

**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.

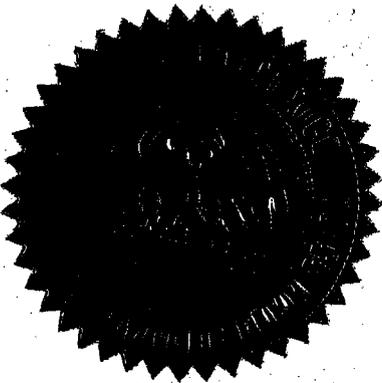
IT IS THEREFORE ORDERED:

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.

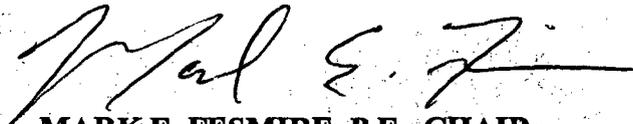
2. Oil Conservation Division staff is instructed to secure prompt publication of the referenced rule amendments in the New Mexico Register.

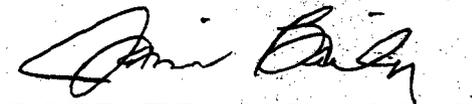
3. The Commission retains jurisdiction of this matter for entry of such further orders as may be necessary.

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.