

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. 10373  
Order No. R-9574

APPLICATION OF COLLINS AND WARE,  
INC. FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on August 22, 1991, at Santa Fe, New Mexico, before Examiner Jim Morrow.

NOW, on this 26th day of August, 1991, 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, Collins & Ware Inc., seeks an order pooling all mineral interests from a depth of 7,000 feet to the base of the Morrow formation underlying the S/2 of Section 25, Township 23 South, Range 28 East, forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre gas spacing within said vertical extent, which presently includes but is not necessarily limited to the South Culebra Bluff-Atoka Gas Pool, Undesignated Cedar Canyon-Morrow Gas Pool, and Undesignated North Loving-Morrow Gas Pool. Said unit is to be dedicated to a well to be drilled at a standard location thereon.

(3) The applicant has the right to drill and proposes to drill a well at the above standard location to a depth of approximately 12,300 feet to test the Atoka and Morrow Formations.

(4) Applicant's witness submitted cross sections, an isopach map, and a structure map which indicate that the Atoka "AD" sand is potentially productive at the proposed location.

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

(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 unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool, 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) 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 200 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) Applicant requested that combined fixed-rate overhead charges be set at \$5570 and \$505. Based on Ernst and Young survey results from 1990, \$5,200 per month while drilling and \$475 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) Upon the failure of the operator of said pooled unit to commence work on the well to which said unit is dedicated on or before November 1, 1991, the order pooling said unit should become null and void and of no further effect whatsoever.

(15) 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.

(16) The operator of the well and unit 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.

(17) No offset operator or interest owner appeared at the hearing in opposition to this application.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from a depth of 7,000 feet to the base of the Morrow formation underlying the S/2 of Section 25, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and 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 South Culebra Bluff-Atoka Gas Pool, Undesignated Cedar Canyon-Morrow Gas Pool, and Undesignated North Loving-Morrow Gas Pool. Said unit is to be dedicated to a well to be drilled at a standard location thereon.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of November, 1991, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Atoka and Morrow formations.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of November, 1991, 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) Collins and Ware, Inc. is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and prior to commencing work on 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 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 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 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) \$5,200 per month while drilling and \$475 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.