

**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. 13081  
ORDER NO. R-12039**

**APPLICATION OF DAVID H. ARRINGTON OIL AND GAS, INC. FOR  
COMPULSORY POOLING AND UNORTHODOX WELL LOCATIONS, LEA  
COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on August 21, 2003, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 17<sup>th</sup> day of October, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) David H. Arrington Oil and Gas, Inc., ("Applicant"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Mississippian formation underlying Lots 1, 2, 3 and 4 and the E/2 W/2 (W/2 equivalent) of Irregular Section 31, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico, in the following manner:

Lots 1, 2, 3 and 4 and the E/2 W/2 (W/2 equivalent) forming a standard 320.56-acre gas spacing and proration unit (the 320.56-acre Unit) for all formations or pools spaced on 320 acres within this vertical extent;

the SW/4 forming a standard 160.14-acre spacing and proration unit (the 160.14-acre Unit) for all formations or pools spaced on 160 acres within this vertical extent; and

the SW/4 NW/4 forming a standard 40.17-acre spacing and proration unit (the 40.17-acre Unit) for all formations or pools spaced on 40 acres within this vertical extent, including but not necessarily limited to the Undesignated Caudill-Permo Upper Pennsylvanian and Undesignated Townsend-Permo Upper Pennsylvanian Pools.

(3) The above-described units ("the Units") are to be dedicated to Applicant's proposed Royal Stimulator "31" Well No. 2, which will be drilled at a standard surface location 2235 feet from the North line and 330 feet from the West line (Lot 2) of Section 31 to a vertical depth of approximately 8,800 feet, at which point the well will be directionally drilled in a southeast direction to a bottomhole location 1900 feet from the South line and 1300 feet from the West line (Lot 3) of Section 31.

(4) The Applicant estimates that the directionally drilled wellbore will intersect the top of the Wolfcamp, Strawn, Atoka and Morrow formations at the following-described locations within Section 31:

<u>Formation</u>	<u>Location</u>
Wolfcamp	2471' FNL & 527' FWL
Strawn	2305' FSL & 888' FWL
Atoka	2192' FSL & 1038' FWL
Morrow	1979' FSL & 1218' FWL

(5) The proposed well location is non-standard with respect to the Wolfcamp, Strawn and Atoka formations, but is standard with respect to the Morrow formation.

(6) By Order No. R-11690 entered in Case No. 12752 on November 16, 2001, and again by Order No. R-11776 entered in Case No. 12858 on June 7, 2002, the Applicant previously obtained Division approval for the compulsory pooling of the subject acreage. In both of the previous cases, the Applicant failed to obtain a drilling extension and both orders expired under their own terms.

(7) Two or more separately owned tracts are embraced within the Units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Units that are separately owned.

(8) Applicant is an owner of an oil and gas working interest within the Units.

Applicant has the right to drill and proposes to drill its Royal Stimulator "31" Well No. 2 (the "proposed well") to common source(s) of supply at standard and non-standard well locations within Section 31.

(9) There are interest owners in the proposed Units that have not agreed to pool their interests.

(10) The applicant presented geologic and engineering evidence that demonstrates that:

- (a) due to the well's close proximity to the City of Lovington, it is necessary to directionally drill the well to test the target formations;
- (b) the primary targets in the well are the "Austin" and "Mesa" sand intervals within the Morrow formation. Secondary targets include the Wolfcamp, Strawn and Atoka formations;
- (c) if production is encountered in the Wolfcamp formation, it is likely to be oil rather than gas. Accordingly, the well would likely be placed within the Caudill-Permo Upper Pennsylvanian Pool; and
- (d) the potential is low for encountering production within the Strawn and Atoka formations.

(11) The applicant notified all affected interest owners of its application to drill at the proposed non-standard locations.

(12) No interest owner appeared at the hearing in opposition to the proposed non-standard well locations.

(13) The proposed unorthodox well locations should be approved.

(14) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Units.

(15) Applicant should be designated the operator of the proposed well and of the Units.

(16) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(17) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of David H. Arrington Oil and Gas, Inc., all uncommitted interests, whatever they may be, in the oil and gas from the surface to the base of the Mississippian formation underlying Lots 1, 2, 3 and 4 and the E/2 W/2 (W/2 equivalent) of Irregular Section 31, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

Lots 1, 2, 3 and 4 and the E/2 W/2 (W/2 equivalent) forming a standard 320.56-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent;

the SW/4 forming a standard 160.14-acre spacing and proration unit for all formations or pools spaced on 160 acres within this vertical extent; and

the SW/4 NW/4 forming a standard 40.17-acre spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent, including, but not necessarily limited to the Undesignated Caudill-Permo Upper Pennsylvanian and Undesignated Townsend-Permo Upper Pennsylvanian Pools.

The Units shall be dedicated to Applicant's Royal Stimulator "31" Well No. 2, which will be drilled at a standard surface location 2235 feet from the North line and 330 feet from the West line (Lot 2) of Section 31 to a vertical depth of approximately 8,800 feet, at which point the well will be directionally drilled in a southeast direction to a bottomhole location 1900 feet from the South line and 1300 feet from the West line (Lot 3) of Section 31.

(2) The Applicant is further authorized to drill its Royal Stimulator "31" Well No. 2 at a non-standard location for the Wolfcamp formation 2471 feet from the North line and 527 feet from the West line (Lot 2), a non-standard location for the Strawn formation 2305 feet from the South line and 888 feet from the West line (Lot 3), and a non-standard location for the Atoka formation 2192 feet from the South line and 1038 feet from the West line (Lot 3), all in Section 31.

(3) The operator of the Units shall commence drilling the proposed well on or before January 15, 2004, and shall thereafter continue drilling the well with due diligence to test the Mississippian formation.

(4) In the event the operator does not commence drilling the proposed well on or before January 15, 2004, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(6) Upon final plugging and abandonment of the proposed well, the pooled Units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(7) Applicant is hereby designated the operator of the proposed well and of the Units.

(8) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed 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 the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(11) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(12) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(13) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(14) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(15) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Lea 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

(16) 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 this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

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

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

(19) Jurisdiction of this case 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

*Lori Wrotenbery*

LORI WROTENBERY  
Director

