

**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. 13890  
ORDER NO. R-12763**

**APPLICATION OF ENERGEN RESOURCES CORPORATION FOR COMPULSORY  
POOLING AND AN EXCEPTION TO RULE 2 OF THE SPECIAL POOL RULES FOR  
THE WEST LINDRITH-GALLUP-DAKOTA OIL POOL FOR DESIGNATION OF A  
NON-STANDARD SPACING UNIT, RIO ARRIBA COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on March 15, 2007, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 8<sup>th</sup> day of June, 2007, 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 of the subject matter.

(2) Energen Resources Corporation ("applicant" or "Energen"), seeks an order pooling all uncommitted mineral interests in the Gallup and Dakota formations underlying Lots 3 and 4 and the NW/4 of irregular Section 1, Township 24 North, Range 4 West, NMPM, Rio Arriba County, New Mexico, forming a non-standard 216.76-acre, more or less, oil spacing unit in the West Lindrith-Gallup-Dakota Oil Pool (39189).

The above-described unit ("the Unit") is to be dedicated to the applicant's Jicarilla 126S Well No. 1E (API No. 30-039-30040), to be located at a standard well location 2535 feet from the North line and 1735 feet from the West line (Unit F) of irregular Section 1.

(3) No other parties entered an appearance or otherwise opposed this application.

(4) 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.

(5) Applicant is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and has proposed to drill its Jicarilla 126S Well No. 1E to a common source of supply at a depth of 7800 feet within Unit F of irregular Section 1.

(6) Commission Order No. R-4314-A effective on January 7, 1988 amended the Special Pool Rules for the West Lindrith-Gallup-Dakota Oil Pool. Rule 2 of those rules states that each well shall be located on a standard unit containing 160 acres, more or less, consisting of a governmental quarter section. Rule 3 of those rules allows the Division Director to grant exceptions to the 160-acre unit size requirement if the shape is due to a variation in the legal subdivision land survey, proper notice is provided to all offsetting operators, and objection is not received.

(7) Division Rule 104D.(2) governs in general how the Division may allow non-standard spacing units. The proposed 216.76-acre, more or less, oil spacing unit is more than 130 percent of the 160-acre standard spacing unit size and therefore can only be approved after notice and hearing.

(8) Applicant appeared at the hearing and presented land testimony as follows.

(a) The operator has made a good faith attempt to notify all interest owners in the NW/4 of Section 1 of the proposed oil spacing unit and of this hearing to request the unit be compulsory pooled.

(b) Pertaining to the non-standard oil spacing unit, Energen has provided notice to all operators of surrounding oil spacing units within this pool as is required under Division rules but has not provided notice to the working interest owners within offset spacing units operated by Energen as is commonly required by the Division.

(c) The 216.76-acre, more or less, size of this acreage has not been legally surveyed, but has been independently surveyed and has in the past been accepted as the actual size by the Bureau of Indian Affairs.

(d) This is part of a Jicarilla Apache lease, and the drilling of this well was prompted by demands from the United States Bureau of Land Management.

(e) The National Energy Group, Inc. is the only party being pooled. It is the successor to Edwards & Leach Oil Company (now defunct), and the assignments were never done to the successor corporation, so no party can sign on behalf of Edwards & Leach Oil Company.

(9) Applicant's notice provided to parties affected by the proposed non-standard oil spacing unit is adequate, and no objection has been received.

(10) Applicant's proposal to form a 216.76-acre, more or less, non-standard oil spacing unit within Lots 3 and 4 and the NW/4 of irregular Section 1 for Gallup-Dakota formation oil production within the West Lindrith-Gallup-Dakota Oil Pool should be approved.

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

(12) 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 its 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.

(13) Applicant should be designated the operator of the proposed well and of the Unit.

(14) 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 well.

(15) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,000 per month while drilling and \$570 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*."

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Energen Resources Corporation ("applicant" or "Energen"), all uncommitted mineral interests, whatever they may be, in the oil and gas within the Gallup and Dakota formations underlying Lots 3 and 4 and the NW/4 of irregular Section 1, Township 24 North, Range 4 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled, forming a non-standard 216.76-acre, more or less, oil spacing unit in the West Lindrith-Gallup-Dakota Oil Pool (39189).

The above-described unit ("the Unit") shall be dedicated to the applicant's Jicarilla 126S Well No. 1E (API No. 30-039-30040), to be located at a standard well location 2535 feet from the North line and 1735 feet from the West line (Unit F) of irregular Section 1.

(2) Energen is hereby granted approval to form a 216.76-acre, more or less, non-standard oil spacing unit within Lots 3 and 4 and the NW/4 of irregular Section 1 for production from the Gallup and Dakota formations within the West Lindrith Gallup-Dakota Oil Pool.

(3) The operator of the Unit shall commence drilling the proposed well on or before September 1, 2007 and shall thereafter continue drilling the well with due diligence to test the Dakota formation at approximate total depth of 7800 feet.

(4) In the event the operator does not commence drilling the proposed well on or before September 1, 2007, Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraphs (1) and (2) shall be of no further effect, and the unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(6) Upon final plugging and abandonment of the Jicarilla 126S Well No. 1E, the pooled unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(7) Energen Resources Corporation (OGRD 162928) is hereby designated the operator of the proposed well and of 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 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 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) are hereby fixed at \$5,000 per month while drilling and \$570 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. 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 in excess of what are reasonable, attributable to pooled working interest owners.

(15) Except as provided in Ordering Paragraphs (12) and (14) 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.

(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 subsequent to entry of this order, the compulsory pooling portion of this order shall thereafter be of no further effect.

(18) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced 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.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.  
Director