

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. 9625  
ORDER NO. R-8910

APPLICATION OF MARSHALL PIPE AND  
SUPPLY COMPANY FOR COMPULSORY POOLING,  
ROOSEVELT COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 15, 1989, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 11th day of April, 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) The applicant, Marshall Pipe and Supply Company, seeks an order pooling all mineral interests from the surface to the base of the Montoya formation underlying the following described acreage in Section 23, Township 2 South, Range 29 East, NMPM, Roosevelt County, New Mexico, and in the following described manner:

the SW/4 SW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing;

the SW/4 to form a standard 160-acre proration unit for any and all formations and/or pools developed on 160-acre spacing; and

the S/2 to form a standard 320-acre proration unit for any and all formations and/or pools developed on 320-acre spacing (which presently includes but is not necessarily limited to the Tule-Pennsylvanian Gas Pool and the Undesignated Tule-Montoya Gas Pool).

(3) All of the above-described units are to be dedicated to the existing Perry Well No. 1 drilled at a previously approved unorthodox gas well location 990 feet from the South line and 660 feet from the West line (Unit M) of said Section 23; see Division Order No. R-8617, dated March 23, 1988.

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

(5) 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 units 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 units.

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

(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) At the time of the hearing the applicant requested a 100 percent risk penalty be imposed on the cost of drilling said well.

(9) 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 100 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(10) 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.

(11) 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.

(12) \$5010.00 per month while drilling and \$250.00 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.

(13) 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.

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

(15) The operator of the well and units should 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.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Montoya formation underlying the following described acreage in Section 23, Township 2 South, Range 29 East, NMPM, Roosevelt County, New Mexico are hereby pooled in the following described manner:

the SW/4 SW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing;

the SW/4 to form a standard 160-acre proration unit for any and all formations and/or pools developed on 160-acre spacing; and

the S/2 to form a standard 320-acre proration unit for any and all formations and/or pools developed on 320-acre spacing (which presently includes but is not necessarily limited to the Tule-Pennsylvanian Gas Pool and the Undesignated Tule-Montoya Gas Pool).

All of the above-described units are to be dedicated to the existing Perry Well No. 1 drilled at a previously approved unorthodox gas well location 990 feet from the South line and 660 feet from the West line (Unit M) of said Section 23; see Division Order No. R-8617, dated March 23, 1988.

(2) Marshall Pipe and Supply Company is hereby designated the operator of the subject well and units.

(3) Within 30 days after the effective date of this order the operator shall

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furnish the Division and each known working interest owner in the subject units 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) Any non-consenting working interest owner may, at least 45 days after receiving the schedule of actual well costs but not more than 90 days after such receipt, 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 period from at least 45 days to within 90 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 the aforesaid 45th to 90th 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, 100 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.

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(9) \$5010.00 per month while drilling and \$250.00 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 owner'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 Roosevelt 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.

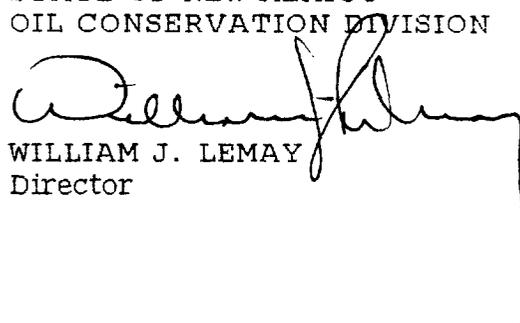
(13) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and units 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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