

**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. 15922  
ORDER NO. R-14588**

**APPLICATION OF SOJOURNER DRILLING CORPORATION FOR  
COMPULSORY POOLING, CURRY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on January 11, 2018, at Santa Fe, New Mexico, before Examiner Michael A. McMillan.

NOW, on this 14<sup>th</sup> day of February, 2018, 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 the subject matter.

(2) Sojourner Drilling Corporation (the "Applicant") seeks to compulsory pool all uncommitted interests in the oil and gas underlying a standard 160-acre gas spacing unit (the "Unit") in the Canyon formation, WC-009 N063434G; Canyon (Gas) Pool (Pool code 98216), comprising the NE/4 of Section 34, Township 6 North, Range 34 East NMPM, Curry County, New Mexico.

(3) The Unit will be dedicated to Applicant's Frio Lands Well No. 1 (the "proposed well"; API No. 30-009-20027), a vertical well to be drilled 1929 feet from the North line and 1962 feet from the East line (Unit G) of Section 34, Township 6 North, Range 34 East, NMPM, Curry County New Mexico. The well location will be standard for gas production within the Unit.

(4) The proposed gas well is within the WC-009 N063434G; Canyon (Gas) Pool and is subject to Division Rule 19.15.15.10 (C) NMAC, which provides for 660-foot

setbacks from the unit boundaries and standard 160-acre units each comprising a governmental quarter section.

(5) Applicant appeared through counsel and presented the following land and geologic evidence:

What is this called?

Findings  
HP (5/12)

- (a) the Canyon formation is the primary completion target;
- (b) the Canyon formation is the only formation to be pooled;
- (c) the Applicant plans to test all prospective zones based on mudlogs and electric logs;
- (d) the proposed well is a rank wildcat, and there are no producing oil or gas wells within the entire county;
- (e) Applicant requested charges for supervision (combined fixed rates) should be fixed at \$10,000 per month while drilling and \$1,600 per month while producing, provided that these rates should be adjusted annually pursuant to the overhead provisions of the COPAS form titled "Accounting Procedure-Joint Operations." These rates are requested because the proposed well is a great distance from existing infrastructure including distance between the Applicant's office and the proposed location.
- (f) Applicant reached a preliminary agreement with Linda Powell, and the only parties subject to the compulsory pooling are ~~Linda Richter~~ and the Northern Trust, as trustees of the Evelyn Richter Trust; and ~~B. Wallace~~ <sup>Company</sup> ~~Richter~~ <sup>B. Wallace</sup>
- (g) Actual notice was provided by certified mail to all interest owners subject to pooling proceedings.

Evelyn  
~~Richter~~  
B. Wallace  
Richter

(6) The Northern Trust Company, Travis Walne, and Linda Powell entered an appearance in this case, and were represented at the hearing by counsel, and cross-examined the witnesses. No other party entered an appearance or otherwise opposed this application.

The Division concludes as follows:

(7) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(8) Applicant is owner or affiliate of an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

(9) There are interest owners in the Unit that have not agreed to pool their interests.

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

(11) Ms. Linda Powell has signed an oil and gas lease with GM Energy. GM Energy has a voluntary agreement with Sojourner Drilling Corporation.

(12) Sojourner Drilling Corporation should be designated the operator of the proposed well and the Unit.

(13) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well.

(14) The requested charges for supervision (combined fixed rates) of \$10,000 per month while drilling and \$1,600 per month while producing, are substantially above approved overhead and drilling charges normally approved by the Division. The remoteness of the location and great distance from known infrastructure is not a valid reason for the requested rates. The Applicant did not present testimony of known drilling hazards. Further, the lack of support services is not a valid reason.

(15) Most costs occasioned by remoteness of infrastructure and need for support services and personnel should be part of the Authority for Expenditure (AFE), and not part of supervision costs. These charges should include but not necessarily limited to extra costs associated with supervision, water hauling, and sand hauling. Also costs associated by facilities and meters should be included in the AFE.

(16) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month while drilling and \$750 per month while producing, provided that these rates should be adjusted annually pursuant to the overhead provisions of the COPAS form titled "Accounting Procedure-Joint Operations."

