

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 8755 DE NOVO
Order No. R-8135-B

APPLICATION OF TXO PRODUCTION
CORPORATION FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on February 26, 1986, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 28th day of February, 1986, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

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

(2) The applicant, TXO Production Corporation (TXO), seeks an order pooling all mineral interests in all formations from 4,825 feet beneath the surface to the base of the Bone Spring formation underlying the SW/4 NW/4 (Unit E) of Section 26, Township 18 South, Range 32 East, NMPM, Lea County, New Mexico.

(3) The matter came on for hearing at 8 a.m. on January 9, 1986, at Santa Fe, New Mexico, before Oil Conservation Division (Division) Examiner Michael E. Stogner and, pursuant to his hearing, Order No. R-8135 was issued on January 21, 1986, granting in part TXO's application.

(4) On January 30, 1986, application for Hearing De Novo was made by TXO and the matter was set for hearing before the Commission.

(5) The matter came on for hearing de novo on February 26, 1986.

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(6) Joseph Sprinkle (Sprinkle), owner of a 31.25 percent undivided interest in the NW/4 of said Section 26 appeared in opposition to TXO's application.

(7) The applicant has the right to drill and proposes to drill its Sprinkle Federal Well No. 3 at a standard location in said Section 26, to a depth sufficient to test the Bone Spring formation at approximately 8,800 feet.

(8) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(9) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, 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 any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(10) The applicant should be designated the operator of the subject well and unit.

(11) 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. In such event, the operator shall furnish to such interest owner, during the drilling and completion of such well, and upon establishing production therein, all information reasonably available to the operator, including daily drilling reports, all electric and mud logs, results of drillstem tests, and all productivity tests, completion data, oil and gas analysis tests, and like information; provided that nothing herein shall require operator to perform any additional tests not conducted in the reasonable and ordinary course of its business.

(12) Said estimated well costs should be re-evaluated following the hearing, should be competitive, and should not exceed \$532,950.

(13) At the hearing Sprinkle recommended a 25 percent risk penalty factor for the drilling of the subject well and TXO recommended a 180 percent risk penalty.

(14) The geological, engineering, and economic evidence presented in the case established that TXO's requested 180 percent is a reasonable risk penalty to be chargeable against

the interest of any working interest owner who choses not to participate in the drilling of said well.

(15) 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 180 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(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 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.

(18) At the time of the hearing the applicant proposed that the reasonable monthly fixed charges for supervision while drilling and producing should be \$5,374.00 and \$538.00, respectively.

(19) The above drilling and producing charges are above the normal monthly fixed charges in this area for a well to a comparable depth and should therefore be adjusted to reflect a more reasonable rate.

(20) \$3753.00 per month while drilling and \$392.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); 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.

(21) 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.

(22) 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 April 1, 1986, the order pooling said unit should become null and void and of no effect whatsoever.

(23) The applicant should additionally be required to:

- (a) On or before March 5, 1986, submit to Sprinkle a current statement showing the volume, value, and net value of oil and gas produced from applicant's Sprinkle Federal Well No. 1 located in Unit D of said Section 26 attributable to Sprinkle's interest in said well; and,
- (b) prior to installation of a tank battery at the Sprinkle Federal Well No. 3, submit to the Commission a cost benefit analysis designed to show whether separate tankage should be installed or if surface commingling should be sought.

(24) Should all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(25) The operator of the well and unit shall notify the Director of 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) All mineral interests, whatever they may be, in all formations from 4,825 feet beneath the surface to the base of the Bone Spring formation underlying the SW/4 NW/4 (Unit E) of Section 26, Township 18 South, Range 32 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to the Sprinkle Federal Well No. 3 to be drilled at a standard oil well location thereon.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the first day of April, 1986, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Bone Spring formation;

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the first day of April, 1986, Ordering Paragraph No. (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 Ordering Paragraph No. (1) of this order should not be rescinded.

(2) TXO Production Corporation is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and not later than March 5, 1986, the operator shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Said schedule of well costs shall be prepared to reflect current competitive costs and shall not exceed \$532,950.

(5) On or before March 14, 1986, 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 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. In such event, the operator shall furnish to such interest owner, during the drilling and completion of such well, and upon establishing production therein, all information reasonably available to the operator, including daily drilling reports, all electric and mud logs, results of drillstem tests, and all productivity tests, completion data, oil and gas analysis tests, and like information; provided that nothing herein shall require operator to perform any additional tests not conducted in the reasonable and ordinary course of its business.

(6) 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; 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.

(7) 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.

(8) 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 the time period provided in this order.
- (B) As a charge for the risk involved in the drilling of the well, 180 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 as provided above.

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

(10) \$3,753.00 per month while drilling and \$392.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); 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.

(11) 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.

(12) 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.

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

(14) On or before March 5, 1986, TXO shall furnish Sprinkle a current statement setting out the volume, value, and net value of oil and gas produced from their Sprinkle Well No. 1 located in Unit D of said Section 26 attributable to Sprinkle's interest in said well.

(15) Prior to installation of a tank battery at said Sprinkle Well No. 3, the applicant shall submit to the Commission a cost benefit analysis designed to show whether separate tankage should be installed for such well or whether surface commingling should be sought.

(16) Should all parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the well and unit shall notify the Commission in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(18) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JIM BACA, Member



ED KELLEY, Member



R. L. STAMETS, Chairman
and Secretary