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. 11830
CASE NO. 11833
Order No. R-10922

APPLICATION OF MEWBOURNE OIL COMPANY FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

APPLICATION OF DEVON ENERGY CORPORATION (NEVADA) FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on October 9, 1997, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 24th day of November, 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) Division Case Nos. 11830 and 11833 were consolidated at the time of the hearing for the purpose of testimony, and, inasmuch as approval of one application would necessarily require denial of the other, one order should be entered for both cases.

(3) The applicant in Case No. 11830, Mewbourne Oil Company (Mewbourne), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the S/2 of Section 15, Township 21 South, Range 26 East, NMPM, Eddy County, New Mexico, and in the following manner:

the S/2 thereby forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Avalon-Morrow Gas Pool, Undesignated Avalon-Strawn Gas Pool, Undesignated Avalon-Atoka Gas Pool and the Undesignated Avalon-Upper Pennsylvanian Gas Pool;

the SW/4 thereby forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within said vertical extent;

the E/2 SW/4 thereby forming a standard 80-acre oil spacing and proration unit for any and all formations and/or pools spaced on 80 acres within said vertical extent; and,

the NE/4 SW/4 thereby forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools spaced on 40 acres within said vertical extent.

Said units are to be dedicated to its proposed Carlsbad "15" Federal Com Well No. 1 to be drilled at a standard location 1980 feet from the South line and 1850 feet from the West line (Unit K) of Section 15.

(4) The applicant in Case No. 11833, Devon Energy Corporation (Nevada), (Devon), seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the S/2 of Section 15, Township 21 South, Range 26 East, NMPM, Eddy County, New Mexico, and in the following manner:

the S/2 thereby forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Avalon-Morrow Gas Pool, Undesignated Avalon-Strawn Gas Pool, Undesignated Avalon-Atoka Gas Pool and the Undesignated Avalon-Upper Pennsylvanian Gas Pool;

the SW/4 thereby forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within said vertical extent.

Said units are to be dedicated to its proposed Carlsbad 15 "K" Federal Com Well No. 1 to be drilled at a standard location 1980 feet from the South line and 1850 feet from the West line (Unit K) of Section 15.

(5) Subsequent to the hearing it was determined that neither Mewbourne's proposed Carlsbad "15" Federal Com Well No. 1 nor the proposed 80-acre spacing and proration unit comprising the E/2 SW/4 of Section 15 are located within one mile of an existing pool spaced on 80 acres.

(6) At the hearing it was also determined that Mewbourne does not own any interest in the NE/4 SW/4 of Section 15, and thus is unable to pool this tract to form a standard 40-acre oil spacing and proration unit.

(7) The portion of Mewbourne's application seeking the compulsory pooling of the E/2 SW/4 and NE/4 SW/4 of Section 15, thereby forming standard 80-acre and 40-acre spacing and proration units, respectively, should be dismissed.

(8) The proposed wells and 320-acre proration units are located within one mile of numerous gas pools, namely the Avalon-Morrow Gas Pool, Avalon-Atoka Gas Pool, Avalon-Strawn Gas Pool and Avalon-Upper Pennsylvanian Gas Pool. All of the subject pools are currently governed by Rule No. 104.C. of the Division General Rules and Regulations which require standard 320-acre gas spacing and proration units with wells to be located no closer than 1650 feet from the end boundary nor closer than 660 feet from the side boundary of the proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary.

(9) Both Mewbourne and Devon have the right to drill within the proposed spacing units and both seek to be named operator of their respective wells and the subject proration units.

(10) Mewbourne and Devon have conducted negotiations prior to the hearing but have been unable to reach a voluntary agreement as to which company will drill and operate the well within the spacing units.

(11) According to evidence and testimony presented by both parties, the primary objective within the wellbore is the Strawn formation. Secondary objectives include the Morrow, Atoka and Upper Pennsylvanian intervals.

(12) Both Mewbourne and Devon are in agreement that the well which will ultimately develop the subject proration units should be located at the standard gas well location requested by both parties.

(13) Both Mewbourne and Devon submitted AFE's for the drilling of their respective wells within the subject spacing units. The AFE's are not substantially different.

