

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:

**APPLICATION OF TEXACO EXPLORATION
AND PRODUCTION INC. FOR COMPULSORY
POOLING, A HIGH ANGLE/HORIZONTAL
DIRECTIONAL DRILLING PILOT PROJECT,
AN UNORTHODOX GAS WELL LOCATION,
AND SPECIAL OPERATING RULES THEREFOR,
LEA COUNTY, NEW MEXICO.**

CASE NO. 11656

**APPLICATION OF BURLINGTON RESOURCES
OIL & GAS COMPANY FOR COMPULSORY POOLING
LEA COUNTY, NEW MEXICO.**

CASE NO. 11678
ORDER NO. R-_____

**TEXACO EXPLORATION AND PRODUCTION INC.'S
PROPOSED ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a. m. on December 20, 1996, in Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this ____ day of February, 1997, 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) The applicant in Case No. 11656, Texaco Exploration and Production Inc. ("Texaco"), seeks an order pooling all mineral interests underlying the SW/4 of Section 23, Township 26 South, Range 37 East, NMPM, Lea County, New Mexico, as the "Project Area" for its proposed Rhodes "23" Federal Com No. 1 Well to be directionally drilled from a surface location 660 feet from the South line and 1100 feet from the West line of said Section 23 in a northwesterly direction in the Yates formation, Rhodes Gas Pool, Lea County, New Mexico. Texaco proposes to drill two laterals in this well in the Middle Yates formation: one 500 feet in length in Sand 4 and another approximately 1392 feet in length in Sand 6 of the Middle Yates formation. The laterals will be at all times in the "Producing Area" for this well which is a target window no closer than 660 feet to the outer boundary of the Project Area.

(3) The applicant in Case No. 11678, Burlington Resources Oil & Gas Company ("Burlington"), seeks an order pooling all mineral interests in the SW/4 of Section 23, Township 26 South, Range 37 East, To be dedicated to its proposed Rhodes "23" Federal Com Well No. 1. to be drilled at a standard location in the SW/4 of Section 23 to test the Yates formation, Rhodes Gas Pool, Lea County, New Mexico.

(4) The cases were consolidated for the purpose of hearing. A single order should be entered in these cases since the granting of one application will require the denial of the other.

POOL RULES AND OFFSET DEVELOPMENT

(5) The SW/4 of said Section 23 is located in the Rhodes Gas Pool which is developed under statewide rules that provide for 160-acre spacing units and require wells be located at least 660 feet from the outer boundary of the unit.

(6) The SW/4 of Section 23 is offset to the South and the West by tracts that are operated by Burlington and in which Burlington owns 100% of the working interest as follows:

- (A) the NW/4 of Section 26, Township 26 South, Range 37 East, located in the Rhodes Oil Pool, which is developed under statewide rules that provide for 40-acre spacing or proration units and require wells to be located at least 330 feet from the outer boundary of the unit.

Burlington operates two wells in the NW/4 of Section 26:

- (1) The Rhodes "B" Federal No. 1, located in the SW/4 NW/4 of Section 26, and
 - (2) The Rhodes "B" Federal No. 7 which Burlington drilled in the NE/4 NW/4 of Section 26 at a location 330 feet from the North line of the Section 26 (330 feet from the subject acreage) in early 1996,
- (B) the SE/4 of Section 22, Township 26 South, Range 37 East, located in the Rhodes Gas Pool, which is developed on 160-acre spacing and is dedicated to the Burlington W. H. Rhodes Federal No. 4A located in the NE/4 SE/4 of said Section 22.

OWNERSHIP IN THE SUBJECT SPACING UNIT

- (7) The working interest ownership in the SW/4 of Section 23 is as follows:

Texaco Exploration and Production Inc.	50%
Burlington Resources Oil and Gas Company	48.046875%
Larry A. Nermyr	0.781250%
James E. Burr	0.781250%
Ruth Sutton	0.390625%

(8) James E. Burr and Ruth Sutton have voluntarily committed their working interest to Texaco's proposal for development of this tract. Accordingly, in this case, Texaco represents 51.171875% of the working interest in the SW/4 of said Section 23.

NEGOTIATIONS BETWEEN THE PARTIES

(9) In early 1996, Texaco proposed a well in the SW/4 of Section 23 and, being unable to reach voluntary agreement with the owner of other working interest owners in this unit, commenced a compulsory pooling action (Case 11475).

