

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. 10767
ORDER NO. R-9947*

**APPLICATION OF SANTA FE ENERGY OPERATING PARTNERS, L. P.
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 July 29 and August 12, 1993, at Santa Fe, New Mexico, before Examiners Michael E. Stogner and David R. Catanach, respectively.

NOW, on this 30th day of August, 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, Santa Fe Energy Operating Partners, L. P., seeks an order pooling all mineral interests from the surface to the base of the Cisco/Canyon formation, underlying all of Section 5, Township 22 South, Range 24 East, NMPM, Eddy County, New Mexico, forming a non-standard 692.88-acre gas spacing and proration unit for any and all formations and/or pools developed on 640-acre spacing within said vertical extent, which presently includes only the Indian Basin-Upper Pennsylvanian Gas Pool.

(3) The subject acreage is within the boundaries of the Indian Basin-Upper Pennsylvanian Gas Pool and, as such, is subject to the special rules and regulations for said pool, as promulgated by Division Order No. R-8170, as amended, which provides for 640-acre gas spacing and proration units and requires that wells be located no closer than 1650 feet from the outer boundary of the proration unit nor closer than 330 feet from any governmental quarter-quarter section line or subdivision boundary. Said rules

also contain provisions whereby the District Supervisor of the Artesia District Office of the Division has the authority to approve the subject non-standard 692.88-acre gas spacing and proration unit since the unorthodox size and shape of the unit is the result of a variation in the legal subdivision of the United States Public Land Surveys and is only 108.26 percent of a standard gas proration unit.

(4) The applicant is an interest owner in said Section 5 and has the right to develop the minerals underlying the 692.88-acre unit.

(5) The applicant proposes to re-enter the plugged and abandoned Discovery Operating, Inc. Walt Canyon "5" Federal Well No. 1, located at a standard Indian Basin-Upper Pennsylvanian gas well location 1650 feet from the South and East lines (Unit J) of said Section 5 and deepen said well to a depth of approximately 8600 feet from its original total depth of 8010 feet.

(6) There are interest owners in the proposed 692.88-acre proration unit who have not agreed to pool their interests.

(7) 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 unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas underlying said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said proration unit.

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

(9) 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) 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 re-entering and deepening of the well.

(11) 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.

(12) 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) \$5200 per month while re-entering and deepening and \$520.00 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 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.

(14) 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.

(15) Upon the failure of the operator of said pooled unit to commence prudent re-entry operations on the well to which said unit is dedicated on or before November 1, 1993, the order pooling said unit should become null and void and of no further effect whatsoever.

(16) 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.

(17) 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) All mineral interests, whatever they may be, from the surface to the base of the Cisco/Canyon formation, underlying all of Section 5, Township 22 South, Range 24 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a non-standard 692.88-acre gas spacing and proration unit for any and all formations and/or pools developed on 640-acre spacing within said vertical extent, which presently includes only the Indian Basin-Upper Pennsylvanian Gas Pool. Said unit is to be dedicated to the plugged and abandoned Discovery Operating, Inc. Walt Canyon "5" Federal Well No. 1

to be re-entered and deepened to an approximate depth of 8600 feet at a standard Indian Basin-Upper Pennsylvanian Gas Pool gas well location 1650 feet from the South and East lines (Unit J) of said Section 5.

PROVIDED HOWEVER THAT, the operator of said unit shall re-enter and commence drilling to deepen said well on or before the 1st day of November, 1993, and shall thereafter continue the drilling of said well with due diligence to a depth of 8600 feet.

PROVIDED FURTHER THAT, in the event said operator does not commence re-entry operation on said well on or before the 1st day of November, 1993, Decretory 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 re-entered and deepened 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. (1) of this order should not be rescinded.

(2) The applicant in this matter, Santa Fe Energy Operating Partners, L. P., is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing re-entry and deepening 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) 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.

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

(9) \$5200.00 per month while drilling and \$520.00 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; 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.

(10) 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.

(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.

(12) 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.

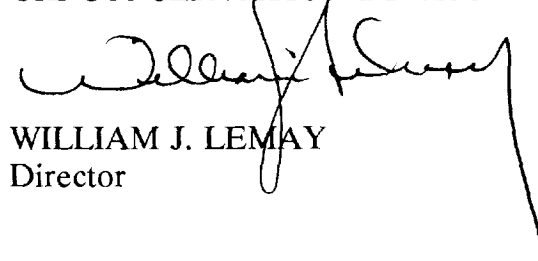
(13) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) 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.

(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


WILLIAM J. LEMAY
Director

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