

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. 9907  
ORDER NO. R-9190

APPLICATION OF ENRON OIL AND GAS  
COMPANY FOR COMPULSORY POOLING AND  
AN UNORTHODOX LOCATION, EDDY COUNTY,  
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on May 16, 1990, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 6th day of June, 1990, 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. Further, notice has been given to and the Division has jurisdiction over those parties listed in the affidavit attached hereto as Exhibit "A".

(2) The applicant, Enron Oil and Gas Company, seeks an order pooling the mineral interests from the surface to the base of the Atoka formation of those parties that have not agreed to voluntarily pool their interests underlying the following described acreage in Section 1, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico, and in the following described manner:

Lots 1, 2, 3 and 4 and the S/2 N/2 (N/2 equivalent) to form a 319.36-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing

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within said vertical extent (which presently includes but is not necessarily limited to the Malaga-Atoka Gas Pool);

Lots 3 and 4 and the S/2 NW/4 (NW/4 equivalent) to form a 159.52-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent;

Lot 3 and the SE/4 NW/4 (E/2 NW/4 equivalent) to form a 79.80-acre oil spacing and proration unit for the Undesignated South Culebra Bluff-Bone Spring Pool which is developed on 80-acre spacing; and

Lot 3 (NE/4 NW/4 equivalent) to form a 39.80-acre oil spacing and proration unit for any and all formations and/or pools developed on statewide 40-acre oil spacing (which presently includes but is not necessarily limited to either the Undesignated Malaga-Delaware Pool or Undesignated North Malaga-Delaware Pool).

(3) Texaco Producing, Inc. and Santa Fe Energy Operating Partners, L.P., both interest owners in the proposed 319.36-acre gas spacing and proration unit comprising the N/2 equivalent of said Section 1, were both represented by counsel at the time of the hearing.

(4) Said units are to be dedicated to a single well to be drilled 660 feet from the North line and 1680 feet from the West line (Unit L) of said Section 1, which is a standard location for zones spaced on 160 or 40 acres, however is unorthodox for zones spaced on 320 or 80 acres.

(5) The proposed location was necessitated due to topographic conditions in the N/2 of said Section 1.

(6) 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 hydrocarbons in any pool completion resulting from this order, the subject application should be approved by pooling the mineral interests of all parties within said units over whom the Division has jurisdiction.

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

(8) Any non-consenting working interest owner pooled by this order 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) Any non-consenting working interest owner pooled by this order who does not pay his share of estimated well costs should have withheld from production his 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.

(10) Any non-consenting interest owner whose interest is pooled by this order 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 pooled by this order 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) At the time of the hearing the applicant requested that overhead rates of \$6630.00 per month while drilling and \$648.00 per month while producing be fixed as reasonable charges for supervision.

(13) The 1989 Survey of Combined Fixed-Rate Charges for Oil and Gas Producers, published by Ernst & Young, shows average overhead rates of \$6134.00 while drilling and \$566.00 while producing for gas wells drilled to 15,000 feet in this area.

(14) The proposed overhead rate charges should be adjusted to reflect amounts more consistent with the rates described above.

(15) \$6000.00 per month while drilling and \$575.00 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 pooled by this order 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 pooled by this order.

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(16) 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.

(17) Upon the failure of the operator of said pooled units to commence drilling of the well to which said units are dedicated on or before August 31, 1990, the order pooling said units should become null and void and of no further effect whatsoever.

(18) Should any of the parties to this force-pooling reach voluntary agreement, this order should thereafter be of no further effect as to those parties.

(19) The operator of the well 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 Atoka formation, owned by parties over whom the Division has jurisdiction as identified in Exhibit "A" attached hereto and made a part hereof, underlying the following described acreage in Section 1, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico, are hereby pooled:

Lots 1, 2, 3 and 4 and the S/2 N/2 (N/2 equivalent) to form a 319.36-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent (which presently includes but is not necessarily limited to the Malaga-Atoka Gas Pool);

Lots 3 and 4 and the S/2 NW/4 (NW/4 equivalent) to form a 159.52-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent;

Lot 3 and the SE/4 NW/4 (E/2 NW/4 equivalent) to form a 79.80-acre oil spacing and proration unit for the Undesignated South Culebra Bluff-Bone Spring Pool which is developed on 80-acre spacing; and

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Lot 3 (NE/4 NW/4 equivalent) to form a 39.80-acre oil spacing and proration unit for any and all formations and/or pools developed on statewide 40-acre oil spacing (which presently includes but is not necessarily limited to either the Undesignated Malaga-Delaware Pool or Undesignated North Malaga-Delaware Pool).

Said units are to be dedicated to a single well to be drilled 660 feet from the North line and 1680 feet from the West line (Unit L) of said Section 1, which is a standard location for zones spaced on 160 or 40 acres, however is unorthodox for zones spaced on 320 or 80 acres.

PROVIDED HOWEVER THAT, the operator of said units shall commence the drilling of said well on or before the 31st day of August, 1990, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test from the surface to the base of the Atoka formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 31st day of August, 1990, Decretory 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 Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Enron Oil and Gas Company is hereby designated the operator of the subject well and units.

(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 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 whose interest is pooled by this order 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.

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(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 from a party subject to this order 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 pooled by this order 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 pooled by this order 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, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner pooled by this order 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 working interest owners who paid the well costs.

(9) \$6000.00 per month while drilling and \$575.00 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 pooled by

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this order 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 pooled by this order.

(10) Any unleased mineral interest pooled by this order 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 said 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 be placed in escrow in Eddy 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.

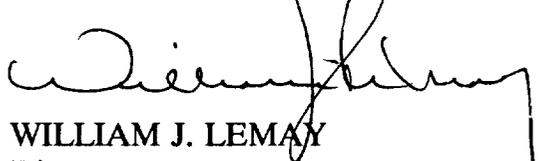
(13) Should any party to this force-pooling reach voluntary agreement, this order shall thereafter be of no further effect as to such party.

(14) The operator of the subject 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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