- (10) Burlington acquired the interest of Hartman in mid-1996. The SW/4 of Section

23 was under a Joint Operating Agreement which gave Burlington the right to drill a well thereon and operate this spacing unit. The Joint Operating Agreement expired on August 1, 1996.

(11) Texaco called a meeting with Burlington on August 14, 1996 to discuss the development of this spacing unit. At the meeting, Texaco proposed that Burlington develop this spacing unit by drilling two vertical wells or, in the alternative, one horizontal well. Although Burlington was given until September 13 to propose a well, no well was proposed.

(12) By letter dated October 9, 1996, Texaco proposed the horizontal well which is the subject of Case 11656 to Burlington and enclosed an AFE, and offered to let Burlington participate in the well or sell or assign its interest to Texaco. (Texaco Exhibit 3). Burlington did not respond to the Texaco proposal and on November 21, 1996 Texaco advised Burlington that it would proceed with a compulsory pooling application.

(13) Texaco filed its compulsory pooling application on October 29, 1996 and thereafter Burlington filed its competing pooling application.

WELL PROPOSALS

(14) Texaco presented the following evidence in support of its proposed horizontal well:

- (A) The primary objectives for a commercial well in the subject spacing unit is comprised of two sand packages that will be penetrated by the proposed laterals in the Texaco well (Testimony of Sadler, Texaco Exhibit 6),
- (B) Each of these sand packages is comprised of a number of sand stringers that are not continuous across the spacing unit (Testimony of Sadler, Texaco Exhibits 8, 9 and 10),
- (C) The proposed horizontal well bore will have a better chance of intersecting these sands than a vertical well (Testimony of Sadler and Wolle),
- (D) If a horizontal well is not drilled, two vertical wells will be needed to

develop this spacing unit (Testimony of Wolle),

- (E) The cost of drilling two vertical wells on this unit is approximately the same as the cost of the horizontal well (Testimony of Wolle),
- (F) The drilling of a horizontal well on this tract will avoid possible problems with the surface in the northern portion of the unit which is covered with sand dunes (Testimony of Swierc and Wolle), and
- (G) Texaco intends to drill and operate the proposed well and produce the reserves which are recoverable from this spacing unit (Testimony of Lanning and Wolle)

(15) In support of its proposed single vertical well, Burlington presented the following evidence:

- (A) Wells completed in each of the principal sand packages in the Yates formation under the subject spacing unit location will have very limited drainage areas and, will not be drained by the Burlington well which offsets this unit 330 feet to the South. Accordingly, there is "no urgency" to drill wells on this spacing unit (Testimony of Szantay),
- (B) That a vertical well will more efficiently contact the Yates sands under the spacing unit than a horizontal well (Testimony of Settle and Szantay),
- (C) That a single vertical well will cost approximately half of the cost of a single horizontal well (Testimony of Szantay),
- (D) That a second vertical well could be drilled on this acreage if needed but that decision should be made after the first well is drilled and additional information is available on this spacing unit (Testimony of Szantay),
- (E) That Burlington may not own an interest in this spacing unit when a decision needs to be made on the drilling of additional wells on this unit for **Burlington is trying to sell its interest in this tract** (Testimony of

Swierc and Szantay).

(16) The evidence established that:

- (A) Texaco has been attempting to obtain voluntary agreement for the development of the SW/4 of Section 23 since at least January 1996,
- (B) Burlington had the opportunity under a Joint Operating Agreement, and later by agreement of the parties, to drill on this spacing unit but failed to do so,
- (C) Texaco now proposes to drill a horizontal well to develop the reserves under this spacing unit,
- (D) While Burlington proposes to develop this spacing unit with one vertical well, its own evidence demonstrated that this will not effectively drain this spacing unit for it presented evidence that one well would only drain a small portion of this spacing unit.
- (E) More than one vertical well is required to drain the reserves under this spacing unit,
- (F) The proposed high angle/horizontal directional drilling pilot project in the Rhodes-Yates Seven Rivers Gas Pool in the SW/4 of said Section 23 and the horizontal well bore to be drilled thereon will have a better chance of intersecting the sand stringers in the Yates formation under this spacing unit than a vertical well,
- (G) The cost of a horizontal well bore is approximately the same as the cost of drilling two vertical wells on this spacing unit,
- (H) Two horizontal laterals will have a greater opportunity to intersect the discontinuous sand stringers in the Yates formation under this spacing unit than either a single vertical well or two vertical wells,

