

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. 10689  
ORDER NO. R-9868*

**APPLICATION OF MEWBOURNE OIL COMPANY FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 18, 1993, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 7<sup>th</sup> day of April, 1993, 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) The applicant, Mewbourne Oil Company, seeks an order pooling all mineral interests from a depth of 500 feet below the top of the San Andres formation to the base of the Morrow formation, underlying the following described area in Section 17, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico, and in the following manner:

the W/2 forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to the Undesignated North Illinois Camp-Morrow Gas Pool; and

the NW/4 forming a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent.

(3) The applicant is an interest owner in the W/2 of said Section 17 and has the right to develop the minerals underlying both the aforementioned spacing units.

(4) The applicant proposes to drill its Illinois Camp "17" State Well No. 1 at a location 2180 feet from the North line and 1980 feet from the West line (Unit F) of said Section 17 and dedicate both the 320-acre deep gas spacing unit and the 160-acre shallow gas spacing unit to the single well.

(5) Said location, pursuant to both Division General Rules 104.B(1)(a) and 104.C(2)(b), is considered to be standard for the W/2 320-acre dedication; but pursuant to General Rule 104.B(1)(a), is unorthodox for the proposed 160-acre unit.

(6) Although having a mineral interest in acreage to be included in a legal-sized spacing unit or units entitles that mineral interest owner a right to drill a well, it does not necessarily entitle that owner to drill an *unorthodox* location. Further, the application neither sought nor requested an exception to the well location requirements for the proposed 160-acre tract. Also, the advertisement in this case did not include a request for the unorthodox location.

(7) The portion of this application for the compulsory pooling of the 160-acre gas spacing and proration unit should therefore be dismissed at this time.

(8) Should, at any time in the future, the forced pooling of the 160-acre tract become necessary, the operator can seek such an order and include a request for approval of the non-standard gas well location at that time.

(9) There are interest owners in the 320-acre gas spacing proration unit who have not agreed to pool their interests.

(10) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said 320-acre unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production 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 320-acre unit.

(11) The applicant should be designated the operator of the subject well to be drilled at the aforementioned standard deep gas well location within the 320-acre gas spacing and proration unit.

(12) 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.

(13) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(14) 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.

(15) 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.

(16) At the time of the hearing, the applicant proposed that the reasonable monthly fixed charges for supervision while drilling and producing said well should be initially set at \$6167.00 and \$626.50, respectively, and that any such overhead charges included in this order contain provisions for an annual adjustment based on accepted industry practices.

(17) \$6167.00 per month while drilling and \$626.50 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); this charge should be adjusted annually based upon the percentage increase or decrease in average weekly earnings of crude petroleum and gas production workers; the operator should be authorized to withhold from production the proportionate share of 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.

(18) 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.

(19) Upon the failure of the operator of said pooled 320-acre unit to commence drilling of the well to which said unit is dedicated on or before July 1, 1993, the order pooling said unit should become null and void and of no further effect whatsoever.

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

(21) The operator of the well and unit should 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.

**IT IS THEREFORE ORDERED THAT:**

(1) The portion of this application by Mewbourne Oil Company seeking to pool the NW/4 of Section 17, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing from a depth of 500 feet below the top of the San Andres formation to the base of the Morrow formation is hereby *dismissed*.

(2) All mineral interests, whatever they may be, from a depth of 500 feet below the top of the San Andres formation to the base of the Morrow formation, underlying the W/2 of Section 17, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to the Undesignated North Illinois Camp-Morrow Gas Pool.

(3) Said unit is to be dedicated to its Illinois Camp "17" State Well No. 1 to be drilled at a standard deep gas well location 2180 feet from the North line and 1980 feet from the West line (Unit F) of said Section 17.

**PROVIDED HOWEVER THAT,** the operator of said 320-acre unit shall commence the drilling of said well on or before the 1st day of July, 1993, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the above described area.

**PROVIDED FURTHER THAT,** in the event said operator does not commence the drilling of said well on or before the 1st day of July, 1993, Decretory Paragraph No. (2) 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 Decretory Paragraph No. (2) of this order should not be rescinded.

(4) Mewbourne Oil Company is hereby designated the operator of the subject well and 320-acre unit.

(5) 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.

(6) 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 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.

(7) 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.

(8) 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.

(9) 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; and

- (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 30 days from the date the schedule of estimated well costs is furnished to him.

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

(11) \$6167.00 per month while drilling and \$626.50 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); 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 of 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; 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.

(12) Any unleased 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.

(13) 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.

(14) 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.


(15) 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.

(16) 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.

(17) 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



WILLIAM J. LEMAY  
Director

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