

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 8719
CASE NO. 8727
Order No. R-8119

APPLICATION OF TXO PRODUCTION
CORPORATION FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

APPLICATION OF PENNZOIL COMPANY
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8 a.m. on October 9, 1985, at Santa Fe, New Mexico, before Examiner Gilbert P. Quintana.

NOW, on this 10th day of January, 1986, 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) TXO Production Corporation (TXO) is the applicant in Case No. 8719.

(3) Pennzoil Company (Pennzoil) is the applicant in Case 8727.

(4) At the time of the hearing the cases were consolidated as the approval of either would necessarily require denial of the other.

(5) Each of the applicants seeks an order pooling all mineral interests in the Strawn formation underlying the E/2 NE/4 of Section 4, Township 17 South, Range 37 East, to form an

80-acre oil spacing unit; the determination of operating costs and charges for supervision; designation of applicant as operator of the well and the determination of the risk involved in drilling said well.

(6) Additionally, TXO seeks the pooling of all mineral interests from the surface of the ground to the top of the Strawn formation underlying the SE/4 NE/4 of said Section 4 to form a 40-acre oil spacing unit if it should prevail in these consolidated cases.

(7) TXO proposes to drill its well at a location 2310 feet from the North line and 660 feet from the East line of said Section 4.

(8) Pennzoil proposes to drill its well at a location 660 feet from the North line and 810 feet from the East line of said Section 4.

(9) The figures presented by TXO and Pennzoil as to operating costs, costs of supervision, and estimated well costs were comparable and not significant in making a determination as to which party should be named operator of the unit.

(10) Both TXO and Pennzoil presented substantial and competent expert geological and engineering evidence in an attempt to demonstrate that their proposed well location was superior to the other.

(11) Such geologic and engineering testimony was subject to interpretation, was inconclusive, and should not be considered significant in determining which party should be named operator of the unit.

(12) TXO's interest in the proposed 80-acre unit equals approximately 6.17806 percent of the total.

(13) Pennzoil's interest in the proposed 80-acre unit equals approximately 36.868019 percent of the total, roughly 6 times TXO's interest.

(14) In the absence of other compelling factors in these cases, the operator of the unit and well to be drilled thereon should be based upon the largest percentage of interest in the proposed unit.

(15) The application of Pennzoil for compulsory pooling in Case No. 8727 should be approved.

Case No. 8719

Case No. 8727

Order No. R-8119

(16) The application of TXO for compulsory pooling in Case No. 8719 should be denied.

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

(18) Pennzoil should be designated the operator of the subject well and unit.

(19) 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.

(20) 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.

(21) 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 objection.

(22) 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.

(23) \$5500.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates) while drilling and \$550.00 per month should be fixed as a reasonable charge for supervision while producing; this charge should be adjusted annually based upon the percentage increase or decrease in the average weekly earning of crude petroleum and gas production workers; the operator should be authorized to withhold from production the proportionate share of such supervision charge 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

Case No. 8719
Case No. 8727
Order No. R-8119

are reasonable, attributable to each non-consenting working interest.

(24) 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.

(25) 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 1, 1986, the order pooling said unit should become null and void and of no effect whatsoever.

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

(27) 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, in the Strawn formation underlying the E/2 NE/4 of Section 4, Township 17 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 80-acre spacing and proration unit to be dedicated to a well to be drilled 660 feet from the North line and 810 feet from the East line of said Section 4.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of April, 1986, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Strawn formation;

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of April, 1985, Order (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 Order (1) of this order should not be rescinded.

(2) Pennzoil 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 the 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, that 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.
- (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) \$5500.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates) while drilling and \$550.00 per month is hereby fixed as a reasonable charge for supervision while producing, provided that this rate may be adjusted on the first day of January each year following the effective date of this order; the adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings Crude Petroleum and Gas Production Workers for the last calendar year compared to the preceding calendar year as shown by "The Index of Average Weekly Earnings of Crude Petroleum and Gas Production Workers" as published by the United States Department of Labor, Bureau of Labor Statistics, and the adjusted rate shall be the rates currently in use, plus or minus the computed adjustment; the operator is hereby authorized to withhold from production the proportionate share of such supervision charge 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 such unsevered 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 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.

-7-

Case No. 8719

Case No. 8727

Order No. R-8119

(13) Should all parties to this forced 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 Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) The application of TXO Production Corporation for compulsory pooling in Case No. 8719 is hereby denied.

(16) 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



R. L. STAMETS,
Director

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