

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:

(Reopened) CASE NO. 13063
ORDER NO. R-12073-A

APPLICATION OF TRILOGY OPERATING, INC. FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on February 5, 2004 before Examiner William V. Jones.

NOW, on this 19th day of May, 2004, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) This case originally was heard by Division Examiner David K. Brooks, Esq., on May 8, 2003, then continued for lack of proper notice. On December 19, 2003, the case was dismissed for want of prosecution. On December 22, 2003, Trilogy Operating, Inc. ("Applicant") filed a motion for reconsideration. That motion was granted by Examiner Brooks, and the case reopened and set for hearing on the January 22, 2004, Docket No. 03-04. The case was continued to February 5, 2004, to allow time for proper re-noticing. Applicant presented to the Division an affidavit verifying this re-noticing at the February 5, 2004, hearing.

(3) Applicant seeks an order pooling all uncommitted mineral interests from the surface to the base of the Abo formation underlying the SE/4 NE/4 of Section 24, Township 19 South, Range 38 East, NMPM, Lea County, New Mexico, forming a standard 40-acre oil spacing and proration unit (the "Unit") for any and all formations and/or pools developed on 40-acre spacing within that vertical extent, including but not

limited to the Undesignated North Nadine-Yates Pool (96947), the Undesignated East Nadine-Blinebry Pool (97246), and the Nadine-Drinkard-Abo Pool (47510).

(4) Applicant proposes to dedicate this unit to its proposed Sapphire Well No. 3 (API No. 30-025-36142), "the proposed well," to be drilled at a standard location in the SE/4 NE/4 of Section 24. The proposed well will be drilled to 7,800 feet or a depth sufficient to test the Abo formation.

(5) Two or more separately owned tracts are embraced within the unit, **and/or** there are royalty interests **and/or** undivided interests in oil and gas minerals in one or more tracts included in the unit that are separately owned.

(6) Applicant's testimony in this case was presented by affidavit.

(7) No other parties entered an appearance in this case.

(8) Applicant is an owner of an oil and gas working interest within this Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within this unit.

(9) There are interest owners in this unit that have not agreed to pool their interests.

(10) Applicant should be designated the operator of the proposed well and this unit.

(11) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,500 per month while drilling and \$400 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COP AS form titled "*Accounting Procedure-Joint Operations.*"

(12) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in this Unit the opportunity to recover or receive without unnecessary expense its **just** and fair share of hydrocarbons, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within this Unit.

IT IS THEREFORE ORDERED THAT :

(1) Pursuant to the application of Trilogy Operating, Inc. ("Applicant"), all uncommitted mineral interests from the surface to the base of the Abo formation in the SE/4 NE/4 of Section 24, Township 19 South, Range 38 East, NMPM, Lea County, New Mexico, are hereby pooled forming a standard 40-acre oil spacing and proration unit (the "Unit") for any and all formations **and/or** pools developed on 40-acre spacing within that vertical extent, including but not limited to the Undesignated North Nadine-Yates Pool (96947), the Undesignated East Nadine-Bliebry Pool (97246), and the Nadine-Drinkard-Abo Pool (47510).

The Unit shall be dedicated to Applicant's proposed Sapphire Well No. 3 (API No. 30-025-36142), "the proposed well," to be located at a standard well location in the SE/4 NE/4 of Section 24.

(2) Applicant is hereby designated the operator of the proposed well and of the Unit.

(3) The operator of the Unit shall commence drilling the proposed well on or before August 1, 2004, and shall thereafter continue drilling the well with due diligence to test prospective formations including the Abo formation.

(4) In the event the operator does not commence drilling the proposed well on or before August 1, 2004, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the subject well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(6) Upon final plugging and abandonment of the Sapphire Well No. 3, the pooled Unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including **unleased** mineral interests, who are not parties to an operating agreement governing the Unit.)

(8) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed 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 the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(11) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated well costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator its share of the amount that estimated well costs exceed reasonable well costs.

(12) The operator is hereby authorized to withhold the following costs and charges from production:

(a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and

(b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(13) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(14) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,500 per month while drilling and \$400 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*" The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what is reasonable, attributable to pooled working interest owners.

(15) Except as provided above, all proceeds from production from the proposed well that are not disbursed for any reason shall 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

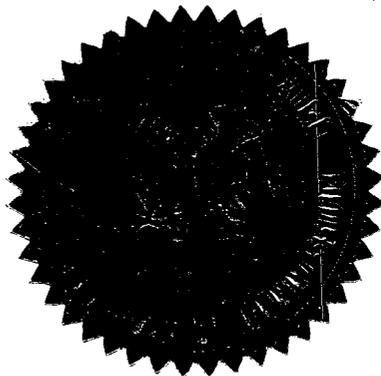
(16) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

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

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

(19) Jurisdiction of this case 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.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Joanna Prukop". The signature is fluid and cursive.

JOANNA PRUKOP
Cabinet Secretary/Acting Director