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. 9994
Order No. R-9332

APPLICATION OF DOYLE HARTMAN FOR
COMPULSORY POOLING, A NON-STANDARD
GAS PRORATION UNIT AND SIMULTANEOUS
DEDICATION, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 28, 1990, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 24th day of October, 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.

(2) The applicant, Doyle Hartman (Hartman), seeks an order pooling all mineral interests in the Eumont Gas Pool underlying the SE/4 of Section 5 and the NE/4 of Section 8, Township 21 South, Range 36 East, NMPM, Lea County, New Mexico, forming a non-standard 320-acre gas spacing and proration unit for said pool. IN THE ALTERNATIVE, the applicant seeks an order pooling all mineral interests in the Eumont Gas Pool underlying the N/2 SE/4 and SE/4 SE/4 of said Section 5, and the NE/4 of said Section 8, forming a non-standard 280-acre gas spacing and proration unit for said pool.

In either instance, the applicant proposes to simultaneously dedicate all production from the Eumont Gas Pool to the existing State "A" Well No. 4 located 660 feet from the North and East lines (Unit A) of said Section 8, which is unorthodox for the proposed 280-acre unit, and to its proposed State "A" Com Well No. 5 to be drilled at an undetermined location in the SE/4 of said Section 5.

(3) At the time of the hearing, the applicant testified that it is pursuing approval of the proposed 280-acre non-standard gas proration unit as described above and no longer requests consideration of the proposed 320-acre non-standard gas proration unit.

(4) The applicant has the right to drill and proposes to drill its State "A" Com Well No. 5 as described above.

(5) Chevron U.S.A. Inc. (Chevron), an interest owner in the proposed proration unit who has not agreed to pool its interest, appeared at the hearing in opposition to the application.

(6) The evidence indicates that Chevron and Hartman each own a 50% working interest in the existing 160-acre Eumont non-standard gas proration unit comprising the NE/4 of said Section 8 (approved or "grandfathered" in by Division Order No. R-520, dated August 12, 1954), which is currently dedicated to the Hartman operated State "A" Well No. 4 as described above.

(7) The applicant has recently acquired the SE/4 SE/4 of Section 5 from Arco Oil & Gas Company, said tract previously contained within a 240-acre non-standard Eumont gas proration unit dedicated to the State "G" Well No. 1, and has also recently acquired the N/2 SE/4 of Section 5, which, according to evidence and testimony, has not been developed in the Eumont Gas Pool nor has it previously been included in a Eumont gas proration unit due to an excessive overriding royalty burden.

(8) The evidence indicates that Doyle Hartman owns approximately 90% of the working interest in said N/2 SE/4 and SE/4 SE/4 of said Section 5, and that Chevron owns no interest in these tracts.

(9) The applicant testified that it has successfully reduced the overriding royalty burdens on the N/2 SE/4 and now proposes to drill the State "A" Com Well No. 5 on said tract to recover the remaining Eumont gas reserves.

(10) According to applicant's testimony, current Eumont gas allowables are insufficient to economically justify the drilling of the proposed well on a 120-acre non-standard gas proration unit consisting solely of the N/2 SE/4 and SE/4 SE/4 of said Section 5, and seeks to form the proposed 280-acre non-standard gas proration unit for the purpose of increasing the GPU's Eumont gas allowable, thereby increasing the gas available for production from the proposed well.

(11) The applicant has made a good faith effort to secure Chevron's voluntary participation in the drilling of the proposed State "A" Com Well No. 5, and has also offered to purchase Chevron's interest in the NE/4 of Section 8, but has thus far been unable to reach any agreement with Chevron.

(12) The applicant's proposal contains provisions whereby Chevron and Hartman would be allowed to recover their share of the reasonable and equitable value of the existing State "A" Well No. 4 as compensation for contribution of said wellbore to the proposed proration unit, which, according to applicant's evidence, is approximately $195,782.00.

(13) The basis for Chevron's objection to the proposal is that the formation of the proposed 280-acre non-standard proration unit would in effect reduce Chevron's interest in the existing State "A" Well No. 4 and any subsequently drilled well within the proposed proration unit to approximately 28%.