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Sojourner Drilling Corporation, all uncommitted interests, whatever they may be, in the oil and gas underlying a standard 160-acre gas spacing unit (the "Unit") in the Canyon formation, WC-009 N063434G; Canyon (Gas) Pool (Pool code 98216), comprising the NE/4 of Section 34, Township 6 North, Range 34 East NMPM, Curry County, New Mexico, are hereby pooled.

(2) The Unit shall be dedicated to Applicant's Frio Lands Well No. 1 (the "proposed well"; API No. 30-009-20027), a vertical well to be drilled 1929 feet from the North line and 1962 feet from the East line (Unit G) of Section 34, Township 6 North, Range 34 East, NMPM. The location of the well will be standard for gas production within the Unit.

(3) The operator of the Unit shall commence drilling the proposed well on or before February 28, 2019, and shall thereafter continue drilling the proposed well with due diligence to test the Canyon formation.

(4) In the event the operator does not commence drilling the proposed well on or before February 28, 2019, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraph (1) shall be of no further effect, and the Unit created by this order shall terminate, unless operator submits a written request for an extension for good cause supported by satisfactory evidence, and the Division approves the request in writing.

(6) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled Unit shall terminate, unless this Order has been amended to authorize further operations.

(7) Sojourner Drilling Corporation (OGRID 270717) is hereby designated the operator of the well and the Unit.

(8) 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 Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated 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 estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed 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 the schedule, 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.

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

(12) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of production from each well:

- (a) The proportionate share of reasonable well costs attributable to such non-consenting working interest owner; and
- (b) As a charge for the risk involved in drilling the well, 200% of the above costs.

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

(14) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,500 per month while drilling and \$750 per month while producing, provided that these rates shall be adjusted annually pursuant to the overhead provisions of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not more than what are reasonable, attributable to pooled working interest owners.

(15) Except as provided above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 7-8A-31, as amended).

(16) 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.

(17) Should all the parties to this compulsory pooling order reach voluntary agreement after entry of this order, this order shall thereafter be of no further effect.

(18) The operator of the well and the Unit shall notify the Division in writing of the subsequent voluntary agreement of parties subject to the compulsory pooling provisions of this order.

(19) 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.



STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
HEATHER RILEY  
Director

## McMillan, Michael, EMNRD

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**From:** Brooks, David K, EMNRD  
**Sent:** Monday, February 19, 2018 5:07 PM  
**To:** McMillan, Michael, EMNRD  
**Cc:** Jones, William V, EMNRD  
**Subject:** RE: Case 15922, Order R-14588 Application of Sojourner Drilling Corporation for Compulsory Pooling

Change the order number to R-14588-A-*nunc pro tunc*. Make the requested corrections. Add a paragraph that says: "This amended Order is being issued to correct clerical errors in original Order R-14588, and shall be effective as of the date the original order was issued."

**From:** McMillan, Michael, EMNRD  
**Sent:** Thursday, February 15, 2018 11:48 AM  
**To:** Brooks, David K, EMNRD <DavidK.Brooks@state.nm.us>  
**Subject:** FW: Case 15922, Order R-14588 Application of Sojourner Drilling Corporation for Compulsory Pooling

I am not sure how to proceed.  
I copied the transcripts for that portion in question.  
I can provide the testimony for you  
Mike

**From:** Karen Aubrey [<mailto:ka@karenaubreylaw.com>]  
**Sent:** Thursday, February 15, 2018 10:50 AM  
**To:** McMillan, Michael, EMNRD <[Michael.McMillan@state.nm.us](mailto:Michael.McMillan@state.nm.us)>  
**Cc:** [jamesbruc@aol.com](mailto:jamesbruc@aol.com); 'Robert Key' <[robertkey@verizon.net](mailto:robertkey@verizon.net)>; James Gilbert <[jbgilbert98@yahoo.com](mailto:jbgilbert98@yahoo.com)>; [pam@karenaubreylaw.com](mailto:pam@karenaubreylaw.com); Davidson, Florene, EMNRD <[florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)>; 'R. Max Best' <[max@rmaxlaw.com](mailto:max@rmaxlaw.com)>  
**Subject:** Case 15922, Order R-14588 Application of Sojourner Drilling Corporation for Compulsory Pooling

Dear Examiner McMillan:

My letter of today is attached.

Sincerely,

*Karen Aubrey*  
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