

**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. 12560
ORDER NO. R-11580**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on December 21, 2000, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 2nd day of May, 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 and Gas, Inc., seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the following acreage in Section 31, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico:

- (a) Lots 1, 2, 3, and 4 and the E/2 W/2 (W/2 equivalent) to form a standard 320.56-acre stand-up gas spacing and proration unit for any formation and/or pool developed on 320-acre spacing within that vertical extent;
- (b) Lots 1 and 2 and the E/2 NW/4 (NW/4 equivalent) to form a standard 160.42-acre gas spacing and proration unit for any formation and/or pool developed on 160-acre spacing within that vertical extent;

- (c) the E/2 NW/4 to form a standard 80-acre stand-up oil spacing and proration unit for any pool within that vertical extent with special rules providing for development on 80-acre spacing; and
- (d) the SE/4 NW/4 (Unit F) to form a standard 40-acre oil spacing and proration unit for any formation and/or pool developed on 40-acre spacing within that vertical extent, which presently includes the Undesignated Caudill-Permo Upper Pennsylvanian Pool and the Undesignated Townsend-Permo Upper Pennsylvanian Pool.

(3) The application filed by David H. Arrington Oil and Gas, Inc. and the advertisement in this matter indicates that these units are to be dedicated to David H. Arrington Oil and Gas, Inc.'s proposed Royal Stimulator Well No. 1 (**API No. 30-025-35284**) to be drilled vertically from an unorthodox surface location 1465 feet from the North line and 1936 feet from the West line (Unit F) of Section 31 to a depth sufficient to test all formations to the base of the Wolfcamp formation and then directionally drilled in a southwesterly direction to an unorthodox bottomhole gas well location within the Atoka and Morrow formations at a point 2200 feet from the South line and 933 feet from the West line (Unit L) of Section 31.

(4) Information obtained subsequent to the hearing shows that the applicant commenced drilling this well on December 16, 2001 at a surface location 1485 feet from the North line and 1890 feet from the West line (Unit F) of Section 31, which represents a move to the west-southwest a distance of 50 feet, in order to avoid cattle pens and a high-line wire. It was drilled vertically to a depth of 9,673 feet and kicked-off in a southwesterly direction. On January 31, 2001 a total depth of 10,825 feet (TVD) was reached within the Wolfcamp formation. This bottomhole location is 1589 feet from the North line and 1813 feet from the West line (Unit F) of Section 31. Drilling problems were encountered that prevented the applicant from any additional directional drilling.

(5) Subsequent to the hearing, it was further determined that there are no pools within the immediate area of this well that are spaced on 80 acres [see Division Rule 104.A (2)]; therefore, the request to form the 80-acre unit should be dismissed at this time.

(6) This well failed to reach its intended depth to test the deeper Morrow formation in the manner first proposed, and the order issued in this matter should properly reflect this well's actual path and completion depth; therefore, the request to form the 320-

acre unit should also be dismissed.

(7) Pursuant to Division Rule 104.C (3), this location is standard for the proposed 160-acre gas unit but unorthodox for the proposed 40-acre oil unit [see Division Rule 104.B (1)]. The proposed unorthodox oil well location for this well as advertised and as set forth in Finding Paragraph No. (4) above differs somewhat from the actual tract and ultimate bottomhole location of the wellbore.

(8) The applicant is seeking approval of the unorthodox well location based on engineering and geological interpretation of the Wolfcamp formation of the immediate area, being the primary zone of interest, which indicates that a well drilled at or near the proposed unorthodox oil well location will be at a more favorable geologic position within the Wolfcamp than a well drilled at a location considered to be standard within the SE/4 NW/4 of Section 31, thereby increasing the likelihood of obtaining commercial production.

(9) The application for approval of the unorthodox oil well location for the 40-acre oil spacing and proration unit should be approved.

(10) The applicant is a working interest owner within the 160-acre and 40-acre units and therefore has the right to drill for and develop the minerals underlying these units.

(11) At this time, however, not all of the working interest owners in these units have agreed to pool their interests. After pooling, uncommitted working interest owners are referred to as “non-consenting working interest owners.”

(12) No party affected by this application appeared at the hearing or objected to this application.

