

**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. 13307
ORDER NO. R-12200**

**APPLICATION OF NM & O OPERATING COMPANY FOR COMPULSORY
POOLING, RIO ARRIBA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on August 19, 2004, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 25th day of August, 2004, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and its subject matter.

(2) NM & O Operating Company ("NM&O" or "Applicant") seeks an order pooling all uncommitted mineral interests in the Blanco-Mesaverde Pool (72319) underlying Lots 3 and 4, the S/2 NW/4, and the SW/4 (W/2 equivalent) of Section 1, Township 24 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, in order to form a standard 325.06-acre stand-up gas spacing and proration unit ("GPU") for this pool. This GPU is to be dedicated to the Applicant's existing Federal Invader Well No. 1 (API No. 30-039-23976), located at a standard Blanco-Mesaverde gas well location 1040 feet from the North line and 850 feet from the West line (Lot 4/Unit D) of Section 1.

(3) This application was filed pursuant to Division Rules 1207.A (1) (b), (c), and (d), and was advertised such that this case would be taken under advisement in the absence of objection. The Applicant was represented by legal counsel at the hearing.

(4) The Applicant is a working interest owner within the proposed 325.06-acre stand-up GPU and therefore has the right to develop this acreage and to recover gas underlying the same.

(5) Two or more separately owned tracts are embraced within the proposed GPU, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the GPU that are separately owned. Despite Applicant's good faith efforts, a certain party owning approximately 2.05% of the total mineral interests in the GPU has not agreed to pool their interests.

(6) No party affected by this application appeared at the hearing or objected to this application.

(7) Division records indicate the above-described Federal Invader Well No. 1 was drilled to a total depth of 8,104 feet in 1986 by Mesa Grande Resources, Inc. of Tulsa, Oklahoma and subsequently completed in the Gavilan Mancos Oil Pool (27194) at a standard oil well location. The Mancos interval was abandoned in December, 1992 by NM&O, who became the operator in 1988, and the well was recompleted up-hole into the Basin-Fruitland Coal (Gas) Pool (71629) at a location considered unorthodox at that time (see Division Administrative Order NSL-3785, dated April 14, 1997). In April, 2002 NM&O recompleted this well in the Blanco-Mesaverde interval.

(8) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste, and afford to the owner of each interest in the GPU the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within this GPU.

(9) NM&O should be designated the operator of the subject well and of the GPU.

(10) Pursuant to Division Rule 35.A, any pooled working interest owner that does not pay its share of actual well costs should have withheld from production its share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the recompletion of the above-described Federal Invader Well No. 1.

(11) Reasonable charges for supervision (combined fixed rates) should be fixed at \$ 4,508.00 per month while recompleting and \$ 550.00 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3 of the COPAS form titled "*Accounting Procedure-Joint Operations.*" The operator should be authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each pooled working interest.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of NM & O Operating Company ("NM&O" or "Applicant"), all uncommitted mineral interests, whatever they may be, in the Blanco-Mesaverde Pool (72319) underlying Lots 3 and 4, the S/2 NW/4, and the SW/4 (W/2 equivalent) of Section 1, Township 24 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a standard 325.06-acre stand-up gas spacing and proration unit ("GPU").

(2) This GPU is to be dedicated to the Applicant's existing Federal Invader Well No. 1 (API No. 30-039-23976), located at a standard Blanco-Mesaverde gas well location 1040 feet from the North line and 850 feet from the West line (Lot 4/Unit D) of Section 1.

(3) NM&O is hereby designated the operator of the proposed well and of this GPU.

(4) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the GPU, including unleased mineral interests, who are not parties to an operating agreement governing this GPU.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the GPU an itemized schedule of actual well costs.

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

(6) 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 the schedule described in the forgoing paragraph, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of actual well costs in advance as provided above shall receive from the operator its share of the amount, if any, that the actual well costs that it has paid exceeds its share of reasonable well costs.

(8) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in recompleting the well, 200 percent of the above costs (see Division Rule 35.A).

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

(10) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$ 4,508.00 per month while recompleting and \$ 550.00 per month while producing, provided that this rate shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is hereby authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each pooled working interest owners.

(11) Except as provided in Ordering Paragraphs (8) and (10) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Rio Arriba 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

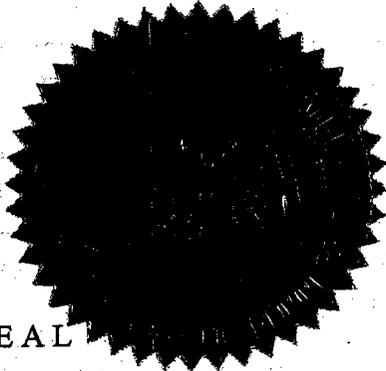
(12) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

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

(14) The operator of the above-described well and GPU shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this Order.

(15) Jurisdiction of this case 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Handwritten signature of Mark E. Fesmire, P. E.

MARK E. FESMIRE, P. E.
Director