

**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. 12840
ORDER NO. R-11752**

**APPLICATION OF DAVID H. ARRINGTON OIL & GAS, 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 March 21, 2002, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 5th day of April, 2002, 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) At the hearing, Division Cases No. 12828 and 12840 were consolidated for the purpose of testimony.

(3) David H. Arrington Oil & Gas, Inc. ("Applicant") seeks an order pooling all uncommitted mineral interests from the surface to the base of the Mississippian formation underlying the following acreage in Section 36, Township 14 South, Range 34 East, NMPM, Lea County, New Mexico, in the following manner:

- (a) the S/2 to form a standard 320-acre lay-down gas spacing and proration unit ("the 320-acre 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 North Morton-Atoka Gas Pool, Undesignated Tres Papalotes-Atoka Gas Pool, Undesignated East Morton-Morrow Gas Pool,

Undesignated North Morton-Morrow Gas Pool, and
Undesignated Morton-Mississippian Gas Pool;

- (b) the SE/4 to form a standard 160-acre spacing and proration unit ("the 160-acre Unit") for any and all formations and/or pools developed on 160-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated High Plains-Permo Upper Pennsylvanian Pool;
- (c) the E/2 SE/4 to form a standard 80-acre stand-up oil spacing and proration unit ("the 80-acre Unit") for any pool within that vertical extent with special rules providing for development on 80-acre spacing, which presently includes only the Undesignated Morton-Wolfcamp Pool; and
- (d) the SE/4 SE/4 to form a standard 40-acre oil spacing and proration unit ("the 40-acre Unit") for formations and/or pools developed on 40-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated North Morton Permo-Pennsylvanian.

(4) The above-described units ("the Units") are to be dedicated to the Applicant's proposed Red Eyed Squealy Worm Well No. 1 to be drilled 825 feet from the South line and 1275 feet from the East line (Unit P) of Section 36, which location is a standard gas well location for the 320-acre Unit and is a standard gas well location for the 160-acre Unit. However, the proposed location is unorthodox for the 40-acre Unit, the 80-acre Unit in the Undesignated Morton-Wolfcamp Pool (see the special pool rules governing this pool as set forth in Division Order No. R-2872, as amended), and the 160-acre (oil) Unit in the Undesignated High Plains-Permo Upper Pennsylvanian Pool (see Rule 4 of the "*Special Rules and Regulations for the High Plains-Permo Upper Pennsylvanian Pool.*" as promulgated by Division Orders No. R-2874, R-2874-A, R-2874-B, R-2874-C, R-7955, and R-11183).

(5) Applicant further requests that it or another party that it designates in the Division's records be operator of the above-described well and Units.

(6) Two or more separately owned tracts are embraced within the Units, and/or

there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Units that are separately owned

(7) Applicant is an owner of an oil and gas working interest within each of the Units and therefore has the right to drill for and develop the minerals underlying these Units.

(8) There are interest owners in each of the proposed Units that have not agreed to pool their interests.

(9) Yates Petroleum Corporation entered its appearance at the hearing through legal counsel, but did not oppose any relief sought by Applicant. No other operator and/or mineral interest owner appeared at the hearing in opposition to this application.

(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 the Units 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 the Units.

(11) Applicant, or its designee, should be the operator of the proposed well and of the Units.

(12) Any non-consenting working interest owner who 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 well.

(13) Reasonable charges for supervision (combined fixed rates) should be fixed at \$ 6,000.00 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 COPAS 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 non-consenting working interest.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of David H. Arrington Oil & Gas, Inc., all uncommitted mineral interests, whatever they may be, from the surface to the base of the Mississippian formation underlying the following described acreage in Section 36, Township 14 South, Range 34 East, NMPM, Lea County, New Mexico, are hereby pooled, as follows:

- (a) the S/2 to form a standard 320-acre lay-down gas spacing and proration unit ("the 320-acre 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 North Morton-Atoka Gas Pool, Undesignated Tres Papalotes-Atoka Gas Pool, Undesignated East Morton-Morrow Gas Pool, Undesignated North Morton-Morrow Gas Pool, and Undesignated Morton-Mississippian Gas Pool;
- (b) the SE/4 to form a standard 160-acre spacing and proration unit ("the 160-acre Unit") for any and all formations and/or pools developed on 160-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated High Plains-Permo Upper Pennsylvanian Pool;
- (c) the E/2 SE/4 to form a standard 80-acre stand-up oil spacing and proration unit ("the 80-acre Unit") for any pool within that vertical extent with special rules providing for development on 80-acre spacing, which presently includes only the Undesignated Morton-Wolfcamp Pool; and
- (d) the SE/4 SE/4 to form a standard 40-acre oil spacing and proration unit ("the 40-acre Unit") for formations and/or pools developed on 40-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Undesignated North Morton Permo-Pennsylvanian.

These Units are to be dedicated to the Applicant's proposed Red Eyed Squealy Worm Well No. 1 to be drilled 825 feet from the South line and 1275 feet from the East line (Unit P) of Section 36.

(2) The operator of the Units shall commence drilling the proposed well on or before June 30, 2002, and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Mississippian formation.

(3) Prior to completion of the proposed well in: (i) the Undesignated Morton-Wolfcamp Pool underlying the 88.63-acre Unit; (ii) the Undesignated High Plains-Permo Upper Pennsylvanian Pool underlying the 160-acre (oil) Unit; and/or (iii) any formation and/or pool developed on 40-acre spacing underlying the SE/4 SE/4 (Unit P) of Section 36, the operator shall apply for, and obtain from the Division, approval of the unorthodox location of the well therein. In the event such permission is denied, the provisions of this Order pooling the 40-acre or 80-acre unit or the 160-acre (oil) unit and dedicating these Units to the proposed well shall be of no effect.

(4) In the event the operator does not commence drilling the proposed well on or before June 30, 2002, 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 proposed well not be drilled to completion, or be abandoned, 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.

(6) Applicant, or its designee, is hereby designated the operator of the proposed well and of the Units.

(7) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. ("Uncommitted working interest owners" are owners of working interests in the Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known non-consenting working interest owner in the Units an itemized schedule of estimated well costs of the proposed well.

(8) Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting 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.

(9) The operator shall furnish the Division and each known non-consenting 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 the schedule, the actual well costs shall be the reasonable well costs; provided, however, that 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.

(10) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated 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.

(11) 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 percent of the above costs.

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

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$ 6,000.00 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 non-consenting working interest.

(14) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the 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.

(15) 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.

(16) 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.

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

(18) 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.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

LORI WROTENBERY
Director

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