

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. 9898  
ORDER NO. R-9199

THE APPLICATION OF DOYLE HARTMAN  
FOR A NON-STANDARD PRORATION UNIT,  
SIMULTANEOUS DEDICATION AND  
COMPULSORY POOLING FOR THE EUMONT  
GAS POOL, LEA COUNTY, NEW MEXICO.

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on May 16, 1990, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 15<sup>th</sup> day of June, 1990, 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, Doyle Hartman, seeks approval for a 280-acre non-standard proration unit for the Eumont Gas Pool, comprising the SE/4 and the SE/4 SW/4 of Section 5 and the NE/4 NW/4 and the NE/4 NE/4 of Section 8, both in Township 20 South, Range 37 East, N.M.P.M., Lea County, New Mexico, said proration unit to be simultaneously dedicated to the Britt-Laughlin Com. Well No. 1 (formerly the Britt "B-8" Well No. 1) located 660 feet from the North line and 1980 feet from the West line (Unit C) of said Section 8, the Britt-Laughlin Com. Well No.

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5 (formerly the Laughlin "B" Well No. 5) located 330 feet from the South line and 2310 feet from the East line (Unit O) of said Section 5, and a new infill well, the Britt-Laughlin Com. Well No. 6, to be located 1860 feet from the South line and 760 feet from the East line (Unit I) of said Section 5.

(3) The proposed proration unit would serve to combine Eumont acreage currently comprising three non-standard gas spacing units and a 40-acre tract which was severed by Division Order No. R-9145.

- a) R-495, dated July 7, 1954 authorized a 40-acre non-standard gas proration unit comprising the NE/4 NW/4 of said Section 8;
- b) NSP-42, dated December 22, 1954 authorized a 160-acre non-standard gas proration unit comprising the SE/4 of said Section 5; and
- c) NSP-355, dated March 8, 1957 authorized a 40-acre non-standard gas proration unit comprising the SE/4 SW/4 of said Section 5.

(4) The entire proposed proration unit may reasonably be presumed productive of gas from the Eumont Gas Pool and can be efficiently and economically developed and exploited by the aforesaid Britt-Laughlin Com. Well Nos. 1, 5 and 6.

(5) The applicant also seeks an order pooling all mineral interests in the Eumont Gas Pool underlying the proposed proration unit and consisting of the aforesaid SE/4 and SE/4 SW/4 of said Section 5 and the NE/4 NW/4 and NE/4 NE/4 of said Section 8.

(6) The applicant, Doyle Hartman, has the right to drill and proposes to drill a new infill well, the Britt-Laughlin Com. Well No. 6, to be located as above described.

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

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

(9) The applicant should be designated the operator of the subject wells and unit.

(10) Applicant should be permitted to recover \$188,750.00 as the reasonable and equitable value of the existing wellbore and associated equipment of the Britt-Laughlin Com. Well No. 1 (Unit C, Section 8) as compensation for the applicant's contribution of said well to the proposed proration unit.

(11) In the event the Britt-Laughlin Com. Well Nos. 1 and 6 are incapable of producing the entire allowable assigned to the proposed proration unit, applicant should be permitted to recover the reasonable and equitable value of the existing wellbore and associated equipment of the Britt-Laughlin Com. Well No. 5 (Unit O, Section 5) and the reasonable costs of reworking such well as compensation for applicant's contribution of such well to the proposed proration unit, such value and costs to be determined, in the absence of any voluntary agreement among the working interest owners, by the Division after public notice and hearing.

(12) Any non-consenting working interest owner should be afforded the opportunity to pay his share of the reasonable and equitable value (\$188,750.00) of the existing Britt-Laughlin Com. Well No. 1 (Unit C, Section 8) and the estimated well costs for the new infill well, the Britt-Laughlin Com. Well No. 6 (Unit I, Section 5), to the operator in lieu of paying his share of such value and costs out of unit production.

(13) The applicant requested a 200 percent risk penalty be imposed on the cost of drilling said new infill well.

(14) Based on testimony and evidence presented at the hearing, the requested 200 percent risk penalty is excessive in this instance and should therefore be reduced to reflect a more reasonable risk penalty for an infill well.

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(15) Any non-consenting working interest owner who does not pay his share of estimated well costs for the new infill well should have withheld from production his share of the reasonable well costs plus an additional 100 percent thereof as a reasonable charge for the risk involved in the drilling of such new infill well, also any non-consenting working interest owner who does not pay his share of the reasonable and equitable value of the existing Britt-Laughlin Com Well No. 1 (\$188,750.00) should have his share of said amount withheld from production.

(16) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs for the new infill well, but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(17) Following the 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 the reasonable well costs exceed the estimated well costs or should receive from the operator any amount that their paid estimated well costs exceed the reasonable well costs.

(18) \$5,500.00 per month while drilling the new infill well and \$550.00 per well per month while producing the unit wells 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 owner. In addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject wells, not in excess of what are reasonable, attributable to each non-consenting working interest owner.

