

**ORDER OF THE NEW MEXICO OIL CONSERVATION COMMISSION  
INSTITUTING RULEMAKING, PROPOSING AMENDMENTS TO OCD RULES  
104 (WELL SPACING AND LOCATION) AND 701 (INJECTION OF FLUIDS  
INTO RESERVOIRS).**

**CASE NO. 13453  
ORDER NO. R-12303-A**

**ORDER OF THE OIL CONSERVATION COMMISSION**

**BY THE COMMISSION:**

**THIS MATTER** came before the Oil Conservation Commission ("the Commission") on April 14, 2005 at Santa Fe, New Mexico, pursuant to the Commission's Order Instituting Rulemaking, being Order No. R-12303 entered in this case on March 8, 2005, and the Commission, having carefully considered the evidence, the pleadings, comments and other materials submitted in support of and in opposition to the proposal, now, on this 12th day of May, 2005,

**FINDS:**

1. Proper notices have been given of this proceeding and of the public hearing hereof, and the Commission has jurisdiction of the subject matter.

**The Proposal**

2. This is a rulemaking proceeding the Commission initiated on its own motion for the purpose of clarifying the circumstances in which, and the conditions upon which, different operators may operate different wells that are simultaneously completed in the same spacing or proration unit.

3. In the existing Oil Conservation Division ("the Division") rules, the subject of multiple operators in a spacing unit is addressed only in Rule 104.C(2)(c) [19.15.3.104.C(2)(c) NMAC]. That subparagraph in effect requires that the same operator operate all wells within a spacing unit. However, it applies only to 320-acre gas units in pools in the Wolfcamp or older formations in Lea, Chaves, Eddy and Roosevelt

Counties. No existing Division rule addresses the issue of multiple operators in a spacing unit in any other context.

4. As a result of inquiries from operators and Division staff, the Commission concluded that it should adopt a rule addressing the subject of multiple operators in a spacing unit.

#### The Hearing

5. At the hearing Commission counsel called Richard Ezeanyim, chief engineer for the Division, as a witness to explain the proposed rule change, the process by which it was formulated and the reasons for considering its adoption.

6. Mr. Ezeanyim testified as follows:

(a) In many pools in New Mexico, applicable pool rules allow more than one well per spacing unit. In deep gas pools in Lea, Chaves, Eddy and Roosevelt Counties that are subject to statewide rules prescribing 320-acre spacing units, Rule 104.C(2)(c) requires that the same operator operate all wells in a spacing unit. In other pools where multiple wells are permitted in a spacing unit the Division has no rule or written policy regarding whether or not different operators may operate wells in a unit.

(b) Notwithstanding the absence of such a rule or written policy, there is, or has been, a perception that the Division had a policy of not allowing more than one operator per spacing unit, statewide. If, however, such a policy exists, it has not been consistently followed, and, in fact there are numerous spacing units that, according to Division records, contain wells operated by different operators.

(c) Recently there have been several applications filed for exceptions to the single-operator requirement of Rule 104.C(2)(c). These applications have been unopposed and have been granted.

(d) Due to the confusion resulting from conflicting policies and practices and perceived absence of opposition to multiple operators in spacing units, the Division determined to formulate a proposed rule on this subject. The Division staff formulated a proposal and circulated it to stakeholder groups, including industry associations, environmental advocacy groups and state, federal and tribal governmental agencies. The Division then held a workshop to which all of these stakeholder groups were invited.

(e) The workshop convened on January 26, 2005 and reviewed and revised the proposed draft rule. Exhibit 1 to the Order Instituting Rulemaking in this case (which is also Exhibit 1 in this proceeding) is the draft rule prepared at the workshop. There was general agreement on its provision by the persons who attended the workshop.

(f) Generally the proposed draft repeals Rule 104.C(2)(c), thus eliminating the only existing prohibition on multiple operators in a spacing unit, but adopts Rule 104.E, which requires that before a new operator drills, deepens or plugs back a well in a unit with an existing well, it must give notice and opportunity to protest to operators of existing wells in the spacing unit, and, where applicable, to the United States Department of the Interior Bureau of Land Management and the State Land Office. The proposed rule also contains provisions regarding allocation of allowables and prohibiting multiple operators in compulsory pooled units, federal and state exploratory units and secondary recovery units.

