

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. 11766
ORDER NO. R-10799*

**APPLICATION OF MERRION OIL AND GAS CORPORATION FOR
COMPULSORY POOLING AND AN UNORTHODOX COAL GAS WELL
LOCATION, SAN JUAN COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on May 1, 1997, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this _____ day of May, 1997, 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, Merrion Oil and Gas Corporation ("Merrion"), seeks an order pooling all mineral interests in the Basin-Fruitland Coal (Gas) Pool underlying the S/2 of Section 22, Township 32 North, Range 13 West, NMPM, San Juan County, New Mexico, to form a standard 320-acre gas spacing and proration unit for said pool.

(3) The applicant proposes to dedicate said 320-acre unit to its proposed Havasu Well No. 1 to be drilled at an unorthodox "off-pattern" coal gas well location 790 feet from the South and East lines (Unit P) of said Section 22.

(4) The subject well location and proposed unit are within the boundaries of the Basin-Fruitland Coal (Gas) Pool which is governed by Special Rules and Regulations as promulgated by Division Order No. R-8768, as amended, which require standard 320-acre gas spacing and proration units with wells to be located within the NE/4 or SW/4 of a

section and no closer than 790 feet from any outer boundary of the spacing unit nor closer than 130 feet from any quarter section line nor closer than 10 feet from any quarter-quarter section line or subdivision inner boundary.

(5) The applicant owns an interest in the S/2 of said Section 22 and as such has the right to drill for and develop the minerals underlying the proposed 832-acre unit.

(6) Merrion submitted geological evidence and testimony which indicates that the Fruitland coal outcrops in the NW/4 of said Section 22, approximately one mile from the proposed well. It is expected that the Havasu Well No. 1 will encounter this same coal interval at an approximate depth of 1300 feet versus a depth of 600 feet in the SW/4 of said Section 22. A well at this deeper off-pattern location is expected to encounter higher reservoir pressure within the coal interval, which would also serve to increase the likelihood of obtaining methane coal gas in commercial quantities.

(7) No interested or affected party, or offset owner or operator appeared at the hearing and/or objected to this application.

(8) 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 in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

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

(10) 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.

(11) 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 charge for the risk involved in the drilling of the well.

(12) Based on precedent established in compulsory pooling cases in the Basin-Fruitland Coal Gas Pool, a 156 percent risk penalty has been established as being proper for wells within said coal gas pool.

(13) 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.

(14) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well 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.

(15) \$3,500.00 per month while drilling and \$350.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, 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.

(16) 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.

(17) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before August 10, 1997, the order pooling said unit should become null and void and of no further effect whatsoever.

(18) Should any of the parties to this force-pooling reach voluntary agreement, this order should thereafter be of no further effect as to those parties.

(19) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of any party subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, in the Basin-Fruitland Coal (Gas) Pool underlying the S/2 of Section 22, Township 32 North, Range 13 West, NMPM, San Juan County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit to be dedicated to the Havasu Well No. 1 to be drilled at an unorthodox "off-pattern" coal gas well location 790 feet from the South and East lines (Unit P) of said Section 22.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the tenth day of August, 1997, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Basin-Fruitland Coal (Gas) Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the tenth day of August, 1997, 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 drilled 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) Merrion Oil and Gas Corporation 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 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 drilling of the well, 156 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) \$3,500.00 per month while drilling and \$350.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); 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 San Juan 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.

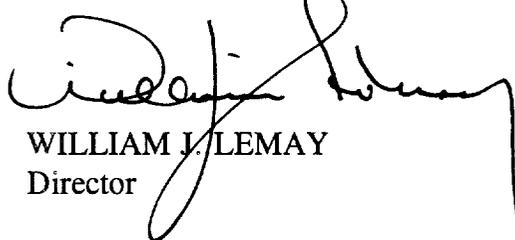
(13) Should all parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(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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