

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. 7593
Order No. R-7051

APPLICATION OF WESTERN RESERVES OIL
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 May 3, 1982, the applicant in the instant case, 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 NW/4 of Section 30, Township 6 South, Range 25 East, NMPM, Chaves County, New Mexico.

(3) That on April 8, 1982, 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 same lands, i.e., the NW/4 of Section 30, Township 6 South, Range 25 East, NMPM, Chaves County, New Mexico, and this application was set for hearing as Case No. 7564 on April 28, 1982.

(4) That on April 28 Case No. 7564 was continued to May 26, 1982, so that it and Case No. 7593, the instant case, could be heard at the same time.

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(5) That at the hearing of the instant case, counsel for Mesa moved for the dismissal of Western's application on the grounds that Western Reserves Oil Company, a foreign limited partnership, had not registered with the New Mexico Secretary of State as required by New Mexico Law (Sec. 54-3-2 NMSA 1978 Comp.) and was therefore not entitled to do business in this state, did not have the right to drill, and had no standing in Case No. 7593. Ruling on the motion was postponed pending the filing of briefs on the motion.

(6) That from said briefs it would appear that Western's right to drill and to file and appear in Case No. 7593 was not impaired by its failure to have previously registered with the Secretary of State; that Western did in fact so register as a foreign limited partnership on June 3, 1982; and that no ultimate useful purpose would be gained by denying Western's standing at this time.

(7) That the motion to dismiss Case No. 7593 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, Western holds a lease on 76.91 acres, or 50.0098 percent.

(11) That there are other interest owners in the proposed unit who have not agreed to pool their interests, namely Mesa which presently controls the remaining 76.88 acres, or 49.9902 percent of the unit.

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

(13) 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.

(14) That although Mesa's application for hearing in Case No. 7564 preceded Western's application for hearing in the instant case, Western apparently made the first effort to voluntarily pool the subject lands, having transmitted an AFE to

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Mesa on February 23, 1982, whereas Mesa transmitted an AFE to Western on March 18, 1982.

(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 the instant case, and Mesa's application in Case No. 7564 should be denied.

(18) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to 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 said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(19) That the applicant should be designated the operator of the subject well and unit.

(20) That 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.

(21) That 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.

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

(23) That 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.

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(24) That \$2500.00 per month while drilling and \$200.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); that the operator should be authorized to withhold from production the proportionate share of such supervision charges 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 are reasonable, attributable to each non-consenting working interest.

(25) 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.

(26) That 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 November 1, 1982, the order pooling said unit should become null and void and of no effect whatsoever.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, from the surface through the Abo formation underlying the NW/4 of Section 30, Township 6 South, Range 25 East, NMPM, Chaves County, New Mexico, are hereby pooled to form a standard 160-acre gas spacing and proration unit to be dedicated to a well to be drilled at a standard location thereon.

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the first day of November, 1982, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Abo formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the first day of November, 1982, 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.

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(2) That Western Reserves Oil Company is hereby designated the operator of the subject well and unit.

(3) That 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) 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 operator 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 above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That 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; that 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) That 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) That 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

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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 operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$2500.00 per month while drilling and \$200.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); that the operator is hereby authorized to withhold from production the proportionate share of such supervision charges 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) 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 interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

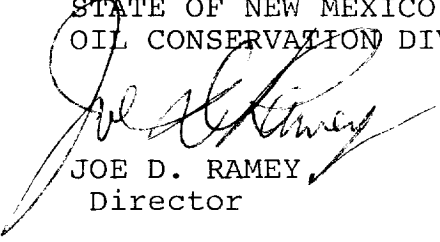
(12) That all proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Chaves County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

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

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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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