(g) The presence of multiple operators in a spacing unit presents potential problems for application of the Division's proration rules because those rules assign an allowable to the unit. The unit allowable may be allocated between or among wells in any proportion the operator desires. The proposed rule provides that if there are multiple operators in a spacing unit, the unit allowable will be allocated as they agreed if they did agree, but otherwise an operator completing a new well in the unit may only produce the excess of the unit allowable over existing wells' actual production. This formula is in accordance with the workshop participants' expressed preferences and appears to provide maximum flexibility.

(h) Operators at the workshop were unanimous in believing existing operators in a spacing unit should receive notice and opportunity to protest before the Division allowed another operator to drill, deepen or plug back a well in the unit. The State Land Office representative at the workshop also urged that, if State lands were involved, that agency should also receive notice and opportunity to protest. The provisions in the draft rule for notice and protest are in accordance with the workshop participants' consensus. However, the Division subsequently determined that those procedures should be revised slightly to provide that the operator will give the notice in advance of filing an Application for Permit to Drill (APD) with the Division, rather than at the time of filing with the Division. This procedure would expedite the Division's processing of APDs. Provision for this revised procedure is set forth in a revised draft, which is Exhibit 2 in this proceeding. In addition, although the change is not reflected in Exhibit 2, the notice and protest procedures should apply to an APD in which an operator proposes to deepen or plug back an existing well in the subject pool as well as to an APD for a new well. Accordingly, the reference in the draft rule to an Application for Permit to Drill should be changed to refer to an "Application to Drill, Deepen or Plug Back".

(i) The Division staff and the workshop participants recommended that the proposed rule not allow multiple operators in a compulsory pooled unit because the Division is working separately on a proposed rule to deal with that subject.

(j) Also, the Division's rules should not authorize multiple operators in federal or state exploratory units except in accordance with Bureau of Land Management or State Land Office rules applicable to those units to avoid conflict with the other agencies' rules.

(k) Furthermore, the Division's rules should not authorize multiple operators in secondary recovery units because of the need for those units' coordinated management.

(l) The draft rule proposed in the Order Instituting Rulemaking (Exhibit 1) as Exhibit 2 modified, and as further modified by the substitution of "Application for Permit to Drill, Deepen or Plug Back" in lieu of "Application for Permit to Drill" incorporates the Division staff's recommendations and is generally in accordance with the workshop participants' consensus.

(m) The Commission's adoption of these proposals would prevent waste and protect correlative rights.

7. Following the Commission counsel's presentation, Mr. Richard E. Foppiano, who appeared on behalf of the New Mexico Oil and Gas Association, OXY USA, Inc., Occidental Permian Ltd and OXY USA WTP LP, made a statement supporting the proposed rule amendments. Alan Alexander, representing Burlington Resources Oil and Gas Company; Alletta Belin, representing New Mexico Citizens for Clean Air and Water, Inc. and Yolanda Perez, representing ConocoPhillips were in attendance, but did not testify or make any statements.

#### Conclusions

8. No person offered any testimony or evidence conflicting with Mr. Ezeanyim's testimony, and such testimony is generally in accord with the Commission's experience and judgment. Accordingly, the Commission adopts Mr. Ezeanyim's testimony, as set forth above, as the Commission's findings.

9. The Commission concludes that it should adopt the proposed amendments to Rules 104 [19.15.3.104 NMAC] and 701 [19.15.9.701 NMAC] in the form attached hereto as Exhibit A.

#### **IT IS THEREFORE ORDERED:**

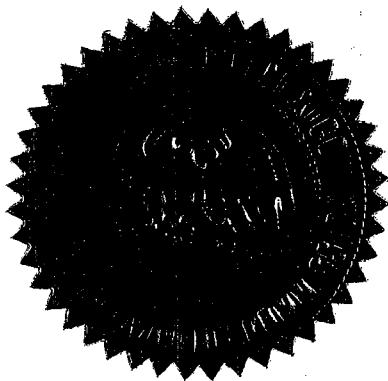
1. The Commission hereby adopts the amendments to Rules 104 [19.15.3.104 NMAC] and 701 [19.15.9.701 NMAC] of the Oil Conservation Division rules shown in Exhibit A, effective as of the date of publication thereof in the New Mexico Register.

