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. 9593
Order No. R-8877

APPLICATION OF MERIDIAN OIL,
INC. FOR COMPULSORY POOLING,
SAN JUAN COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on February 1, 1989, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 22nd day of February, 1989, 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) Division Case Nos. 9593, 9594, 9595, 9596, 9598, and 9599 were consolidated at the time of the hearing for the purpose of testimony.

(3) The applicant, Meridian Oil, Inc. (Meridian), seeks an order pooling all mineral interests in the Basin-Fruitland Coal Gas Pool underlying Lots 6, 7, 8, and 9 and the S/2 S/2 (S/2 equivalent) of Section 34, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, forming a standard 315.50-acre gas spacing and proration unit for said pool, to be dedicated to its proposed Atlantic "B" Com Well No. 220 to be drilled at a standard coal gas well location 1800 feet from the South line and 1440 feet from the West line (Lot 8) of said Section 34.

(4) Amoco Production Company (Amoco), an interest owner in the proposed proration unit who has not agreed to pool its interest, appeared at the hearing in opposition to the applicant's proposed 200 percent risk penalty.

(5) The applicant has the right to drill and proposes to drill a well at the standard coal gas well location described above.

(6) 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 production 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.

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

(8) 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.

(9) The applicant has proposed a 200 percent risk penalty be assessed against those interest owners subject to the force-pooling provisions of this order, and in support thereof presented evidence and testimony at the hearing.

(10) At the request of Amoco, Administrative Notice was taken of 13 compulsory pooling cases in the Basin-Fruitland Coal Gas Pool brought before and heard by the Division upon the application of Meridian Oil, Inc. on November 21, 1988 and January 15, 1989 (of which Division Orders have subsequently been issued).

(11) The records in these cases indicate that based upon the evidence and testimony presented, Meridian was granted a risk penalty of 156 percent.

(12) The records further indicate that in each of these previously heard cases, Meridian also requested a 200 percent risk penalty, but that the risk penalty awarded was reduced due to the fact that the presence of coal at each of the wellsites was not deemed by the Division to be in question, and therefore should not be taken into consideration in determining risk.

(13) Meridian, in the immediate cases, has proposed that the risk penalty be based upon geologic, reservoir, economic, and operational parameters and has further testified that the major consideration in determining risk should not be the presence of coal but the characteristics of the coal encountered which in turn has a direct bearing on the producing capability of the wells.

(14) The applicant, which has drilled approximately 200 coal gas wells in the Basin-Fruitland Coal Gas Pool to date, provided no evidence or testimony which would indicate that any of its wells have been plugged and abandoned due to non-productivity.

(15) The applicant further provided no evidence or testimony which would indicate that any of the wells drilled to date have been plugged and abandoned due to problems encountered while drilling or completing these wells.

(16) The applicant has included certain factors such as market demand, water disposal, gathering facilities and equipment, etc. under its economic and operations risk parameters which do not have a bearing on the producing capability of any given well and should therefore not be considered in assessing risk.

(17) Based upon the evidence and testimony presented in the immediate cases and consideration of the record in the previously heard compulsory pooling cases described in Finding No. (10) above, a risk penalty of 156 percent is fair and reasonable and should be adopted in this case.

(18) 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 156 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(19) 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.

(20) 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.

(21) $3500.00 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, 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.

(22) 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.

(23) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before June 1, 1989, the order pooling said unit should become null and void and of no effect whatsoever.

(24) 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.

(25) 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 Basin-Fruitland Coal Gas Pool underlying Lots 6, 7, 8, and 9 and the S/2 S/2 (S/2 equivalent) of Section 34, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, are hereby pooled forming a standard 315.50-acre gas spacing and proration unit for said pool, to be dedicated to the Atlantic "B" Com Well No. 220 to be drilled at a standard coal gas well location 1800 feet from the South line and 1440 feet from the West line (Lot 8) of said Section 34.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of June, 1989, 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 1st day of June, 1989, Ordering 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 Ordering Paragraph No. (1) of this order should not be rescinded.

(2) Meridian Oil, Inc. 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 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 well 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) $3500.00 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 immediately 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 forced pooling order 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.

(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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