

**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. 12088
Order No. R-11113**

**APPLICATION OF XERIC OIL & GAS CORPORATION FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 19, 1998 at Santa Fe, New Mexico, before Examiner Mark W. Ashley.

NOW, on this 15th day of December, 1998, 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) The applicant, Xeric Oil & Gas Corporation, seeks an order pooling all mineral interests from the surface to the base of the Abo formation underlying the NW/4 SW/4 (Unit L) of Section 19, Township 20 South, Range 39 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all formations and/or pools developed on 40-acre spacing within that vertical extent, which presently include the Undesignated Terry-Blinebry Pool, the DK-Drinkard Pool, and the DK-Abo Pool.

(3) The applicant owns a working interest in this 40-acre unit and thus has the right to drill on this unit. Applicant drilled its Carter "19" Well No. 2 (API No. 30-025-34469) at a standard oil well location 1900 feet from the South line and 467 from the West line (Unit L) of Section 19 to a depth adequate to penetrate the Abo formation.

(4) The subject application was filed pursuant to Division Rule 1207.A. (2), (3), and (4) and was represented by counsel at the hearing.

(5) The applicant has been unable to locate certain parties owning a small percentage of unleased mineral interests in the subject 40-acre unit, which have therefore not agreed to pool their interests.

(6) No interested or affected party appeared at the hearing in opposition to this application.

(7) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste, and to 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 the oil underlying the unit, the subject application should be approved by pooling all mineral interests, whatever they may be, within the unit.

(8) The applicant should be designated the operator of the subject well and unit.

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

(10) Since the Carter "19" Well No. 2 (API No. 30-025-34469) has already been drilled, the risk penalty should be reduced.

(11) Any non-consenting working interest owner who does not pay its share of actual well costs should have withheld from production its share of the reasonable well costs plus an additional 50 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(12) Any non-consenting 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.

(13) Following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of actual well costs should pay to the operator any amount that reasonable well costs exceed actual well costs and should receive from the operator any amount that paid actual well costs exceed reasonable well costs.

(14) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,000.00 per month while drilling and \$400.00 per month while producing. The operator should be authorized to withhold from production the proportionate share of both supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(15) 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.

(16) Should all the parties to this force pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no effect.

(17) The operator of the well and unit should notify the Division Director in writing of the subsequent voluntary agreement of any or all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Abo formation, underlying the NW/4 SW/4 of Section 19, Township 20 South, Range 39 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit for all formations and/or pools developed on 40-acre spacing within that vertical extent, which presently include the Undesignated Terry-Blinebry Pool, the DK-Drinkard Pool, and the DK-Abo Pool. The unit is to be dedicated to the Carter "19" Well No. 2 (API No. 30-025-34469) drilled at a standard oil well location 1900 feet from the South line and 467 feet from the West line (Unit L) of Section 19.

(2) Xeric Oil & Gas Corporation is hereby designated the operator of the subject well and 40-acre unit.

(3) Within 30 days after the effective date of this order, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of actual well costs.

(4) Within 30 days from the date the schedule of actual well costs is furnished, any non-consenting 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, 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.

(5) Any non-consenting working interest owner may, within 45 days after receiving the schedule of actual well costs, file with the Division an objection to such costs. 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 the reasonable well costs; provided however, 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.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of actual costs as provided above shall pay to the operator its share of the amount that reasonable well costs exceed actual well costs and shall receive from the operator its share of the amount that actual well costs exceed reasonable well costs.

(7) 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 who has not paid its share of actual well costs within 30 days from the date the schedule of actual well costs is furnished; and
- (b) As a charge for the risk involved in the drilling of the well, 50 percent of the above costs.

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

(9) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,000.00 per month while drilling and \$400.00 per month while producing. 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 non-consenting working interest.

(10) 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.

(11) Any well costs or charges which 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.

(12) 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

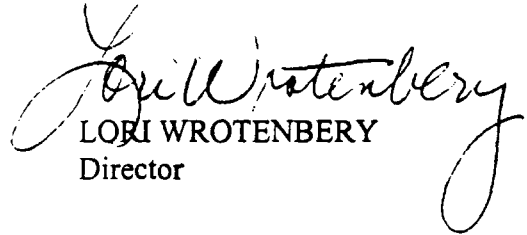
(13) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the force pooling provisions of this order.

(15) Jurisdiction of this cause 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


LORI WROTENBERY
Director