2. Oil Conservation Division staff is instructed to secure prompt publication of the referenced rule amendments in the New Mexico Register.

3. The Commission retains jurisdiction of this matter for entry of such further orders as may be necessary.

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

**STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION**



  
**MARK E. FESMIRE, P.E., CHAIR**

  
**JAMI BAILEY, CPG, MEMBER**

**FRANK T. CHAVEZ, MEMBER**

**SEAL**



**EXHIBIT A**  
**to ORDER NO. R-12303-A**

**19.15.3.104 WELL SPACING AND LOCATION:**

**B. OIL WELL ACREAGE AND WELL LOCATION REQUIREMENTS.**

(1) Any wildcat well that is projected to be drilled as an oil well to a formation and in an area that in the opinion of the division may reasonably be presumed to be productive of oil rather than gas and each development well for a defined oil pool, unless otherwise provided in special pool orders, shall be located on a spacing unit consisting of approximately 40 contiguous surface acres substantially in the form of a square which is a legal subdivision of the U.S. Public Land Surveys, which is a governmental quarter-quarter section or lot, and shall be located no closer than 330 feet to any boundary of such unit. Only those 40-acre spacing units committed to active secondary recovery projects shall be permitted more than four wells.

(2) If a well drilled as an oil well is completed as a gas well but does not conform to the applicable gas well location rules, the operator must apply for administrative approval for a non-standard location before the well can produce. The Director may set any such application for hearing.

**C. GAS WELL ACREAGE AND WELL LOCATION REQUIREMENTS.**

Any wildcat well that is projected to be drilled as a gas well to a formation and in an area that in the opinion of the division may reasonably be presumed to be productive of gas rather than oil and each development well for a defined gas pool, unless otherwise provided in special pool orders, shall be spaced and located as follows:

(1) 640-Acre Spacing applies to any deep gas well in Rio Arriba, San Juan, Sandoval or McKinley County that is projected to be drilled to a gas producing formation older than the Dakota formation or is a development well within a gas pool created and defined by the division after June 1, 1997 in a formation older than the Dakota formation, which formation or pool is located within the surface outcrop of the Pictured Cliffs formation (i.e., the San Juan Basin). Such well shall be located on a spacing unit consisting of 640 contiguous surface acres, more or less, substantially in the form of a square which is a section and legal subdivision of the U.S. Public Land Surveys and shall be located no closer than: 1200 feet to any outer boundary of the spacing unit, 130 feet to any quarter section line, and 10 feet to any quarter-quarter section line or subdivision inner boundary.

(2) 320-Acre Spacing applies to any deep gas well in Lea, Chaves, Eddy or Roosevelt County, defined as a well that is projected to be drilled to a gas producing formation or is within a defined gas pool in the Wolfcamp or an older formation. Such well shall be located on a spacing unit consisting of 320 surface contiguous acres, more or less, comprising any two contiguous quarter sections of a single section that is a legal subdivision of the U.S. Public Land Surveys provided that:

(a) the initial well on a 320-acre unit is located no closer than 660 feet to the outer boundary of the quarter section on which the well is located and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary;

(b) only one infill well on a 320-acre unit shall be allowed provided that the well is located in the quarter section of the 320-acre unit not containing the initial well and is no closer than 660 feet to the outer boundary of the quarter section and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary; and

~~(c) the division designated operator for the infill well is the same operator currently designated by the division for the initial well~~

(3) 160-Acre Spacing applies to any other gas well not covered above. Such well shall be located in a spacing unit consisting of 160 surface contiguous acres, more or less, substantially in the form of a square which is a quarter section and a legal subdivision of the U.S. Public Land Surveys and shall be located no closer than 660 feet to any outer boundary of such unit and no closer than 10 feet to any quarter-quarter section or subdivision inner boundary.

#### **D. ACREAGE ASSIGNMENT.**

(1) Well Tests and Classification. It is the responsibility of the operator of any wildcat or development gas well to which more than 40 acres has been dedicated to conduct a potential test within 30 days following completion of the well and to file the test with the division within 10 days following completion of the test. (See Rule 401)

(a) The date of completion for a gas well is the date of the conclusion of active completion work on the well.

