

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. 13226
ORDER NO. R-12163

APPLICATION OF OXY USA WTP LIMITED PARTNERSHIP FOR RESCISSION OF
THE APPROVAL FOR PERMIT TO DRILL AND FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on March 4, 2004, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 22nd day of July, 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 its subject matter.

(2) The applicant, OXY USA WTP Limited Partnership ("OXY") seeks an order from the Division: (i) rescinding the Artesia district office of the Division's approval of the Tom Brown Inc. ("Tom Brown") Application for Permit to Drill ("APD") its proposed Forni Well No. 2 (API No. 30-015-33204) at a standard gas well location 660 feet from the South and West lines (Unit M) of Section 15, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, to be dedicated to a standard 320-acre lay-down gas deep spacing unit comprised of the S/2 of Section 15; (ii) re-instating the Division's January 28, 2004 approval of OXY's APD for its Redemption Well No. 1 (API No. 30-015-33206) to be drilled at a standard gas well location 660 feet from the South and West lines (Unit M) of Section 15 to be dedicated to a standard 320-acre stand-up deep gas spacing unit comprised of the W/2 of Section 15; and (iii) pooling all mineral interests in the W/2 of Section 15 in all formations and/or pools developed on 320-acre spacing units pursuant to Division Rule 104.C(2), which presently includes but are not necessarily limited to the East Carlsbad-Wolfcamp Gas Pool (74160), Undesignated Carlsbad-Strawn Gas Pool (74040), Undesignated Otis-Atoka Gas

Pool (96891), Undesignated Tansill Dam-Atoka Gas Pool (85900), and Undesignated South Carlsbad-Morrow Gas Pool (73960) for its above-described Redemption Well No. 1.

(3) Tom Brown, Inc. appeared at the hearing in opposition to the application.

(4) The Division's legal counsel entered an appearance at the hearing, but offered no evidence or testimony.

(5) Ownership of Section 15 is summarized below:

Tract No.	Description	Acres	Fee Royalty Ownership	Working Interest Ownership
No. 1	NE/4	160	Bindel	100% - Tom Brown, Inc. (all depths)
No. 2	NW/4 NW/4 and 5.5 acres (divided) within the SW/4 NW/4	45.5	Ginanni	100% - OXY et. al. (all depths)
No. 3	E/2 NW/4	80	Ginanni et. al.	100% - OXY et. al. (all depths)
No. 4 (a)	SW/4 and 34.5 acres (divided) within the SW/4 NW/4	194.5	Forni	100% Nearburg et. al. (surface to base of the Wolfcamp) 100% Tom Brown, Inc. (below base of the Wolfcamp)
No. 4 (b)	SE/4	160	Forni	100% Tom Brown, Inc. (all depths)

(6) There is currently only one producing well in Section 15; Tom Brown's Forni Well No. 1 (API No. 30-015-20010) located 2310 feet from the South line and 990 feet from the East line (Unit I) of Section 15, which is producing from the East Carlsbad-Wolfcamp Gas Pool. The E/2 of Section 15, being a standard 320-acre stand-up deep gas spacing unit pursuant to Division Rule 104.C(2) is dedicated to this well. At the time this well was drilled by Union Oil Company of California with its offices in Midland, Texas, the location was considered to be standard under the Division's rules applicable at the time; however, under the current Division Rule 104.C (2) (a), this location is considered to be unorthodox by being too close to the internal quarter section-line in the E/2 of section 15. Further, this 320-acre Wolfcamp gas spacing unit comprises two fee leases [tracts No. 1 and 4 (b)] in which Tom Brown owns 100 % of the cost bearing or working interest.

(7) The vertical extent to be pooled is currently governed by Division Rule 104.C (2), which states:

"(2) 320-Acre Spacing applies to any deep gas well in Lea, Chaves, Eddy or Roosevelt County, defined as a well that is projected to be drilled to a gas producing formation or is within a defined gas pool in the Wolfcamp or an older formation. Such well shall be located on a spacing unit consisting of 320 surface contiguous acres, more or less, comprising any two contiguous quarter sections of a single section that is a legal subdivision of the U.S. Public Land Surveys provided that:

- (a) the initial well on a 320-acre unit is located no closer than 660 feet to the outer boundary of the quarter section on which the well is located and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary;*
- (b) only one infill well on a 320-acre unit shall be allowed provided that the well is located in the quarter section of the 320-acre unit not containing the initial well and is no closer than 660 feet to the outer boundary of the quarter section and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary; and*
- (c) the Division-designated operator for the infill well is the same operator currently designated by the Division for the initial well"*

(8) The land testimony presented at the hearing by both parties shows the following:

(a) In July, 2003 Devon Energy Production Company, L.P. of Oklahoma City, Oklahoma ("Devon") approached Matador Petroleum Corporation of Dallas, Texas ("Matador") to form a working interest unit comprising the S/2 of Section 15 and the N/2 of Section 22, both in Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico.

(b) This action moved Tom Brown to consider drilling a deep Morrow gas test within the S/2 of Section 15, being a standard 320-acre lay-down deep gas spacing unit pursuant to Division Rule 104.C (2).

(c) At about the same time, Matador was acquired by Tom Brown, which delayed discussions regarding the working interest unit and the drilling of Tom Brown's deep Morrow gas tests.

(d) After numerous discussions, Tom Brown decided in early January 2004 not to join in Devon's proposed working interest unit. By this time however, Tom Brown had obtained accurate title data on all of Section 15.

(e) On January 9, 2004, Tom Brown placed its proposed Forni Well No. 2 [described above in Finding Paragraph No. (2)] on its drilling schedule for early March, 2004; moreover, Tom Brown planned its Forni Well No. 2 as a deep Strawn/Atoka/Morrow gas test.

