

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

*CASE NO. 9998 REOPENED
ORDER NO. R-9093-C*

APPLICATION OF YATES ENERGY CORPORATION
TO AMEND DIVISION ORDER NO. R-9093, AS
AMENDED, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on October 31, 1990, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 29th day of November, 1990 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) By Division Order No. R-9093, dated January 8, 1990, issued in Case No. 9845, the Division, upon the application of Yates Energy Corporation, pooled all mineral interests only in the Undesignated Tamano-Bone Spring Pool underlying the SE/4 SW/4 of Section 1, Township 18 South, Range 31 East, NMPM, Eddy County, New Mexico, forming a standard 40-acre oil spacing and proration unit to be dedicated to the applicant's Thornbush Federal Well No. 1 to be drilled at a standard location 330 feet from the South line and 1980 feet from the West line (Unit N) of said Section 1.

(3) By Order R-9093-A, entered on February 27, 1990, the Oil Conservation Commission, pursuant to the request of Spiral, Inc., Explorers Petroleum Corporation and HEYCO Employers, Ltd., as applicants for De Novo hearing, dismissed Case 9845 De Novo and ordered that Order R-9093 continue in full force and effect until further notice.

(4) By Order R-9093-B, entered on September 19, 1990, the Division temporarily denied Yates Energy Corporation's request to amend said Order No. R-9093 to include a provision pooling all mineral interests within the SE/4 SW/4 of said Section 1 in the expanded interval from the surface to the base of the Undesignated Tamano-Bone Spring Pool, and among other things:

(a) Ordered applicant to "conduct good faith negotiations with Chevron in order to determine a fair and equitable method whereby Chevron's interest as to the San Andres formation may be consolidated."

(b) Ordered that the matter be reopened on October 31, 1990 should the parties fail to reach a voluntary agreement, "at which time the division shall consider additional evidence regarding conductance of negotiations, the proportionate share of well costs which are allocated to the San Andres completion, and the assignment of a risk penalty which is fair to both parties."

(5) Yates Energy Corporation (Yates) spudded the subject well on February 14, 1990, drilled to a total depth of approximately 9,060 feet, and tested the Bone Spring interval as non-productive.

(6) The applicant subsequently tested the San Andres formation at a depth of approximately 4,637 feet and has completed the subject well as a San Andres producer with an initial potential of 82 barrels of oil per day.

(7) Chevron USA, Inc. (Chevron) a twenty-five percent working interest owner in the subject unit, did not appear in the hearing resulting in said Order R-9093 and elected not to participate in the drilling of the subject well to the Bone Spring formation.

(8) Both Chevron and Yates appeared at the October 31, 1990 hearing and presented evidence to support their positions.

(9) Subsequent to the issuance of Division Order No. R-9093-B, both Yates and Chevron participated in negotiations in an attempt to determine a fair and equitable method of consolidating Chevron's interest in the San Andres formation to the subject 40-acre tract.

(10) Such negotiations were unsuccessful.

(11) Yates proposes at this time that total well costs for completion of the Thornbush Federal Well No. 1 in the San Andres formation should include the cost of drilling and testing the Undesignated Tamano-Bone Spring Pool, including, but not limited to, intermediate casing and any additional reasonable incremental costs and expenses associated with testing the Undesignated Tamano-Bone Spring Pool.

(12) Chevron proposes that the cost of drilling and completing the Thornbush Federal Well No. 1 should be allocated between the San Andres and Bone Spring formations in accordance with the Council of Petroleum Accountants Societies Bulletin No. 2, dated September, 1965, entitled Determination of Values for Well Cost Adjustments Joint Operations, (see Chevron's Exhibit No. 2) as follows:

Section B: ALLOCATION OF INTANGIBLE DRILLING COSTS

Sub-Sections 1 (a) and 2

Section B: ALLOCATION OF TANGIBLE COST

Sub-Sections 1, 2, and 3

and further provided that for this well the drilling day ratio should be ten days to 4800 feet divided by 24 days to 9060 feet or 41.67% for the intangible allocation calculation and the tangible costs attributable to the San Andres formation should be limited to the following:

- (a) casing and tubing Heads
- (b) surface casing
- (c) 5 1/2-inch production casing to 4800 feet
- (d) 2 3/8-inch tubing to 4800 feet
- (e) production facilities.

