

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY
THE OIL CONSERVATION DIVISION FOR THE
PURPOSE OF CONSIDERING:

CASE NO. 8897
Order No. R-8245

APPLICATION OF MESA GRANDE RESOURCES, INC.
FOR COMPULSORY POOLING, RIO ARRIBA COUNTY,
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on May 14, 1986, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 8th day of July, 1986, 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, Mesa Grande Resources, Inc., seeks an order pooling all mineral interests in the Undesignated Gavilan-Pictured Cliffs Pool underlying the SE/4 of Section 5, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico.

(3) The applicant has the right to drill and has drilled its Guardian Federal Well No. 1 at a standard location 790 feet from the South and East lines of said Section 5.

(4) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(5) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid 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 any pool completion resulting from this order, the subject application should be approved by

pooling all mineral interests, whatever they may be, within said unit.

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

(7) 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.

(8) Chevron U.S.A. Inc, an interest owner in the proposed proration unit who has not agreed to pool its interest, appeared at the hearing in opposition to the 200 percent risk penalty sought by the applicant.

(9) Due to a drilling commitment, the applicant was forced to spud the well by April 1, 1986, and at the time of the hearing the well had already been drilled and was waiting completion.

(10) It is the position of Chevron that the applicant is not justified in seeking any risk penalty since the well has already been drilled.

(11) Chevron sought at the hearing information regarding the completion of said well and the potential of the Pictured Cliffs formation.

(12) A ruling by the Examiner at the hearing prohibited Chevron from obtaining any information concerning the potential of the Pictured Cliffs formation.

(13) Releasing any information as to the potential of the well may put Chevron in a highly advantageous position in deciding whether or not to voluntarily participate in the well.

(14) The fact remains that at the time the well was spudded, the applicant carried Chevron's interest and took the risk in drilling the well.

(15) The fact that the well has been drilled should not reduce the amount of risk penalty the applicant is entitled to by drilling said well.

(16) The applicant should be awarded the maximum risk penalty of 200 percent.

(17) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld

from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of 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 his 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) \$3150.00 per month while drilling and \$300.00 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, and 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.

(21) 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.

(22) Should all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(23) The operator of the well and unit shall notify the Director of 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) All mineral interests, whatever they may be, in the Pictured Cliffs formation underlying the SE/4 of Section 5, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a standard 160-acre spacing and proration unit to be dedicated to a well drilled at a standard location therein.

(2) Mesa Grande Resources, Inc. is hereby designated the operator of the subject well and unit.

(3) Within 30 days after the effective date of this order the operator shall furnish each known non-consenting working interest owner in the subject unit an itemized schedule of the actual well costs to date, as well as estimated completion and dry hole costs.

(4) Within 30 days from the date the schedule of actual and estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of actual and 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 actual and 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 actual and estimated well costs within 30 days from the date the schedule of actual and estimated well costs is furnished to him.

(B) As a charge for the risk involved in the

drilling of the well, 200 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 actual and estimated well costs within 30 days from the date the schedule of actual and 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) \$3150.00 per month while drilling and \$300.00 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 unsevered 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 immediately be placed in escrow in Rio Arriba 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 forced pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

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(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



acting R. L. STAMETS,
Director

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