

**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. 12511
ORDER NO. R-11487***

**APPLICATION OF CROSS TIMBERS OIL COMPANY FOR COMPULSORY
POOLING AND AN UNORTHODOX OIL WELL LOCATION, SAN JUAN
COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 16, 2000, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 27th day of November, 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) At the time of the hearing Division Cases No. 12511, 12523, 12524, and 12525, all involving Cross Timbers Oil Company as the applicant, were consolidated for the purpose of testimony.

(3) The applicant, Cross Timbers Oil Company, seeks an order pooling all uncommitted mineral interests from the base of the Pictured Cliffs formation to the base of the Basin-Dakota Pool underlying the following acreage in Section 28, Township 28 North, Range 10 West, NMPM, San Juan County, New Mexico:

- (a) the E/2 to form a standard 320-acre stand-up gas spacing and proration unit for any pool within that vertical extent with special rules providing for development on 320-acre spacing, which presently includes both the Undesignated Blanco-Mesaverde and Basin-Dakota Pools;

- (b) the SE/4 to form a standard 160-acre gas spacing and proration unit for any formation and/or pool developed on 160-acre spacing within that vertical extent, which presently includes the Undesignated Otero-Chacra Pool; and
- (c) the NW/4 SE/4 (Unit J) to form a standard 40-acre oil spacing and proration unit for any formation and/or pool developed on 40-acre spacing within that vertical extent, which presently includes the Undesignated Kutz-Gallup Oil Pool.

(4) These units are to be dedicated to the applicant's proposed Federal Gas Com. Well No. 1-E (**API No. 30-045-30357**) to be drilled 1610 feet from the South line and 1570 feet from the East line (Unit J) of Section 28. This location is standard for the proposed 320 and 160-acre gas units but unorthodox for the proposed 40-acre oil unit (see Division Rule 104.B).

(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) Gas production from the Basin-Dakota Pool underlying the E/2 of Section 28 is currently dedicated to the Cross Timbers Operating Company Federal Gas Com. Well No. 1 (**API No. 30-045-07196**), located at a standard gas well location 1190 feet from the North and East lines (Unit A) of Section 28. The special rules currently governing the Basin-Dakota Pool [see Division Orders No. R-10987-B, dated June 30, 2000, and R-10987-B (1), dated August 10, 2000] allow for an infill gas well within an existing standard 320-acre unit, provided however that the infill well is not located within the same quarter section containing the unit's initial Dakota well.

(7) The Basin-Dakota Pool is the primary objective for the proposed Federal Gas Com. Well No. 1-E. Because of topographic constraints limiting well locations within the SE/4 of Section 28, the U. S. Bureau of Land Management, the surface management agency, requested the applicant drill this well at the proposed unorthodox oil well location. According to the applicant's testimony, all mineral interests within this vertical extent underlying the E/2 of Section 28 are common throughout. The proposed unorthodox oil well location is internal to the SE/4 of Section 28; therefore, no offsetting mineral interest owners will be adversely affected by this unorthodox oil well location.

(8) Further, the applicant requests that Cross Timbers Operating Company, a corporation that operates the various wells owned by Cross Timbers Oil Company, be designated operator of the subject well and units.

(9) 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."

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

(11) 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.

(12) Cross Timbers Operating Company should be designated the operator of the subject well and units.

(13) 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.

(14) 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 charge for the risk involved in the drilling of the above-described well.

(15) The evidence presented indicates that the proposed location is offset in all directions by Dakota production, and the probability of encountering a productive Dakota zone is high. Further, based on precedent established in previous compulsory pooling cases involving infill wells on established spacing and proration units in the prorated gas pools in Northwest New Mexico, the charge for risk involved in the drilling of this infill gas well should be reduced to 150 percent.

(16) 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.

(17) 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.

(18) Reasonable charges for supervision (combined fixed rates) should be fixed at \$ 5,750.00 per month while drilling and \$ 575.00 per month while producing, provided that this rate should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." 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.

(19) 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.

(20) If the operator of the pooled units fails to commence drilling the well to which the units are dedicated on or before February 28, 2001, 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.

(21) 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 Cross Timbers Oil Company, all uncommitted mineral interests, whatever they may be, from the base of the Pictured Cliffs formation to the base of the Basin-Dakota Pool underlying the following described acreage in Section 28, Township 28 North, Range 10 West, NMPM, San Juan County, New Mexico, are hereby pooled in the following manner:

- (a) the E/2 to form a standard 320-acre stand-up gas spacing and proration unit for any pool within that vertical extent with special rules providing for development on 320-acre spacing, which presently includes both the Undesignated Blanco-Mesaverde

and Basin-Dakota Pools;

- (b) the SE/4 to form a standard 160-acre gas spacing and proration unit for any formation and/or pool developed on 160-acre spacing within that vertical extent, which presently includes the Undesignated Otero-Chacra Pool; and
- (c) the NW/4 SE/4 (Unit J) to form a standard 40-acre oil spacing and proration unit for any formation and/or pool developed on 40-acre spacing within that vertical extent, which presently includes the Undesignated Kutz-Gallup Oil Pool.

These units are to be dedicated to the applicant's proposed Federal Gas Com. Well No. 1-E (**API No. 30-045-30357**) to be drilled 1610 feet from the South line and 1570 feet from the East line (Unit J) of Section 28. This location, hereby approved, is standard for the proposed 320 and 160-acre gas units but unorthodox for the proposed 40-acre oil unit.

PROVIDED HOWEVER THAT, the operator of the units shall commence drilling the well on or before February 28, 2001, and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Dakota formation.

PROVIDED FURTHER THAT, in the event the operator does not commence drilling the well on or before February 28, 2001, 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.

(2) Cross Timbers Operating Company is hereby designated the operator of the subject well and units.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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, 150 percent of the above costs.

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

(9) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$ 5,750.00 per month while drilling and \$ 575.00 per month while producing, provided that this rate shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." 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.

(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 this order.

(11) 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.

(12) All proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in San Juan 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

(13) 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.

(14) 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.

(15) 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