(b) If the division determines that a well should not be classified as a gas well, the division will reduce the acreage dedicated to the well to the standard acreage for an oil well.

(c) Failure of the operator to file the test within the specified time will also subject the well to such acreage reduction.

(2) Non-Standard Spacing Units. Any well that does not have the required amount of acreage dedicated to it for the pool or formation in which it is completed may not be produced until a standard spacing unit for the well has been formed and dedicated or until a non-standard spacing unit has been approved.

(a) Division District Offices have the authority to approve non-standard spacing units without notice when the unorthodox size or shape is necessitated by a variation in the legal subdivision of the U. S. Public Land Surveys and/or consists of an entire governmental section and the non-standard spacing unit is not less than 70% or more than 130% of a standard spacing unit. The operator must obtain division approval of division Form C-102 showing the proposed non-standard spacing unit and the acreage contained therein.

(b) The Director may grant administrative approval to non-standard spacing units after notice and opportunity for hearing when an application has been filed and the unorthodox size or shape is necessitated by a variation in the legal subdivision of the U.S. Public Land Surveys or the following facts exist:

(i) the non-standard spacing unit consists of: (A) a single quarter-quarter section or lot or (B) quarter-quarter sections or lots joined by a common side; and

(ii) the non-standard spacing unit lies wholly within: a single quarter section if the well is completed in a pool or formation for which 40, 80, or 160 acres is the standard spacing unit size; a single half section if the well is completed in a pool or formation for which 320 acres is the standard spacing unit size; or a single section if the well is completed in a pool or formation for which 640 acres is the standard spacing unit size.

(c) Applications for administrative approval of non-standard spacing units pursuant to Subsection D, Paragraph (2), Subparagraph (b) of 19.15.3.104 NMAC shall be submitted to the division's Santa Fe Office and accompanied by: (i) a plat showing the spacing unit and an applicable standard spacing unit for that pool or formation, the proposed well dedications and all adjoining spacing units; (ii) a list of affected persons as defined in Rule 1207.A (2); and (iii) a statement discussing the reasons for the formation of the non-standard spacing unit.

(d) The applicant shall submit a statement attesting that the applicant, on or before the date the application was submitted to the division, sent

notification to the affected persons by submitting a copy of the application, including a copy of the plat described in Subparagraph (c) above, by certified mail, return receipt requested, advising them that if they have an objection it must be filed in writing within 20 days from the date the division receives the application. The Director may approve the application upon receipt of waivers from all the notified persons or if no person has filed an objection within the 20-day period.

(e) The Director may set for hearing any application for administrative approval.

(3) Number of Wells Per Spacing Unit. Exceptions to the provisions of statewide rules or special pool orders concerning the number of wells allowed per spacing unit may be permitted by the Director only after notice and opportunity for hearing. Notice shall be given to those affected persons defined in Rule 1207.A (2).

#### **E. FORMS**

~~Form C-102 "Well Location and Acreage Dedication Plat" for any well shall designate the exact legal subdivision dedicated to the well. Form C-101 "Application for Permit to Drill, Deepen, or Plug Back" will not be approved without an acreage designation on Form C-102.~~

#### **SPECIAL RULES FOR MULTIPLE OPERATORS WITHIN A SPACING UNIT**

(1) Allowable production. If an operator completes a well in an oil pool or prorated gas pool, located within a proration unit containing an existing well or wells producing from that pool and operated by a different operator, unless otherwise agreed by all operators of wells producing from that proration unit, the allowable production from such newly completed well shall not exceed the difference between the allowable production for such proration unit and the actual production from such pool of the existing well or wells within such proration unit. The division may authorize exceptions to this provision after hearing following appropriate notice.

