

**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. 12602
ORDER NO. R-11568**

**APPLICATION OF DAVID H. ARRINGTON OIL & GAS, INC. FOR
COMPULSORY POOLING, UNORTHODOX WELL LOCATIONS AND
DIRECTIONAL DRILLING, LEA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on February 22, 2001, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 19th day of April, 2001, 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, David H. Arrington Oil & Gas, Inc. ("Arrington"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Mississippian formation underlying the W/2 of Section 35, Township 15 South, Range 35 East, NMPM, Lea County, New Mexico, in the following manner:

the W/2 forming a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated Big Dog-Mississippian Gas Pool;

the NW/4 forming a standard 160-acre spacing and proration unit for all formations or pools spaced on 160 acres within this vertical extent;

the N/2 NW/4 forming a standard 80-acre spacing and proration unit for all formations or pools spaced on 80 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated West Lovington-Strawn Pool; and

the NW/4 NW/4 forming a standard 40-acre spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent, which presently include but are not necessarily limited to the Townsend Permo-Upper Pennsylvanian Pool.

(3) These units are to be dedicated to the applicant's proposed Disco Midge Well No. 1 to be directionally drilled from an unorthodox surface location 1487 feet from the North line and 331 feet from the West line (Unit E) of Section 35, in a north-northeasterly direction so as to encounter:

- (a) the Wolfcamp formation at an unorthodox bottomhole location 1487 feet from the North line and 331 feet from the West line (Unit E) of Section 35.
- (b) the Strawn formation at an unorthodox bottomhole location 1250 feet from the North line and 390 feet from the West line (Unit D) of Section 35;
- (c) the Atoka formation at a standard bottomhole within 150 feet of a point 660 feet from the North line and 800 feet from the West line (Unit D) of Section 35; and
- (d) the Mississippian formation at a standard bottomhole location 660 feet from the North line and 800 feet from the West line (Unit D) of Section 35.

(4) Energen Resources Corporation ("Energen"), an interest owner in the proposed W/2 spacing unit, appeared at the hearing through legal counsel.

(5) Arrington testified that it currently owns 79.43% of the interest in the proposed W/2 spacing unit, and that Energen, the only other interest owner in the W/2 of

Section 35, owns 20.569% of the interest. Arrington further testified that it owns 100% of the working interest in the NW/4 of Section 35 and therefore requested that the portion of its application seeking to pool the NW/4, N/2 NW/4 and NW/4 NW/4 of Section 35, thereby forming standard 160-acre, 80-acre and 40-acre spacing and proration units be dismissed.

(6) Arrington has been unable to reach a voluntary agreement with Energen for the drilling of the proposed Disco Midge Well No. 1.

(7) The primary objective within the Disco Midge Well No. 1 is the Atoka formation. Secondary targets in the well include the Wolfcamp and Strawn formations.

(8) The proposed bottomhole location of the Disco Midge Well No. 1 within the various formations, as described in Finding No. (2) is:

- (a) unorthodox for the Wolfcamp formation, Townsend Permo-Upper Pennsylvanian Pool, pursuant to Division Rule No. 104.B(1);
- (b) standard for the Atoka and Mississippian formations, Wildcat-Atoka and Undesignated Big Dog-Mississippian Gas Pools, pursuant to Division Rule No. 104.C.(2); and
- (c) unorthodox for the Strawn formation, Undesignated West Lovington-Strawn Pool, pursuant to the "*Special Rules and Regulations for the West Lovington-Strawn Pool*" as established by Division Order No. R-9722, as amended.

(9) The applicant presented evidence demonstrating that the proposed directional drilling and unorthodox bottomhole locations are necessitated by geologic considerations within the Atoka and Wolfcamp formations, being the primary and secondary targets in the well.

(10) Since Arrington owns 100% of the working interest within the NW/4 of Section 35, no notice of the proposed unorthodox bottomhole locations is required pursuant to Division Rule No. 1207.A.(2).

(11) No offset operator or interest owner appeared at the hearing in opposition to the proposed unorthodox bottomhole locations.

(12) Approval of the proposed directional drilling and unorthodox surface and bottomhole locations will provide the applicant the opportunity to test the various formations by utilizing a single wellbore and will allow the applicant to encounter the Wolfcamp and Atoka formations at geologically optimum bottomhole locations, thereby increasing the likelihood of obtaining commercial hydrocarbon production.

(13) 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 the W/2 of Section 35.

(14) Arrington should be designated the operator of the subject well and unit.

