

State of New Mexico  
**ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT**  
Santa Fe, New Mexico 87505



**BRUCE KING**  
GOVERNOR

**ANITA LOCKWOOD**  
CABINET SECRETARY

**MATTHEW BACA**  
DEPUTY SECRETARY

January 27, 1992

**HINKLE, COX, EATON,  
COFFIELD & HENSLEY**  
Attorneys at Law  
500 Marquette, NW  
Suite 800  
Albuquerque, New Mexico 87102

RE: CASE NO. 10427  
ORDER NO. R-9631

Dear Sir:

Enclosed herewith are two copies of each of the above-referenced Division orders recently entered in the subject cases.

Sincerely,

A handwritten signature in cursive script that reads "Florene".

Florene Davidson  
OC Staff Specialist

FD/sl

cc: BLM - Carlsbad  
Taxation and Revenue

**VILLAGRA BUILDING - 408 Galisteo**

Forestry and Resources Conservation Division  
P.O. Box 1948 87504-1948  
827-5830

Park and Recreation Division  
P.O. Box 1147 87504-1147  
827-7465

**2040 South Pacheco**

Office of the Secretary  
827-5950

Administrative Services  
827-5925

Energy Conservation & Management  
827-5900

Mining and Minerals  
827-5910

**LAND OFFICE BUILDING - 310 Old Santa Fe Trail**

Oil Conservation Division  
P.O. Box 2088 87504-2088  
827-5800

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. 10427*  
*ORDER NO. R-9631*

APPLICATION OF MEWBOURNE OIL  
COMPANY FOR COMPULSORY POOLING,  
NON-STANDARD GAS PRORATION UNITS  
AND AN UNORTHODOX GAS WELL  
LOCATION, EDDY COUNTY, NEW  
MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on December 19, 1991, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 24th day of January, 1992, 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, Mewbourne Oil Company, seeks an order pooling all mineral interests from the surface to the base of the Morrow formation, underlying the following described area in Section 6, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico and in the following manner:

Lots 3 through 7, the SE/4 NW/4, and the E/2 SW/4 (W/2 equivalent) forming a non-standard 334.98-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent,

which presently includes, but is not necessarily limited to the Undesignated Empire-Pennsylvanian Gas Pool and the Undesignated North Illinois Camp-Morrow Gas Pool; and,

Lots 6 and 7 and the E/2 SW/4 (SW/4 equivalent) forming a non-standard 167.36-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent.

(3) Said units are to be dedicated to a single well to be drilled 990 feet from the South line and 730 feet from the West line (Unit M) of said Section 6, which is a standard gas well location for 160-acre spacing units but an unorthodox gas well location for those zones developed on 320-acre spacing.

(4) At the time of the hearing the applicant requested to amend its application and consider the vertical interval from the base of the Abo formation to the base of the Morrow formation. Said change therefore eliminates the need to consider the creation of the non-standard 167.36-acre gas spacing and proration unit since all zones within the amended vertical interval are presently spaced on 320 acres.

(5) The applicant has the right to develop the minerals underlying the remaining 334.98-acre non-standard gas spacing and proration unit.

(6) Based on the geological testimony presented at the hearing a well at the proposed unorthodox location should penetrate a thicker portion of the Lower Morrow interval than a well drilled at a standard location thereon, thereby increasing the chances of intersecting a gas bearing zone within the Morrow formation.

(7) No offset operator or interested party appeared at the hearing in opposition to this application.

(8) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(9) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in any pool resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

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

(11) 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.

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

(13) 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.

(14) 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.

(15) At the time of the hearing, the applicant requested that overhead rates of \$6,000.00 per month while drilling and \$600.00 per month while producing should be fixed as just and reasonable charges for supervision.

(16) The latest available issue of Ernst & Young's Combined Fixed-Rate Overhead Survey dated 1991 shows average overhead rates of \$5,105.00 while drilling and \$526.00 while producing for gas wells drilled to 10,350 feet in this area.

(17) The proposed overhead rate charges should be adjusted to reflect amounts more consistent with the rates described above.

(18) \$5200.00 per month while drilling and \$530.00 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.

(19) 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.

(20) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before April 25, 1992, the order pooling said unit should become null and void and of no further effect whatsoever.

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

(22) The operator of the well and unit should 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.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the base of the Abo formation to the base of the Morrow formation, underlying Lots 3 through 7, the SE/4 NW/4, and the E/2 SW/4 (W/2 equivalent) of Section 6, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico, thereby forming a non-standard 334.98-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to the Undesignated Empire-Pennsylvanian Gas Pool and the Undesignated North Illinois Camp-Morrow Gas Pool, are hereby pooled, said unit shall be dedicated to a well to be drilled at an unorthodox gas well location 990 feet from the South line and 730 feet from the West line (Unit M) of said Section 6.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 25th day of April, 1992, 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 25th day of April, 1992, 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 abandonment, 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.

(2) Mewbourne Oil Company is hereby designated the operator of the subject well and unit.

(3) 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 unit an itemized schedule of estimated well costs.

(4) 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.

(5) 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 an objection to actual well costs within said 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 his share of estimated 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.

(7) 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; and

- (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.

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

(9) \$5200.00 per month while drilling and \$530.00 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.

(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 interest's 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 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.

(13) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, the compulsory pooling provisions of this order shall

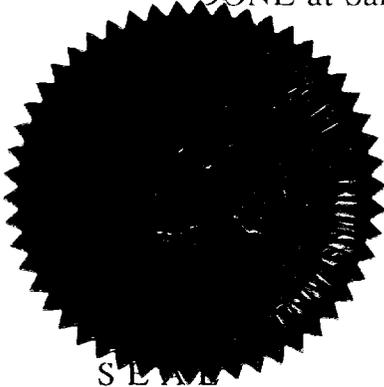
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thereafter be of no further effect.

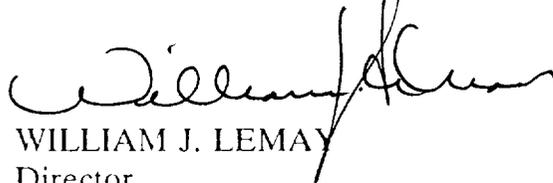
(14) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(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

  
WILLIAM J. LEMAY  
Director