

Entered July 20, 1984
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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. 8194
Order No. R-7591

APPLICATION OF DON STUCKEY FOR
COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8 a.m. on May 23, 1984, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 20th day of July, 1984, 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 the applicant, Don Stuckey, seeks an order pooling all mineral interests in the Upper Pennsylvanian formation, including the zones from 7292-7298 feet and 7717-7734 feet, underlying the SW/4 NE/4 of Section 5, Township 20 South, Range 25 East, NMPM, Eddy County, New Mexico.
- (3) That the SW/4 NE/4 of Section 5 is a standard 40-acre oil spacing unit for the Upper Pennsylvanian formation and is more than 1 mile from the Dagger Draw Upper Pennsylvanian Oil Pool.
- (4) That the applicant has the right to re-enter and proposes to re-enter the Mewborne Oil Company S. P. Johnson Well No. 1 (plugged and abandoned, June, 1982) located 1980 feet from the North and East lines of said Section 5.
- (5) That said location is a standard oil well location for the Upper Pennsylvanian formation.

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

(7) 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 oil in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

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

(9) 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.

(10) 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 re-entry of the well.

(11) 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.

(12) 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.

(13) That at the time of the hearing the applicant proposed that the reasonable fixed charges for supervision while re-entering and producing should be \$7,500.00 and \$600.00 respectively.

(14) That these charges are above the normal fixed charges in this area for a well to a comparable depth and should therefore be adjusted to reflect a more reasonable rate.

(15) That \$3,570.00 per month should be fixed as a reasonable charge for supervision (combined fixed rate) while re-entering and that \$400.00 per month should be fixed as a reasonable charge for supervision while producing; that this

charge should be adjusted annually based upon the percentage increase or decrease in the average weekly earnings of crude petroleum and gas production workers; that the operator 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 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.

(16) 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.

(17) That upon the failure of the operator of said pooled unit to commence re-entry operations on the well to which said unit is dedicated on or before October 1, 1984, 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 Upper Pennsylvanian formation including, but not limited to perforations from 7292-7298 feet and 7717 to 7734 feet, underlying the SW/4 NE/4 of Section 5, Township 20 South, Range 25 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to the Mewbourne Oil Company S. P. Johnson Well No. 1 (plugged and abandoned, June, 1982) located 1980 feet from the North and East lines of said Section 5 to be re-entered at said standard oil well location.

PROVIDED HOWEVER, that the operator of said unit shall commence the re-entry operations on said well on or before the first day of October, 1984, and shall thereafter continue the re-entry of said well with due diligence to test the Upper Pennsylvanian formation.

PROVIDED FURTHER, that in the event said operator does not commence the re-entry of said well on or before the first day of October, 1984, 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.

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PROVIDED FURTHER, that should said well not be re-entered and completed, or abandoned, 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.

(2) That Don Stuckey 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 re-entry operations on 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 re-entering of the well, 200 percent 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 operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$3,750.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates) while re-entering, and that \$400.00 per month is hereby fixed as a reasonable charge for supervision while producing, provided that this rate shall be adjusted on the first day of April of each year following the effective date of this order; that the adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings Crude Petroleum and Gas Production Workers for the last calendar year compared to the preceding calendar year as shown by "The Index of Average Weekly Earnings of Crude Petroleum and Gas Production Workers" as published by the United States Department of Labor, Bureau of Labor Statistics, and the adjusted rate shall be the rates currently in use, plus or minus the computed adjustment; that the operator is 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 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

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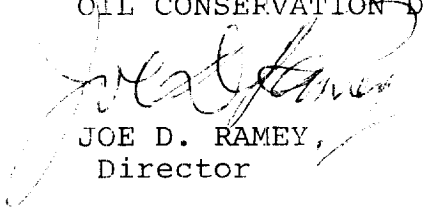
charges shall be withheld from production attributable to royalty interests.

(12) That all proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Eddy 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.

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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