

Entered August 10, 1982
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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. 7564
Order No. R-7050

APPLICATION OF MESA PETROLEUM
COMPANY FOR COMPULSORY POOLING,
CHAVES COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on May 26, 1982, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 10th day of August, 1982, the Division Director, 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 Division has jurisdiction of this cause and the subject matter thereof.

(2) That on April 8, 1982, the applicant in the instant case, Mesa Petroleum Company ("Mesa"), filed with the Division application for hearing seeking an order pooling all mineral interests from the surface down through the Abo formation underlying the NW/4 of Section 30, Township 6 South, Range 25 East, NMPM, Chaves County, New Mexico.

(3) That on May 3, 1982, the applicant in Case No. 7593, Western Reserves Oil Company ("Western"), filed with the Division application for hearing seeking an order pooling all mineral interests from the surface through the Abo formation underlying the same lands, i.e., the NW/4 of Section 30, Township 6 South, Range 25 East, NMPM, Chaves County, New Mexico.

(4) That Case No. 7564, the Mesa case, was originally set for hearing at 9 a.m. April 28, 1982, but was continued to May 26 so that it and Case No. 7593, the Western case, could be heard at the same time.

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(5) That at the hearing of the instant case, counsel for Western moved for the dismissal of Mesa's application on the grounds that without prior approval of a communization agreement or prior approval to pool by the Secretary of Interior, the Division cannot pool federal lands, and supported his argument by citing a recent decision by the United States Tenth Circuit Court of Appeals, Kirkpatrick Oil Company vs. United States of America. Ruling on the motion was postponed pending the filing of briefs on the motion.

(6) That from said briefs it would appear that in the Kirkpatrick case, as well as in other cases cited in the briefs, that prior approval by the Secretary of Interior is not a required prerequisite to the Division hearing a compulsory pooling case involving federal lands and entering an order pooling such lands.

(7) That the motion to dismiss Case No. 7564 should be denied, and said case should be decided on its merits.

(8) That the applicant has the right to drill and proposes to drill a well at a standard location thereon.

(9) That there are interest owners in the proposed proration unit who have not agreed to pool their interests.

(10) That the proposed unit contains 153.79 acres, and of this, Mesa presently controls 76.88 acres, or 49.9902 percent of the unit.

(11) That Mesa actually owns only 50 percent of the aforesaid 76.88 acres, and Corona Oil Company ("Corona") owns the remaining 50 percent.

(12) That Mesa has a long-term non-consent operating agreement with Corona whereby it controls Corona's interest in the subject unit until payout of costs plus penalty at which time Corona's interest reverts to Corona and Mesa's interest in the subject unit would reduce to 24.9951 percent.

(13) That of the proposed unit's 153.79 acres, Western holds a lease on 76.91 acres, or 50.0098 percent.

(14) That although Mesa's application for hearing in the instant case preceded Western's application for hearing in Case No. 7593, Western apparently made the first effort to voluntarily pool the subject lands, having transmitted an AFE to Mesa on February 23, 1982, whereas Mesa transmitted an AFE to Western on March 18, 1982.

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(15) That each company's AFE appears to represent a reasonable estimate of well costs.

(16) That both Mesa and Western have drilled and completed several Abo wells in the immediate area, and have demonstrated their competence by past performance.

(17) That considering the factors described in Findings Nos. (10) through (16) above, it would appear that Western has a higher stake in the proposed proration unit than does Mesa, will drill and operate the proposed well in a competent manner and should be approved as operator of the unit in Case No. 7593, whereas Mesa's application in the instant case should be denied.

IT IS THEREFORE ORDERED:

(1) That the application of Mesa Petroleum Company for an order pooling all mineral interests from the surface down through the Abo formation underlying the NW/4 of Section 30, Township 6 South, Range 25 East, NMPM, Chaves County, New Mexico, is hereby denied.

(2) That 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


JOE D. RAMEY,
Director

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