(19) All proceeds from unit production 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 new infill well on said unit on or before November 16, 1990, the provisions of this order which relate to the new infill well should become null and void and of no further effect whatsoever.

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

(22) The operator of the wells and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(23) For purposes of assigning a gas allowable in the Eumont Gas Pool, the subject 280-acre non-standard gas proration unit should be assigned an acreage factor of 1.75.

(24) The allowable assigned to the aforesaid proration unit should be permitted to be produced from any well on said unit in any proportion; provided however, the Britt-Laughlin Com. Well No. 5 (Unit O, Section 5) should not be permitted to produce more than a 160-acre non-standard unit allowable, as determined by well tests, if such well is subsequently restored to production.

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, in the Eumont Gas Pool, underlying the SE/4 and SE/4 SW/4 of Section 5 and the NE/4 NW/4 and the NE/4 NE/4 of Section 8, Township 20 South, Range 37 East, N.M.P.M., Lea County, New Mexico, are hereby pooled to form a non-standard 280-acre gas spacing and proration unit to be simultaneously dedicated to the existing Britt-Laughlin Com. Well No. 1 (formerly the Britt "B-8" Well No. 1) located 660 feet from the North line and 1980 feet from the West line (Unit C) of said Section 8, the existing Britt-Laughlin Com. Well No. 5 (formerly the Laughlin "B" Well No. 5) located 330 feet from the South line and 2310 feet from the East line (Unit O) of said Section 5, and the new infill well, the Britt-Laughlin Com. Well No. 6, to be drilled at a point 1860 feet from the South line and 760 feet from the East line (Unit I) of said Section 5.

**PROVIDED HOWEVER THAT,** the operator of said unit shall commence the drilling of said new infill well on or before the 16th day of November, 1990, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Eumont Gas Pool.

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PROVIDED FURTHER THAT, in the event the unit operator does not commence the drilling of said new infill well on or before the 16th day of November, 1990, the provisions of this order regarding the pooling of all mineral interests 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 regarding the pooling of all mineral interests should not be rescinded.

(2) Doyle Hartman is hereby designated the operator of the subject wells and unit.

(3) After the effective date of this order and within 90 days prior to commencing the new infill well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs for the new infill well.

(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 the reasonable and equitable value (\$188,750.00) of the existing Britt-Laughlin Com Well No. 1 (Unit C, Section 8) and the estimated well costs for the new infill well, the Britt-Laughlin Com Well No. 6 (Unit I, Section 5), to the operator in lieu of paying his share of such value and costs out of unit production, and any such owner who pays his share of such value and costs within such 30 days 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 infill 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.

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(6) Within 60 days following the determination of the 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 or shall receive from the operator his pro rata share of the amount that the estimated well costs exceed the reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from unit 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 the estimated well costs of the new infill well (Britt-Laughlin Com. Well No. 6) 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 said new infill well, 100 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 the estimated well costs within 30 days from the date the schedule of the estimated well costs is furnished to him;
- (C) The pro rata share of the reasonable and equitable value of the existing Britt-Laughlin Com. Well No. 1 (\$188,750.00) attributable to each non-consenting working interest owner who has not paid his share of said costs within 30 days from the date of this order.

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

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(9) \$5,550.00 per month while drilling the new infill well and \$550.00 per well per month while producing the unit wells are hereby set as reasonable charges for supervision (combined fixed rates). The operator is hereby authorized to withhold from unit production the proportionate share of such supervision charges attributable to each non-consenting working interest owner. In addition thereto, the operator is hereby authorized to withhold from unit production the proportionate share of actual expenditures required for operating such wells, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) In the event the Britt-Laughlin Com. Well Nos. 1 and 6 are incapable of producing the entire allowable assigned to the unit, each working interest owner shall pay to the operator their pro rata share of the reasonable and equitable value of the existing wellbore and associated equipment of the Britt-Laughlin Com. Well No. 5 (Unit O, Section 5) and the reasonable costs of reworking such well. In the absence of a voluntary agreement among the working interest owners, such value and costs shall be determined by the Division after notice and hearing.

(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 pursuant to this order shall be withheld only from the working interest owner's share of production, and no such costs or charges to be paid out of production pursuant to this order shall be withheld from production attributable to any royalty interest.

(13) All proceeds from unit production which are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico to be paid to the true owner thereof upon demand and proof of ownership, and the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of the first escrow deposit.

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

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(15) The operator of the subject wells shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties to the compulsory pooling provisions of this order.

(16) The 280-acre non-standard gas proration unit herein authorized shall receive an acreage factor in the Eumont Gas Pool of 1.75 for allowable purposes to be produced from any well on said unit in any proportion; provided however, that the Britt-Laughlin Com. Well No. 5, located 330 feet from the South line and 2310 feet from the East line (Unit O) of said Section 5, shall not be permitted to produce more than a 160-acre allowable for the Eumont Gas Pool, as determined by well tests, if such well is subsequently restored to production.

(17) Division Orders R-495, NSP-42 and NSP-355 are hereby superseded by this order.

(18) 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.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY  
Director