(14) Both Mewbourne and Devon proposed overhead rates of $6000.00 per month while drilling and $600.00 per month while producing.

(15) Both parties proposed that a risk penalty of 200 percent be assessed against those interest owners who do not participate in the drilling of a well within the subject spacing units.

(16) The current ownership of the S/2 of Section 15 is summarized as follows:

Company	Acres	Description	% Working Interest
Mewbourne Oil Company	160.53	E/2 SE/4, SW/4 SE/4, SE/4 SW/4	50.08%
Devon Energy Corporation	160.00	W/2 SW/4, NE/4 SW/4, NW/4 SE/4	49.92%

(17) A brief description of the chronology of events leading up to the hearing in these cases is summarized as follows:

November, 1996--Mewbourne begins a geologic study of this general area. Mewbourne currently owns no interest in Township 21 South, Range 26 East;

February, 1997--Mewbourne acquires Hallwood Petroleum Corporation's interest within the NW/4 of Section 21, Township 21 South, Range 26 East. Mewbourne's intent in acquiring this acreage is to utilize an existing well on this tract, being the Ocotillo Hills Well No. 2, to test the Strawn formation;

By letter dated March 10, 1997, Mewbourne offers to purchase Devon's interest in Sections 10, 15, 16, 20 and 21;

March 13, 1997--Mewbourne initiates meeting with Devon and proposes a joint venture to develop the Strawn formation within this area;

April 23, 1997--Devon meets with representatives of Carlow Corporation who own interest in the S/2 of Section 15. Devon discusses Strawn activity in the area and proposes a potential joint venture;

May 6, 1997--Devon meets with representatives of Carlow Corporation and proposes the formation of a 640-acre working interest unit in Section 15 which Devon proposes to operate. Carlow Corporation advises that it will evaluate proposal;

June 6, 1997--Mewbourne acquires the interest of Carlow Corporation in the S/2 of Section 15;

June 12, 1997--Mewbourne formally proposes to Devon and seeks its participation in the drilling of an 11,200 foot Morrow well within the S/2 of Section 15 at a tentative location of 1980 feet from the South line and 1650 feet from the West line (Unit K). Alternatively, Mewbourne seeks a farmout or acquisition of Devon's interest within the S/2 of Section 15;

June 16, 1997--By phone conversation, Devon advises Mewbourne that it wishes to operate the proposed well in Section 15;

June 17, 1997--Mewbourne files APD (Application to Drill) with the BLM for its proposed Carlsbad "15" Federal Com Well No. 1. BLM subsequently requests that Mewbourne move its proposed well 200 feet to the east due to topographic considerations;

June 24, 1997--Mewbourne advises Devon of its well location change

June 25, 1997--By phone conversation, Devon informs Mewbourne that it will propose the drilling of a well within the S/2 of Section 15 at the location Mewbourne has staked;

July 3, 1997--Devon agrees with Mewbourne's proposal to drill a well at a location 1980 feet from the South line and 1850 feet from the West line (Unit K) of Section 15. Devon submits its AFE and proposes to Mewbourne that it be allowed to drill and operate the well.
By letter dated July 14, 1997 Mewbourne reiterates its position to Devon that it proposes to drill and operate the Carlsbad "15" Federal Com Well No. 1;

July 24, 1997--Compulsory Pooling application filed by Mewbourne;

July 29, 1997--Compulsory Pooling application filed by Devon;

August-September, 1997--Continuing negotiations between Mewbourne and Devon.

(18) Devon contends that it should be named operator of the proposed well and spacing units inasmuch as Mewbourne has been unwilling to negotiate a voluntary agreement, and has exhibited aggressive and premature behavior in this process by staking the well location (on Devon's lease), filing an APD with the Bureau of Land Management, and filing compulsory pooling proceedings.

(19) Mewbourne contends that due to the fact that it developed the prospect, it should be allowed to drill its Carlsbad "15" Federal Com Well No. 1 and operate the S/2 of Section 15.