(17) Texaco (a) having first proposed the well within the subject 160-acre spacing

unit, (b) being the largest interest owner in the spacing unit and, having obtained the voluntary joinder in its proposal of two other interest owners in the spacing unit, representing 51.171875% of the working interest in the spacing unit, (c) having afforded Burlington 5 months within which to drill a well and Burlington having failed to do so (d) having proposed a horizontal well which will intersect more of the producible sand stringers in the Yates formation under this spacing unit than the one vertical well proposed by Burlington, and, (e) intending to develop this acreage and produce the reserves thereunder, while Burlington proposes to sell its interest in this acreage, should be named the operator of the proposed 160-acre gas spacing and proration unit comprising the SW/4 of Section 23 in which its Rhodes "23" Federal Com Well No.1 is to be dedicated, and in order to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without waste its just and fair share of the production in any pool completion resulting from this order, the application of Texaco in Division Case 11656 should be **approved** by pooling all mineral interests, whatever they may be, within said unit. Correspondingly, the application of Burlington in Case 11678 should therefore be **denied**.

(18) Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

(19) Any non-consenting working interest owner who does not pay its share of estimated well costs should have withheld from production its share of the reasonable well costs, plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(20) Any non-consenting working 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.

(21) Following determination of reasonable well costs, any non-consenting working interest owner who has paid its 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.

(22) \$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 operation of the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(23) 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.

(24) Upon failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before May 1, 1997, the order pooling said units should become null and void and of no effect unless extended by the Director of the Division for good cause shown.

IT IS THEREFORE ORDERED THAT:

(1) The application of Burlington Resources Oil & Gas Company in Division Case 11678 for an order pooling all mineral interests from the surface to the base of the Yates formation underlying the SW/4 of Section 23, Township 26 South, Range 37 East, NMPM, Lea County, New Mexico, to form a standard 160-acre gas spacing unit for any and all Formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Rhodes-Yates Seven Rivers Gas Pool, Said unit to be dedicated to its proposed Rhodes "23" Federal Com Well No. 1 to be drilled at a standard gas well location in the SW/4 of said Section 23, is hereby **denied**.

(2) The application of Texaco Exploration and Production Inc. in Division Case 11656 for an order pooling all mineral interests from the surface to the base of the Yates formation underlying the SW/4 of Section 23 , Township 26 South, Range 37 East, NMPM, Lea County, New Mexico to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes the Rhodes-Yates Seven Rivers Gas Pool, said unit to be dedicated to its proposed Rhodes "23" Federal Com Well No. 1 to be horizontally drilled from an unorthodox gas well location 660 feet from the South line and 1100 feet from the West line of said Section 23 is hereby **approved**.

PROVIDED HOWEVER THAT, a high angle/horizontal directional drilling pilot project in the Rhodes-Yates Seven Rivers Gas Pool within the standard 160-acre gas spacing and proration unit comprising the SW/4 of Section 23, Township 26 South, Range 37 East, is approved for the Texaco Rhodes "23" Federal Com Well No. 1 provided that the extent of the wellbore for said horizontal well shall be limited to a target window/producing area no closer than 660 feet to any boundary of the project area/proration unit.

PROVIDED FURTHER THAT, Texaco as the operator of said unit shall commence the drilling of its Rhodes "23" Federal Com. Well No. 1 on or before the first day of May, 1997, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Yates formation.

PROVIDED FURTHER THAT, in the event said operator does not commence drilling operations on said well on or before the first day of May 1997, 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 abandoned 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.

(3) Texaco Exploration and Production Inc. is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and within 90-days prior to commencing said well, Texaco shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(5) 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 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 operation costs but shall not be liable for risk charges.

(6) The operator shall furnish the Division and each known working interest owner

an itemized schedule of actual 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 objection to actual well costs within said 45-days period, the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60-days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(8) 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.
- (B) As a charge for the risk involved in the drilling of the well, 200 percent of 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 is furnished to him.

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

(10) \$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 operation of such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

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(11) 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.

(12) 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.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Lea 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.

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

(15) 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.

(16) Jurisdiction is hereby 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

WILLIAM J. LEMAY,
DIRECTOR

(SEAL)