

Entered October 2, 1970

A.L.P.

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASES Nos. 4354 and 4428
Order No. R-4033

APPLICATION OF MICHAEL P. GRACE
AND CORINNE GRACE FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO;

AND

APPLICATION OF TEXAS OIL AND GAS
CORPORATION FOR A NON-STANDARD GAS
SPACING UNIT, EDDY COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:30 a.m. on September 16, 1970, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 2nd day of October, 1970, the Commission, a quorum being present, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That Michael P. Grace and Corinne Grace filed an application with the Commission April 22, 1970, seeking an order pooling all mineral interests from the surface of the ground down to and including the Morrow formation underlying the N/2 of Section 11, Township 23 South, Range 26 East, NMPM, South Carlsbad Field, Eddy County, New Mexico, said acreage to be dedicated to a gas well to be drilled at a standard location in either the NE/4 NW/4 or the NW/4 NE/4 of said Section 11.

-2-

CASES Nos. 4354 and 4428

Order No. R-4033

(3) That Texas Oil and Gas Corporation filed an application with the Commission August 31, 1970, seeking approval of a 240-acre non-standard gas proration unit comprising the E/2 NE/4, SW/4 NE/4, W/2 NW/4, and SE/4 NW/4 of said Section 11 to be dedicated to a well to be drilled at a standard location in the N/2 of said Section 11 to test any and all formations from the surface of the ground down to and including the Morrow formation.

(4) That the aforesaid matter came on for hearing on September 16, 1970, as consolidated cases.

(5) That Michael P. Grace and Corinne Grace have the right to drill and propose to drill a well at a standard location in either the NE/4 NW/4 or the NW/4 NE/4 of said Section 11, to test any and all formations from the surface of the ground down to and including the Morrow formation.

(6) That Texas Oil and Gas Corporation has the right to drill and proposes to drill a well at a standard location in the N/2 of said Section 11 to test any and all formations from the surface of the ground down to and including the Morrow formation and to dedicate the acreage as described in Finding No. (3), above.

(7) That there are interest owners in the N/2 of said Section 11 who have not agreed to pool their interests.

(8) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in the N/2 of said Section 11 the opportunity to recover or receive without unnecessary expense his just and fair share of the gas underlying said half section, all mineral interests, whatever they may be, from the surface of the ground down to and including the Morrow formation underlying the N/2 of said Section 11 should be pooled to form a 320-acre unit dedicated to a well to be drilled in either the NE/4 NW/4 or the NW/4 NE/4 of said Section 11, provided the operator of said unit commences the drilling of said well on or before the 15th day of November, 1970, and thereafter continues the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.

(9) That Michael P. Grace and Corinne Grace should be designated the operators of the pooled unit and the well to which said unit is dedicated.

(10) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operators in lieu of paying his share of reasonable well costs out of production.

(11) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 37½% thereof as a reasonable charge for the risk involved in the drilling of the well.

(12) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that said actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(13) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operators any amount that reasonable well costs exceed estimated well costs and should receive from the operators any amount that paid estimated well costs exceed reasonable well costs.

(14) That \$100.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates) for the subject well; that the operators 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 operators 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.

(15) That 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.

(16) That upon the failure of the operators of said pooled unit to commence drilling of the well to which said unit is dedicated on or before November 15, 1970, the order pooling said unit should become null and void and of no effect whatsoever.

(17) That upon the failure of the operators of said pooled unit to commence drilling of the well to which said unit is

-4-

CASES Nos. 4354 and 4428
Order No. R-4033

dedicated on or before November 15, 1970, the non-standard gas proration unit described in Finding No. (3), above, should be approved.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, from the surface of the ground down to and including the Morrow formation underlying the N/2 of Section 11, Township 23 South, Range 26 East, NMPM, South Carlsbad Field, Eddy County, New Mexico, are hereby pooled to form a 320-acre gas spacing unit to be dedicated to a well to be drilled at a standard location in either the NE/4 NW/4 or NW/4 NE/4 of said Section 11;

PROVIDED HOWEVER, that the operators of said unit shall commence the drilling of said well on or before the 15th day of November, 1970, 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 operators do not commence the drilling of said well on or before the 15th day of November, 1970, Order (1) of this order shall be null and void and of no effect whatsoever;

PROVIDED FURTHER, that should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operators shall appear before the Commission and show cause why Order (1) of this order should not be rescinded.

(2) That Michael P. Grace and Corinne Grace are hereby designated the operators of the subject well and unit.

(3) That the operators shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs within 30 days following the date of this order.

(4) That 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 operators in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided

-5-

CASES Nos. 4354 and 4428
Order No. R-4033

above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operators shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of actual well costs within 30 days following completion of the well; that if no objection to the actual well costs is received by the Commission, and the Commission has not objected within 60 days following completion of the well, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 60-day period, the Commission will determine reasonable well costs after public notice and hearing.

(6) That within 30 days following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs in advance as provided above shall pay to the operators his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operators his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) That the operators are 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, 37½% 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) That the operators shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$100.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates) for the subject

-6-

CASES Nos. 4354 and 4428
Order No. R-4033

well; that the operators are 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 operators are hereby 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.

(10) That any 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) That any well costs or charges which 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) That 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; that the operators shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

(13) That upon the failure of the operators of the above-described pooled unit to commence the well to which said unit is dedicated on or before the 15th day of November, 1970, a non-standard gas proration unit comprising the E/2 NE/4, SW/4 NE/4, W/2 NW/4, and SE/4 NW/4 of Section 11, Township 23 South, Range 26 East, NMPM, South Carlsbad Field, Eddy County, New Mexico, is hereby established and dedicated to a well to be drilled at a standard location in the N/2 of said Section 11, to test any and all formations from the surface of the ground down to and including the Morrow formation.

(14) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

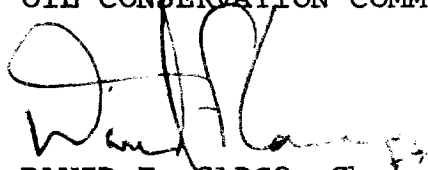
-7-

CASES Nos. 4354 and 4428

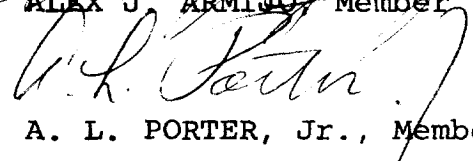
Order No. R-4033

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


DAVID F. CARGO, Chairman


ALEX J. ARMIJO, Member


A. L. PORTER, Jr., Member & Secretary

S E A L

esr/