

**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. 12392
ORDER NO. R-11406**

**APPLICATION OF CHESAPEAKE OPERATING, INC. FOR COMPULSORY
POOLING AND AN UNORTHODOX GAS WELL LOCATION, LEA COUNTY,
NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 18, 2000, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 27th day of June, 2000, 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, Chesapeake Operating, Inc., seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the following acreage in Section 22, Township 16 South, Range 36 East, NMPM, Lea County, New Mexico:

- (a) the W/2 to form a standard 320-acre stand-up gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within that vertical extent;
- (b) the NW/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within that vertical extent;

- (c) the S/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any pool with special rules providing for the developed of that pool on 80-acre spacing within that vertical extent; and
- (d) the SE/4 NW/4 to form a standard 40-acre oil spacing and proration unit for formations and/or pools developed on 40-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated Lovington-Wolfcamp Pool, Undesignated Diamond-Strawn Pool, Undesignated Lovington-Pennsylvanian Pool, and Undesignated West Lovington-Pennsylvanian Pool.

(3) Subsequent to the hearing, it was determined that there are no pools within the immediate area of this well that are spaced on 80 acres [see Division Rule 104.A (2)]; therefore, the requested 80-acre unit to be pooled should be dismissed at this time.

(4) The remaining units are to be dedicated to the applicant's proposed Teague "22" Well No. 1 to be drilled 2272 feet from the North line and 2125 feet from the West line (Unit F) of Section 22.

(5) The applicant is a working interest owner within the 320-acre, 160-acre, and 40-acre units and therefore has the right to drill for and develop the minerals underlying these units.

(6) At this time, however, not all of the working interest owners in these units have agreed to pool their interests. After pooling, uncommitted working interest owners are referred to as "non-consenting working interest owners."

(7) Pursuant to Division Rule 104.B (1) this location is standard for the proposed 40-acre oil unit. However, under Division Rule 104.C (2) this location is 145 feet, or 22.0 %, closer to the eastern boundary of the proposed 320-acre unit than required. Further, under Division Rule 104.C (3) this location is: (i) 145 feet, or 22.0 %, closer to the eastern boundary of the proposed 160-acre unit than required; and (ii) 292 feet, or 44.2 %, closer to the southern boundary of the 160-acre unit than required.

(8) At the hearing a determination was made that the applicant failed under the provisions of Division Rule 1207.A (2) to adequately notify the affected offsetting parties

in the 160 acres to the south, being the SW/4 of Section 22, of the proposed well's encroachment for those formations developed on 160-acre spacing. Legal counsel for the applicant requested that the portion of this case seeking approval of the proposed well's unorthodox location be limited to the proposed 320-acre unit. If this well is ever completed as a gas well in any formation developed on 160-acre spacing, the operator will be required to file with the Division a proper request pursuant to any and all applicable rules and procedures for an unorthodox location in any zone spaced on 160 acres.

(9) Geological evidence based on 3-D seismic, well control, and past experience with similar features was presented by the applicant to support the drilling of the proposed well at an unorthodox gas well location to the Atoka and Morrow formations. Such evidence indicates that drilling at the proposed unorthodox gas well location within the W/2 of Section 22 would position this wellbore at a structurally high position on the up-thrown side of a fault that appears to bisect this 320-acre unit, thereby increasing the likelihood of obtaining commercial gas production from the gas-bearing Atoka/Morrow interval.

(10) The evidence also showed that:

- (a) the parties within this 320-acre unit being pooled do not object to this deep unorthodox gas well location; and
- (b) no offset operator and/or interest owner to this 320-acre unit appeared at the hearing in opposition to this deep unorthodox gas well location.

(11) The unorthodox gas well location to the deeper gas bearing horizons developed on 320-acre spacing should be approved.

(12) No party affected by the forced pooling appeared at the hearing or objected to this application.

(13) 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 units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbon production in any pool resulting from this order, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within these units.

(14) Chesapeake Operating, Inc. should be designated the operator of the subject well and units.

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

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

(17) 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.

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

(19) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing. The operator should be 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.

