

**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. 12957
ORDER NO. R-11868-A**

**APPLICATION OF NADEL AND GUSSMAN PERMIAN, L.L.C. FOR
COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on March 13, 2003, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 3rd day of April, 2003, 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) Nadel and Gussman Permian, L.L.C., ("Applicant"), seeks to re-open this case in order to include additional owners in a compulsory-pooled unit previously established by Order No. R-11868.

(3) By Order No. R-11868, issued in this case on December 3, 2002, following a hearing on November 14, 2002, the Division pooled all uncommitted mineral interests, except the interest of Yates Petroleum Corporation, from the surface to the base of the Morrow formation underlying the E/2 of Section 35, Township 23 South, Range 27 East, NMPM, Eddy County, New Mexico, in the following manner:

The E/2, forming a standard 320-acre gas spacing and proration unit (the "320-acre Unit") for all formations or pools spaced on 320 acres within this vertical extent, which presently include, but are not necessarily limited to, the Undesignated Southeast-Atoka and Undesignated Black River-Morrow Gas Pools.

(4) The above-described unit ("the Unit") was to be dedicated to Applicant's proposed Palo Duro Well No. 1 ("the proposed well") to be drilled at a standard well location within the NE/4 SE/4 of Section 35.

(5) Order No. R-11868 provided that if the proposed well were not commenced on or before March 1, 2003, then the compulsory pooling provisions of said Order would be of no effect unless the operator obtained an extension from the Division Director for good cause.

(6) By letter issued February 14, 2003, the Division Director extended the date for commencement of the proposed well pursuant to Order No. R-11868 to May 1, 2003.

(7) By the present application, Applicant seeks to include in the Unit the interests of Mary Bright, William Bright, Danny Yost, Dale Yost, Francis Guernsey and Deborah Yarrow (hereinafter called "Located, Unleased Owners").

(8) By its terms Order No. R-11868 pooled "all uncommitted interests, whatever they may be, excluding the interest of Yates Petroleum Corporation," in the Unit.

(9) At the hearing on November 14, 2002, Applicant's land witness testified that the addresses of the Known, Unleased Owners were known to Applicant and that copies of a well proposal had been sent to each of them. However, the record of that hearing does not indicate that actual notice of that hearing was sent to the Known, Unleased Owners.

(10) To the extent that Order No. R-11868 purported to pool the interests of the Known, Unleased Owners, said order was improvidently issued.

(11) At the hearing on March 13, 2003, counsel for Applicant represented that Yates Petroleum Corporation has now contractually committed its interest to the Unit, but that the Known, Unleased Owners have not done so.

(12) At the hearing on March 13, 2003 Applicant presented evidence that the Known Unleased Owners were duly notified of that hearing.

(13) None of the Known Unleased Owners appeared at the hearing or otherwise interposed any objection to the present application.

(14) Accordingly, Order No. R-11868 should be re-promulgated so as to include in the Unit thereby formed the interest of the Known, Unleased Owners.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Nadel and Gussman Permian, L.L.C., all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 35, Township 23 South, Range 27 East, N.M.P.M., Eddy County, New Mexico, including the interests of the Known, Unleased Owners, are hereby pooled as provided in, and subject to all the terms and conditions of, Order No. R-11868.

(2) The operator of the Units shall commence drilling the proposed well described in Order No. R-11868 on or before May 1, 2003, and shall thereafter continue drilling the well with due diligence to test the Morrow formation.

(3) In the event the operator does not commence drilling the proposed well on or before May 1, 2003, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(4) Except as herein modified, Order No. R-11868 is hereby reaffirmed and shall continue in force and effect in accordance with its terms.

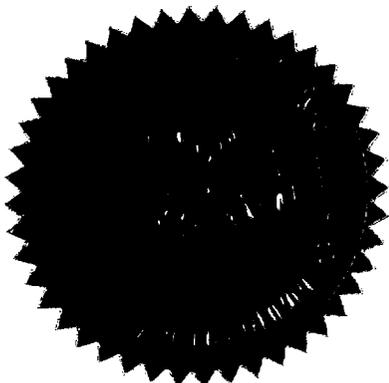
(5) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



LORI WROTENBERY
Director



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