(2) Notice requirements. Any operator who intends to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall, prior to filing the application for permit to drill, deepen or plug back for such well, furnish written notification of its intent to the operator of each such existing well, and, if the unit includes state or federal minerals, to the State Land Office or United States Bureau of Land Management, as applicable; provided that separate notification to the Bureau of Land Management shall not be required if the application will be filed with that agency pursuant to 19.15.1.14 NMAC. Such notices shall be sent by certified mail, return receipt requested, and

shall specify the location and depth of the proposed well. The applicant shall submit with its application for permit to drill, deepen or plug back either (a) a statement attesting that, at least twenty days before the date that the application was submitted to the division, it sent notices to the designated parties, by certified mail, return receipt requested, advising them that if they have an objection a written statement thereof must be delivered to the proposing operator within twenty days of the date such notice was mailed, and that it has received no such objection, or (b) written waivers from all persons required to be notified (approval of the application by the United States Bureau of Land Management being deemed equivalent to waiver by that agency). In event of objection, the application may be approved only after hearing.

(3) Transfer of Wells. If an operator transfers operation of less than all of its wells located within a spacing or proration unit to another operator, and such spacing unit includes any state or federal minerals, the operator shall, prior to filing form C-104A to effectuate such transfer, provide written notification to the State Land Office or United States Bureau of Land Management, as applicable, of such transfer.

(4) Compulsory pooled units. No provision of 19.15.3.104 NMAC shall authorize the operation of any producing well within a unit described in an existing compulsory pooling order by any operator other than the operator designated in such order.

(5) Federal or state exploratory units. No provision of 19.15.3.104 NMAC shall authorize the operation of any producing well within any federal exploratory unit or state exploratory unit by an operator other than the designated operator of such unit except as provided in the rules of the United States Bureau of Land Management or State Land Office applicable to such unit.

**F. through I. [Unchanged]**

## **19.15.9.701 INJECTION OF FLUIDS INTO RESERVOIRS**

### **F. Pressure Maintenance Projects**

- (1) Pressure maintenance projects are defined as those projects in which fluids are injected into the producing horizon in an effort to build up and/or maintain the reservoir pressure in an area which has not reached the advanced or "stripper" state of depletion.
- (2) All applications for establishment of pressure maintenance projects shall be set for hearing. The project area and the allowable formula for any pressure maintenance project shall be fixed by the Division on an individual basis after notice and hearing.

- (3) Pressure maintenance projects may be expanded and additional wells placed on injection only upon authority from the Division after notice and hearing or by administrative approval.
- (4) The Division Director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for the conversion to injection of additional wells within a project area provided that any such well is necessary to develop or maintain efficient pressure maintenance within such project and provided that no objections are received pursuant to Subsection C of 19.15.9.701 NMAC.
- (5) An established pressure maintenance project shall have only one designated operator. Any application for exception must be set for hearing.

**G. Water Flood Projects**

- (1) Water flood projects are defined as those projects in which water is injected into a producing horizon in sufficient quantities and under sufficient pressure to stimulate the production of oil from other wells in the area, and shall be limited to those areas in which the wells have reached an advanced state of depletion and are regarded as what is commonly referred to as "stripper" wells.
- (2) All applications for establishment of water flood projects shall be set for hearing.
- (3) The project area of a water flood project shall comprise the proration units owned or operated by a given operator upon which injection wells are located plus all proration units owned or operated by the same operator which directly or diagonally offset the injection tracts and have producing wells completed on them in the same formation; provided however, that additional proration units not directly nor diagonally offsetting an injection tract may be included in the project area if, after notice and hearing, it has been established that such additional units have wells completed thereon which have experienced a substantial response to water injection.
- (4) The allowable assigned to wells in a water flood project area shall be equal to the ability of the wells to produce and shall not be subject to the depth bracket allowable for the pool nor to the market demand percentage factor.
- (5) Nothing herein contained shall be construed as prohibiting the assignment of special allowables to wells in buffer zones after notice and hearing. Special allowables may also be assigned in the limited instances where it

is established at a hearing that it is imperative for the protection of correlative rights to do so.

- (6) Water flood projects may be expanded and additional wells placed on injection only upon authority from the Division after notice and hearing or by administrative approval.
- (7) The Division Director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for conversion to injection of additional wells provided that any such well is necessary to develop or maintain thorough and efficient water flood injection for any authorized project and provided that no objections are received pursuant to Subsection C of 19.15.9.701 NMAC.
- (8) An established water flood project shall have only one designated operator. Any application for exception must be set for hearing.