

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. 8978
Order No. R-8296

APPLICATION OF FORAN OIL
COMPANY OR, IN THE ALTERNATIVE,
ESTORIL PRODUCING CORPORATION
FOR COMPULSORY POOLING, LEA
COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on August 20, 1986, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 3rd day of September, 1986, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

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

(2) Division Case Nos. 8977 and 8978 were consolidated at the time of the hearing for the purpose of testimony.

(3) The applicant, Foran Oil Company, seeks an order pooling all mineral interests in the Northeast Lovington-Pennsylvanian Pool underlying the S/2 SW/4 of Section 6, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico.

(4) The applicant further seeks the designation of Estoril Producing Corporation as the operator of the subject well and unit.

(5) The subject of Division Case No. 8977, also heard on this day, is the application of Foran Oil Company for the pooling of all mineral interests in the Northeast Lovington-

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Pennsylvanian Pool underlying the N/2 SE/4 of Section 1, Township 16 South, Range 36 East, NMPM, Lea County, New Mexico.

(6) The operator of the proposed unit has the right to drill and proposes to drill a well at a standard location thereon.

(7) Texaco Inc., a 25 percent interest owner in the proposed proration unit in the immediate case and also in the unit which is the subject of Division Case No. 8977, has not agreed to pool their interest and appeared at the hearing in opposition to the application.

(8) Due to expiring farmout agreements, the operator must commence either the well in the subject case or the well which is the subject of Division Case No. 8977 prior to September 1, 1986.

(9) It is the intention of the operator to first drill the well located in Section 6, which is the subject of this case.

(10) The applicant on behalf of the operator and Texaco Inc. agreed at the hearing that the proposed risk penalty, overhead charges, AFE, and designation of Estoril Producing Corporation as the operator of the subject well are fair and reasonable.

(11) Texaco Inc. requested at the hearing that the Division require the operator to provide Texaco with well logs and access to the rig for the well to be drilled pursuant to this case.

(12) Testimony by Texaco indicated that obtaining this information would better enable them to make a decision on whether or not to participate in the drilling of the second well pursuant to Division Case No. 8977.

(13) Further testimony by Texaco indicated that, due to the time constraints for the drilling of both wells, they could reach a decision on whether or not to participate in the drilling of the second well within seven days of receiving the geologic information.

(14) The applicant testified that due to the geologic nature of the Northeast Lovington-Pennsylvanian Pool, any geologic information obtained in the drilling of the subject well may not be of any value in evaluating the

potential success of the well to be drilled pursuant to Division Case No. 8977.

(15) The request by Texaco that it, as a non-consenting interest owner, be required to be furnished geologic information on the subject well is unreasonable and any such disclosure should be at the discretion of the operator.

(16) Texaco's request for access to the rig while drilling, logging, or completing the subject well should similarly be left to the discretion of the applicant, or operator.

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

(18) Estoril Producing Corporation should be designated the operator of the subject well and unit.

(19) 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.

(20) In view of the fact that Texaco Inc. has received a schedule of estimated well costs (AFE) at the hearing and due to the time constraints that exist in the drilling of the subject well, the 30-day voluntary election period Texaco would normally have should be reduced.

(21) A fair and equitable election period for Texaco would be ten days from the date of receipt of this order.

(22) 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.

(23) 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.

(24) 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.

(25) \$5500.00 per month while drilling and \$550.00 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.

(26) 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.

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

(28) 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.

(29) 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 the Strawn formation underlying the S/2 SW/4 of Section 6, Township 16 South, Range 37 East, NMPM, Northeast Lovington-Pennsylvanian Pool, Lea County, New Mexico, are hereby pooled to form a standard 80-acre oil 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 1st day of December, 1986, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Strawn formation;

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of December, 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) Estoril Producing Corporation is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order, the operator shall furnish each known working interest owner in the subject unit a copy of this order by registered mail, return receipt requested.

(4) Within 10 days from the date of receipt of this order, 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.

(5) 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, 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) 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

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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) 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 10 days from the date of receipt of this order.
- (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 working interest owner who has not paid his share of estimated well costs within 10 days from the date of receipt of this order.

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

(9) \$5500.00 per month while drilling and \$550.00 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.

(10) 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) 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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(12) 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 Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) 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.

(14) 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.

(15) 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



R. L. STAMETS
Director

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