(13) Yates' proposed allocation of costs to the San Andres formation *is not* fair and reasonable, Chevron therefore should not be required to pay those actual costs to the subject well attributable to the drilling of this well below 4800 feet; however, such costs attributable to the setting of the intermediate 8 5/8-inch casing should be considered.

(14) The risk penalty factors suggested by Yates and Chevron are 200 and zero, respectively. Neither penalty properly reflects the situation; therefore, the risk penalty in this instance should be 150 percent.

(15) Yates Energy Corporation should continue to be the designated operator of the subject well and unit.

(16) Any non-consenting working interest owner should be afforded the opportunity to pay its share of actual San Andres well costs to the operator in lieu of paying his proportionate share of reasonable well costs attributable to the San Andres out of production.

(17) 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 an objection.

(18) Following determination of reasonable well costs, any non-consenting working interest owner should receive from the operator any amount that it paid or was charged which was in excess of reasonable well costs.

(19) Because Order No. R-9998 establishes overhead charges for a Bone Spring well and not a San Andres well, those charges previously approved should be reduced to reflect the overhead rates established by Ernst and Young which are \$3200.00 per month while drilling and \$320.00 per month while producing which 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.

(20) 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.

(21) 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) Within 30 days after the effective date of this order, the operator shall furnish the Division, Chevron and all other working interest owners in the subject unit an itemized schedule of actual well costs which shall be allocated between the San Andres and Bone Spring formations in accordance with the Council of Petroleum Accountants Societies Bulletin No. 2, dated September, 1965, entitled Determination of Values for Well Cost Adjustments Joint Operations, (see Chevron's Exhibit No. 2) as follows:

Section B: ALLOCATION OF INTANGIBLE DRILLING COSTS

Sub-Sections 1 (a) and 2

Section B: ALLOCATION OF TANGIBLE COST

Sub-Sections 1, 2, and 3

and the drilling day ratio shall be ten (10) days to 4800 feet divided by twenty-four (24) days to 9060 feet or 41.67% and the tangible costs attributable to the San Andres formation shall include:

- (a) casing and tubing Heads
- (b) surface casing
- (c) 5 1/2-inch production casing to 4800 feet
- (d) 2 3/8-inch tubing to 4800 feet
- (e) intermediate 8 5/8-inch casing to 4800 feet
- (f) production facilities.

(2) Within 30 days from the date the schedule of actual well costs is furnished to Chevron and any other working interest owner, any such non-consenting working interest owner shall have the right to pay his share of actual well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(3) If no objection to the actual well costs is received by the Division from any such non-consenting working interest owner within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(4) The operator is hereby designated to withhold the following costs and charges from production: the pro rata share of reasonable well costs attributable to such non-consenting interest to the San Andres formation if it becomes a non-consenting working interest owner who has not paid its share of actual well costs within 30 days from the date the schedule of actual well costs is furnished to it.

(5) \$3200.00 per month while drilling and \$320.00 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.

(6) 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.

(7) Proceeds from the sale of production attributable to Chevron's 25% working interest held in escrow pursuant to letter of Division Director dated October 3, 1990 shall be released to Chevron if it elects to join and pay its share of well costs as provided in this order; otherwise such funds shall be released to the operator and applied to costs attributable to Chevron's interest as provided in this order for non-consent interests pooled hereunder.

(8) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy 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.

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

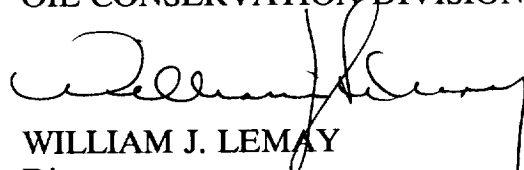
(10) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

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

Case No. 9998
Order No. R-9093-C
Page No. 7

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY
Director

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