(20) The evidence and testimony presented in these cases indicates that:

a) the potential for producing the well in a formation above the Pennsylvanian appears to be minimal. Interest ownership within the spacing units, which heavily favors Devon in a 160-acre and 40-acre scenario, should therefore not be a critical factor in deciding these cases;

b) well location, interest ownership within a 320-acre proration unit, well costs, overhead rates and risk penalty, all being equal or relatively equal, should not be factors in deciding these cases;

c) although Mewbourne has acted somewhat aggressive in staking the well location and obtaining the permits necessary to drill a well within the S/2 of Section 15, it appears that a voluntary agreement for the drilling of a well within the S/2 of Section 15 would not likely have been reached due to the fact that both Mewbourne and Devon have remained, from the date of the first well proposal by Mewbourne (June 12, 1997), intent on being named operator of the well and units;

d) negotiations between Mewbourne and Devon have been ongoing from March, 1997 through September, 1997;

e) the potential for Strawn development in this area increased in July, 1994, at which time Yates Petroleum Corporation recompleted its Lake Shore "XH" Federal Well No. 1, located in Section 11, Township 21 South, Range 26 East, from the Atoka/Morrow interval to the Strawn formation;

f) although Devon had the opportunity to develop Section 15 in the Strawn formation since 1994, it apparently chose not to do so until such time as Mewbourne sought a farmout or acquisition of its acreage for that purpose;

(21) In the absence of other compelling factors, the operatorship of the S/2 of Section 15 should be awarded to the operator who originally developed the Strawn prospect, developed the geologic data necessary to determine the optimum well location, and initially sought to obtain farmout or voluntary agreement to drill its well.

(22) Mewbourne Oil Company should be designated operator of its proposed well and the proposed spacing units.

(23) The application of Devon Energy Corporation in this case should be denied.

(24) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said units the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the application of Mewbourne Oil Company should be approved by pooling all mineral interests, whatever they may be, within the S/2 and SW/4 of Section 15.

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

(26) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his 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.

(27) 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.

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

(29) $6000.00 per month while drilling and $600.00 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 operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(30) 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.

(31) Upon the failure of the operator of said pooled units to commence the drilling of the well to which said units are dedicated on or before March 1, 1998, the order pooling said units should become null and void and of no effect whatsoever.

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

(33) The operator of the well and units shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Devon Energy Corporation (Nevada) in Case No. 11833 for an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the S/2 and SW/4 of Section 15, Township 21 South, Range 26 East, NMPM, Eddy County, New Mexico, thereby forming standard 320-acre and 160-acre spacing and proration units, said units to be dedicated to its proposed Carlsbad 15 "K" Federal Com Well No. 1 to be drilled at a standard location 1980 feet from the South line and 1850 feet from the West line (Unit K) of Section 15, is hereby denied.

(2) The application of Mewbourne Oil Company in Case No. 11830 for an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the S/2 of Section 15, Township 21 South, Range 26 East, NMPM, Eddy County, New Mexico, in the following manner is hereby approved:

the S/2 thereby forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools spaced on 320 acres within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Avalon-Morrow Gas Pool, Undesignated Avalon-Strawn Gas Pool, Undesignated Avalon-Atoka Gas Pool and the Undesignated Avalon-Upper Pennsylvanian Gas Pool; and,

the SW/4 thereby forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within said vertical extent.

Said units shall be dedicated to its Carlsbad "15" Federal Com Well No. 1 to be drilled at a standard location 1980 feet from the South line and 1850 feet from the West line (Unit K) of Section 15.

PROVIDED HOWEVER THAT, the operator of said units shall commence the drilling of said well on or before the 1st day of March, 1998, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of March, 1998, Ordering 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 Director for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Ordering Paragraph No. (2) of this order should not be rescinded.

(3) Mewbourne Oil Company is hereby designated the operator of the Carlsbad "15" Federal Com Well No. 1 and subject proration units.

(4) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject units 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 operating 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 well 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-day 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 reasonable well costs exceed estimated well costs and shall receive from 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 to him.

(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 within 30 days from the date the schedule 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) $6000.00 per month while drilling and $600.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby 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 is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(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 Eddy 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 the parties to this forced 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 units shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(16) The portion of Mewbourne's application seeking the compulsory pooling of the E/2 SW/4 and NE/4 SW/4 of Section 15, thereby forming standard 80-acre and 40-acre spacing and proration units, respectively, is hereby dismissed.

(17) 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

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