(20) Any unleased mineral interest should 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 this order.

(21) All proceeds from production from the well that 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.

(22) If the operator of the pooled units fails to commence drilling the well to which the units are dedicated on or before October 1, 2000, or if all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should become of no effect.

(23) The operator of the well and units should notify 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) Pursuant to the application of Chesapeake Operating, Inc. ("Chesapeake"), all uncommitted mineral interests, whatever they may be, from the surface to the base of the Morrow formation underlying the following described acreage in Section 22, Township 16 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

- (a) the W/2 to form a standard 320-acre stand-up gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within that vertical extent;
- (b) the NW/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within that vertical extent; and
- (c) the SE/4 NW/4 to form a standard 40-acre oil spacing and proration unit for formations and/or pools developed on 40-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated Lovington-Wolfcamp Pool, Undesignated Diamond-Strawn Pool, Undesignated Lovington-Pennsylvanian Pool, and Undesignated West Lovington-Pennsylvanian Pool.

(2) These three units are to be dedicated to the applicant's proposed Teague "22" Well No. 1 to be drilled 2272 feet from the North line and 2125 feet from the West line (Unit F) of Section 22.

PROVIDED HOWEVER THAT, the operator of the units shall commence drilling the well on or before October 1, 2000, and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, in the event the operator does not commence drilling the well on or before October 1, 2000, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause

shown.

PROVIDED FURTHER THAT, should the well not be drilled to completion or abandoned within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(3) The location of Chesapeake's proposed Teague "22" Well No. 1, being a standard oil well location for the proposed 40-acre oil spacing and proration unit, is hereby approved as an unorthodox gas well location for the above-described 320-acre deep gas spacing and proration unit.

(4) Those portions of Chesapeake's application for (i) the formation and pooling of an 80-acre oil spacing and proration unit comprising the S/2 NW/4 of Section 22; and (ii) approval of the Teague "22" Well No. 1 as an unorthodox location for those formations and/or pools developed on 160-acre spacing, are hereby dismissed.

(5) If this well is ever completed as a gas well in any formation developed on 160-acre spacing, the operator will be required to file with the Division a proper request pursuant to any and all applicable rules and procedures for an unorthodox location in any zone spaced on 160 acres.

(6) Chesapeake is hereby designated the operator of the subject well and units.

(7) After pooling, uncommitted working interest owners are referred to as "non-consenting working interest owners." After the effective date of this order and within 90 days prior to commencing the well, the operator shall furnish the Division and each known non-consenting working interest owner in the units an itemized schedule of estimated well costs.

(8) Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting working interest owner shall have the right to pay its share of estimated 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 estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(9) The operator shall furnish the Division and each known non-consenting 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 the schedule, the actual well costs shall be the reasonable well costs; provided, however, that 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.

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

(11) 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 estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and
- (b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

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

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,000.00 per month while drilling and \$600.00 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.

(14) 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 this order.

(15) Any well costs or charges that 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.

(16) All proceeds from production from the well that 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. The operator shall notify the Division of the

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name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

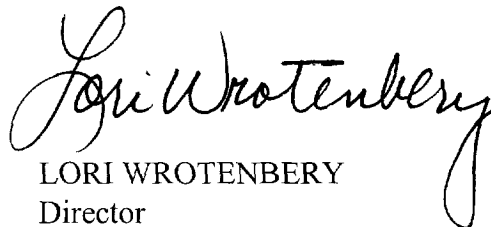
(17) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, that portion of this order authorizing compulsory pooling shall thereafter be of no further effect.

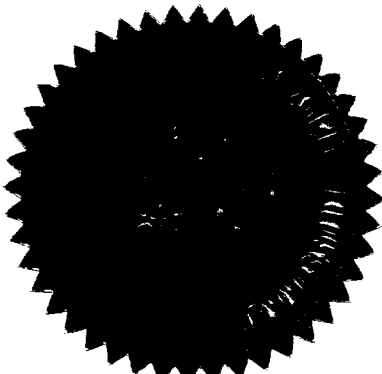
(18) The operator of the well and units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(19) Jurisdiction of this case 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



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