(f) On January 15, 2004 OXY mailed a well proposal to Tom Brown for its proposed Redemption Well No. 1, also described in Finding Paragraph No. (2) above.

(g) On January 21, 2004 Tom Brown filed its APD for the proposed Forni Well No. 2, which was approved by the Division's Hobbs district office on January 30, 2004.

(h) On January 26, 2004 OXY filed its APD for the proposed Redemption Well No. 1; however, this APD was denied by the Division's Hobbs district office because of the Tom Brown's APD.

(i) On February 10, 2004 OXY filed its application herein; however, only Tom Brown was notified of the pooling application. At the time OXY filed the application in this case, OXY had no accurate title data on Section 15. Other interest owners in the Wolfcamp formation in the W/2 of Section 15 have not been notified of OXY's proposed pooling application.

(j) At Tom Brown's request, the parties met on March 1, 2004.

(k) At the time of the hearing 39 % of the working interest within the W/2 of Section 15 are committed to OXY's proposed stand-up 320-acre unit; therefore, OXY is seeking to force pool the remaining uncommitted 61 %.

(9) OXY, being a working interest owner within the proposed 320-acre unit, has the right to drill for and develop the deep gas and associated liquid hydrocarbon minerals underlying this 320-acre stand-up deep gas spacing unit.

(10) The geologic and engineering evidence presented by both Tom Brown and OXY indicates the following:

(a) Marbob Energy Corporation's **Walterthon Fee Well No. 1** (API No. 30-015-31797), located at a standard gas well location 860 feet from the North line and 948 feet from the East line (Unit A) in offsetting Section 21, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, is a prolific producer of gas from the lower portion of the South Carlsbad-Morrow Gas Pool through perforations 11,732 feet to 11,775 feet and from 11,888 feet to 11,898 feet ("Walterthon Sand").

(b) Based on the results of this Walterthon Fee Well No. 1, the Morrow formation is the primary zone of interest for any well located in the SW/4 of Section 15.

(c) The Wolfcamp and Strawn intervals are considered to be secondary targets in the SW/4 of Section 15.

(d) The Wolfcamp and Strawn reservoirs trend northeast-southwest within this township.

(e) The Wolfcamp reservoir underlies all of Section 15; therefore, the orientation of 320-acre units in the Wolfcamp formation can be either **standup** or lay-down.

(f) There is no dominant orientation for 320-acre well units in Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico; there **are** both stand-up and lay-down units.

(g) The Morrow formation in this township trends northwest-southeast. The Morrow formation is discontinuous and lenticular in nature and where the Morrow reservoir is well developed, the gas-water contact is not a factor.

(h) Approximately the southern 80% of Section 15 is potentially productive from the Morrow formation.

(i) The "Walterthon Sand" reservoir is limited in extent, and does not extend into the NW/4 of Section 15.

(11) Division regulations do not bar contrasting stand-up and lay-down 320-acre deep gas spacing units in different formations within a single governmental section.

(12) OXY has not demonstrated that **standup** units are required to protect correlative rights of the mineral interest owners of deep gas rights in Section 15. Moreover, OXY has not made a good faith effort to obtain the voluntary joinder of all interest owners in its proposed well and deep 320-acre gas unit.

(13) OXY contends that Tom Brown's APD was improper when filed, and thus should not have been approved. The evidence shows that there were minor discrepancies in **both** Tom Brown's APD and OXY's APD. These discrepancies **are** not significant, and **do** not warrant revoking Tom Brown's APD.

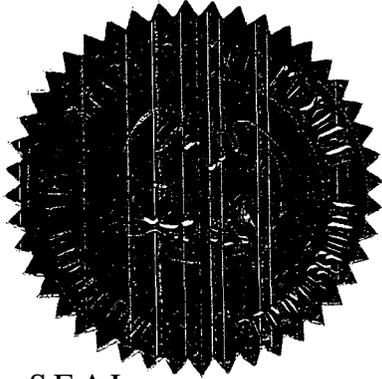
(14) OXY's application should be denied.

IT IS THEREFORE ORDERED THAT:

(1) The application of OXY USA WTP Limited Partnership ("OXY") for an order from the Division: (i) rescinding the Artesia district office of the Division's approval of the Tom Brown Inc. ("Tom Brown") Application for Permit to Drill ("APD") its proposed Forni Well No. 2 (API No. 30-015-33204) to be drilled at a standard gas well location 660 feet from the South and West lines (Unit M) of Section 15, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, and to be dedicated to a standard 320-acre lay-down deep gas spacing unit comprised of the S/2 of Section 15; (ii) re-instating the Division's January 28, 2004 approval of OXY's APD for its Redemption Well No. 1 (API No. 30-015-33206) to be drilled at a standard gas well location 660 feet from the South and West lines (Unit M) of Section 15 and to be dedicated to a standard 320-acre stand-up deep gas spacing unit comprised of the W/2 of Section 15; and (Hi) pooling all mineral interests in the W/2 of Section 15 in all formations **and/or** pools developed on 320-acre spacing units pursuant to Division Rule 104.C(2), which presently includes but are not necessarily limited to the East Carlsbad-Wolfcamp Gas Pool (**74160**), Undesignated Carlsbad-Strawn Gas Pool (74040), Undesignated Otis-Atoka Gas Pool (**96891**), Undesignated Tansill Dam-Atoka Gas Pool (85900), and Undesignated South Carlsbad-Morrow Gas Pool (73960) for its above-described Redemption Well No. 1, is **hereby denied**.

(2) 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire". The signature is fluid and cursive.

MARK E. FESMIRE, P. E.
Director