(15) Arrington requested that for the purpose of this pooling order, estimated well costs should be established as \$1,373,021.00 for a completed well. These proposed well costs are exclusive of all additional costs associated with directional drilling.

(16) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

(17) 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 drilling the well.

(18) 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.

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

(20) 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

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this rate should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedures-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.

(21) All proceeds from production from the well that 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.

(22) If the operator of the pooled unit fails to commence drilling the well to which the unit is dedicated on or before July 1, 2001, or if all the parties to this forced pooling reach voluntary agreement subsequent to the entry of this order, the compulsory pooling provisions of this order should become of no effect.

(23) The operator of the well and unit should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(24) The applicant should conduct a directional survey on the well during or upon completion of directional drilling operations in order to determine the bottomhole location of the well within the various targeted formations. The applicant should notify the supervisor of the Division's Hobbs District Office of the date and time the directional survey will be conducted in order that this operation may be witnessed.

(25) Upon completion, the applicant should provide a copy of the directional survey to the Hobbs and Santa Fe Offices of the Division.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of David H. Arrington Oil & Gas, Inc., all uncommitted mineral interests from the surface to the base of the Mississippian formation underlying the W/2 of Section 35, Township 15 South, Range 35 East, NMPM, Lea County, New Mexico, are hereby pooled thereby forming a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated Big Dog-Mississippian Gas Pool. This unit shall be dedicated to the applicant's Disco Midge Well No. 1, as described below.

(2) The applicant is further authorized to directionally drill its Disco Midge Well

No. 1 from an unorthodox surface location 1487 feet from the North line and 331 feet from the West line (Unit E) of Section 35 in a north-northeasterly direction so as to encounter:

- (a) the Wolfcamp formation at an unorthodox bottomhole location 1487 feet from the North line and 331 feet from the West line (Unit E) of Section 35. The NW/4 NW/4 of Section 35 shall be dedicated to the well in the Townsend Permo-Upper Pennsylvanian Pool;
- (b) the Strawn formation at an unorthodox bottomhole location 1250 feet from the North line and 390 feet from the West line (Unit D) of Section 35. The N/2 NW/4 of Section 35 shall be dedicated to the well in the Undesignated West Lovington-Strawn Pool;
- (c) the Atoka formation at a standard bottomhole within 150 feet of a point 660 feet from the North line and 800 feet from the West line (Unit D) of Section 35; and
- (d) the Mississippian formation at a standard bottomhole location 660 feet from the North line and 800 feet from the West line (Unit D) of Section 35.

(3) The operator of the unit shall commence drilling the proposed well on or before July 1, 2001, and shall thereafter continue drilling the well with due diligence to test the Mississippian formation.

(4) In the event the operator does not commence drilling the well on or before July 1, 2001, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause shown.

(5) Should the 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) David H. Arrington Oil & Gas, Inc. is hereby designated the operator of the subject well and unit.

(7) After pooling, uncommitted working interest owners are referred to as non-

consenting working interest owners. 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, which shall total \$1,373,021.00 as per Finding No. (15).

(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, 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, which shall exclude the additional costs associated with directional drilling as per Finding No. (15), 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 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) 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.

(15) 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) 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.

(17) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, the compulsory 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) That portion of the application seeking to pool the NW/4, N/2 NW/4 and NW/4 NW/4 of Section 35, thereby forming standard 160-acre, 80-acre and 40-acre spacing and proration units, said units to be dedicated to the proposed Disco Midge Well No. 1, is hereby dismissed.

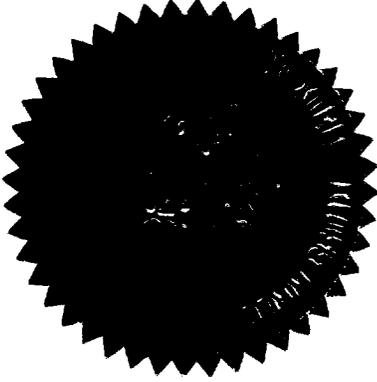
(20) The applicant shall conduct a directional survey on the well during or upon completion of directional drilling operations in order to determine the bottomhole location of the well within the various targeted formations. The applicant shall notify the supervisor of the Division's Hobbs District Office of the date and time the directional survey will be

conducted in order that this operation may be witnessed.

(21) Upon completion, the applicant shall provide a copy of the directional survey to the Hobbs and Santa Fe Offices of the Division.

(22) 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

Lori Wrotenbery
LORI WROTENBERY
Director