(13) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste, and 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 hydrocarbon production in any pool resulting from this order, this application should be approved by pooling all mineral interests, whatever they may be, within the 160.42 and 40-acre units.

(14) David H. Arrington Oil and Gas, Inc. should be designated the operator of the subject well and units.

(15) 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 actual well costs to the operator in lieu of paying its share of reasonable well costs out of production.

(16) Any non-consenting working interest owner who does not pay its share of actual 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 and the risk involved in obtaining payout.

(17) 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.

(18) At the time of the hearing the applicant proposed fixed overhead and administrative costs for the Royal Stimulator Well No. 1 of \$6,000.00 per month while drilling and \$600.00 per month while producing.

(19) These rates were proposed for a well drilled to test the deeper Morrow gas bearing formation and should therefore be adjusted to reflect rates more suitable for shallower oil well tests.

(20) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,300.00 per month while drilling and \$530.00 per month while producing, provided that this rate 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.

(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) Should all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should become of no effect.

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

order.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of David H. Arrington Oil and Gas, Inc., all uncommitted mineral interests, whatever they may be, from the surface to a true vertical depth of 10,825 feet underlying the following described acreage in Section 31, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

- (a) Lots 1 and 2 and the E/2 NW/4 (NW/4 equivalent) to form a standard 160.42-acre gas spacing and proration unit for any formation and/or pool developed on 160-acre spacing within that vertical extent; and
- (b) the SE/4 NW/4 (Unit F) to form a standard 40-acre oil spacing and proration unit for any formation and/or pool developed on 40-acre spacing within that vertical extent, which presently includes the Undesignated Caudill-Permo Upper Pennsylvanian Pool and the Undesignated Townsend-Permo Upper Pennsylvanian Pool.

These units are to be dedicated to the applicant's existing Royal Stimulator Well No. 1 (API No. 30-025-35284), recently drilled (spud date December 16, 2000 at 8:00 p.m.) from a surface location 1485 feet from the North line and 1890 feet from the West line (Unit F) of Section 31 to an unorthodox oil well location within the Wolfcamp formation (10,825 feet TVD) 1589 feet from the North line and 1813 feet from the West line (Unit F) of Section 31.

(2) The unorthodox oil well location for the 40-acre oil spacing and proration unit is hereby approved.

(3) David H. Arrington Oil and Gas, Inc. is hereby designated the operator of the subject well and units.

(4) The applications herein for the formation of the 320.56 and 80-acre spacing units are hereby **dismissed**.

(5) After pooling, uncommitted working interest owners are referred to as "non-consenting working interest owners." Within 30 days 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 actual well costs.

(6) Any non-consenting working interest owner may, not more than 90 days after receiving the itemized schedule of actual well costs, file with the Division an objection to such costs; if no objection to the actual well costs is received by the Division and the Division has not objected within the 90-day period following receipt of the schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within the aforesaid 90-day period, the Division will determine reasonable well costs after public notice and hearing.

(7) Within 30 days following the determination of reasonable well costs, any non-consenting working interest owner shall have the right to pay its share of actual 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 actual well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(8) 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 actual well costs within 30 days following the determination of reasonable well costs; and
- (b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

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

(10) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,300.00 per month while drilling and \$530.00 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.

(11) 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.

(12) 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.

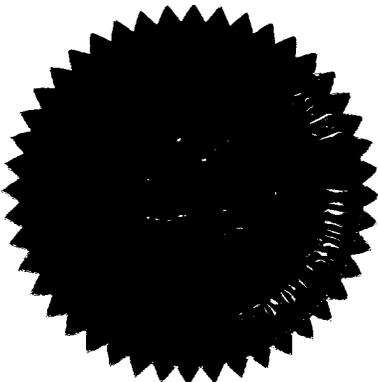
(13) All proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

(14) 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.

(15) 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.

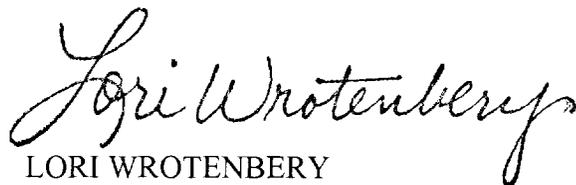
(16) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



LORI WROTENBERY
Director