

**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. 13449
ORDER NO. R-12338**

**APPLICATION OF CHI ENERGY, INC. 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 17 and on April 7, 2005, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 26th day of April, 2005, 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) Chi Energy, Inc. ("Chi" or "Applicant") seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the N/2 of Section 25, Township 19 South, Range 29 East, NMPM, Eddy County, New Mexico, to form a standard 320-acre stand-up deep gas spacing unit for any and all formation and/or pools developed on 320-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated HG-Atoka Gas Pool (96461), Undesignated West Parkway-Atoka Gas Pool (82560), Undesignated Turkey Track-Atoka Gas Pool (86445), Undesignated HG-Morrow Gas Pool (78400), Undesignated West Parkway-Morrow Gas Pool (82600), and Undesignated Turkey Track-Morrow Gas Pool (86480).

(3) This unit is to be dedicated to the Applicant's proposed Peacekeeper State Com. Well No. 1 to be drilled at a standard deep gas well location pursuant to Division Rule 104.C (2) (a) within the NE/4 NE/4 (Unit A) of Section 25. However, pursuant to Rule 4 of the *"Special Rules and Regulations for the West Parkway-Atoka Gas Pool."* as

promulgated by Division Order No. R-4638, as amended, a well within the NE/4 NE/4 of Section 25 is considered unorthodox. If after completion within the Atoka interval and if such production is assigned the West Parkway-Atoka Gas Pool the operator would be required to seek the necessary well location exception pursuant to the applicable Division rules.

(4) The Applicant is a working interest owner within the proposed 320-acre unit and therefore has the right to drill for and develop the oil and gas minerals underlying this unit.

(5) Two or more separately owned tracts are embraced within the proposed 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) There are certain mineral interest owners within the proposed 320-acre unit that have not agreed to pool their interests.

(7) At the March 17, 2005 hearing, Mr. Daniel A. McNabb of Colorado Springs, Colorado, who owns a 15.32372 % working interest of the unit to be pooled, entered an appearance in this case on his own behalf. No other party affected by this application appeared at the hearing or objected to this application.

(8) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste, and afford to the owner of each interest in the 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.

(9) Applicant should be designated the operator of the **subject** well and of the unit.

(10) Pursuant to Division Rule 35 .A, any pooled working interest owner that does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the proposed Peacekeeper State Com. Well No. 1.

(11) Reasonable charges for supervision (combined fixed rates) should be fixed at \$ 6,500.00 per month while drilling and \$ 600.00 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*." The operator should be 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 are reasonable, attributable to each pooled working interest.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Chi Energy, Inc. ("Chi" or "Applicant"), all uncommitted mineral interests, whatever they may be, from the surface to the base of the Morrow formation underlying the N/2 of Section 25, Township 19 South, Range 29 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a standard 320-acre stand-up deep gas spacing unit for any and all formations **and/or** pools developed on 320-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated HG-Atoka Gas Pool (96461), Undesignated West Parkway-Atoka Gas Pool (82560), Undesignated Turkey Track-Atoka Gas Pool (86445), Undesignated HG-Morrow Gas Pool (78400), Undesignated West Parkway-Morrow Gas Pool (82600), and Undesignated Turkey Track-Morrow Gas Pool (86480).

(2) This unit is to be dedicated to the Applicant's proposed Peacekeeper State Com. Well No. 1 to be drilled at a standard deep gas well location pursuant to Division Rule 104.C (2) (a) within the NE/4 NE/4 (Unit A) of Section 25. However, after completion of this well within the Atoka interval and if such production is assigned the West Parkway-Atoka Gas Pool the operator must seek the necessary well location exception to Rule 4 of the "*Special Rules and Regulations for the West Parkway-Atoka Gas Pool.*" as promulgated by Division Order No. R-4638, as amended.

(3) Applicant is hereby designated the operator of the proposed well and of this unit.

(4) The operator of this unit shall commence drilling the proposed well on or before July 31, 2005, and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Morrow formation.

(5) In the event the operator does not commence drilling the proposed well on or before July 31, 2005, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(6) Should the proposed well not be drilled and completed within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(7) Upon final plugging and abandonment of the proposed well, the pooled unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(8) 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 this unit.) 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 well 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 each non-consenting working interest owner) 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 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 the amount, if any, that the estimated well costs that it has paid exceeds its share of 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; and
- (b) as a charge for the risk involved in drilling the well, 200 percent of the above costs (see Division Rule 35.A).

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

(14) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$ 6,500.00 per month while drilling and \$ 600.00 per month while producing, provided that this rate shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations." The operator is hereby 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 are reasonable, attributable to each pooled working interest owners.

(15) Except as provided in Ordering Paragraphs (12) and (14) above, all proceeds from production from the well that 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

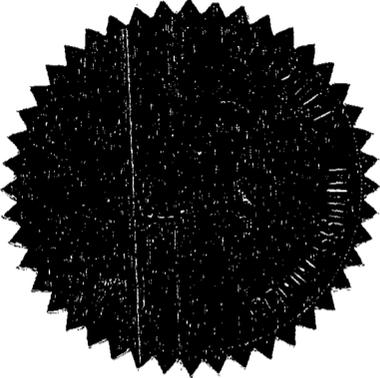
(16) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working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

(18) The operator of the above-described 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Handwritten signature of Mark E. Fesmire in cursive script.

MARK E. FESMIRE, P. E.
Director