(14) In addition, the evidence indicates that should Chevron elect not to participate in the drilling of the subject well, its share of the well costs plus a risk penalty would be recovered from production from the proposed State "A" Com Well No. 5 as well as production from the existing State "A" Well No. 4.

(15) Chevron contends that such an arrangement would violate its correlative rights by precluding it from recovering its fair share of proven gas reserves yet to be produced from the State "A" Well No. 4.

(16) Chevron presented evidence which indicates that approval of the application would reduce its revenue from the existing State "A" Well No. 4 by approximately $1,319.00 per month. This figure, however, does not take into account additional revenue which may be realized by Chevron by production from the proposed State "A" Com Well No. 5.

(17) Chevron also testified that the present worth profit of its 50 percent interest in the State "A" Well No. 4 is worth more than the resultant 28 percent interest in the State "A" Well No. 4 and the proposed State "A" Com Well No. 5. However, Chevron presented no economic evidence to substantiate said testimony.

(18) Chevron is in agreement with Hartman in principle that in order to economically justify drilling additional Eumont wells, the gas allowable must be increased via proration unit enlargement as evidenced by Chevron's request in Case No. 9949 heard by the Division on May 30 and June 28, 1990, by which Chevron has requested the establishment of a 400-acre non-standard gas proration unit in the Eumont Gas Pool.

(19) The applicant presented evidence and testimony which indicates that due to the communicative nature of the Eumont reservoir, the N/2 SE/4 of said Section 5 has likely suffered substantial drainage from offset Eumont producing wells.

(20) The applicant presented further evidence which indicates that within a 1 1/3 mile radius of the proposed State "A" Com Well No. 5, Chevron owns approximately 42 percent of the production from Eumont producing wells in said area, which may include gas that has been or is currently being drained from the N/2 SE/4 of said Section 5.

(21) According to applicant's testimony, barring any mechanical failure incurred during drilling or completion operations, the proposed State "A" Com Well No. 5 should encounter commercial gas production from the Eumont Gas Pool, and, according to estimates presented both by Hartman and Chevron in this case, said well should ultimately recover between 0.8 and 1.95 BCF of gas.

(22) The proposed non-standard gas proration unit can be efficiently and economically drained and developed by the State "A" Well No. 4 and the proposed State "A" Com Well No. 5.

(23) Denial of the application in this case would in effect preclude Hartman from drilling the proposed State "A" Com Well No. 5, thereby denying him and other working interest owners the opportunity to recover the remaining gas reserves underlying the N/2 SE/4 and SE/4 SE/4 of said Section 5, thereby violating his correlative rights, and may cause waste inasmuch as said gas reserves may remain unrecovered.

(24) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid 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 production in the Eumont Gas Pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(25) The applicant should be designated the operator of the subject wells and unit.

(26) Hartman and Chevron should be permitted to recover $195,782.00 as the reasonable and equitable value of the existing wellbore and associated equipment of the State "A" Well No. 4 as compensation for the contribution of said well to the proposed proration unit.

(27) Any non-consenting working interest owner should be afforded the opportunity to pay his share of the reasonable and equitable value ($195,782.00) of the existing State "A" Well No. 4 and the estimated well costs for the proposed State "A" Com Well No. 5 to the operator in lieu of paying his share of such value and costs out of production.

(28) The applicant requested a 200 percent risk penalty be imposed on the cost of drilling the proposed State "A" Com Well No. 5.

(29) The evidence presented indicates that the proposed risk penalty is excessive for the following reasons:

a) the proposed State "A" Com Well No. 5 is an infill well, and, as testified to by the applicant, said well, barring any mechanical failures encountered during drilling or completion operations, should encounter commercial gas production from the Eumont Gas Pool;

b) Even in the event that the proposed State "A" Well No. 5 is non-productive, the applicant will be able to recover the carried interest owners' share of the well costs from production from the State "A" Well No. 4.

(30) Any non-consenting working interest owner who does not pay his share of estimated well costs for the State "A" Com Well No. 5 should have withheld from production his share of the reasonable well costs plus an additional 50 percent thereof as a reasonable charge for the risk involved in the drilling of such well. In addition, any non-consenting working interest owner who does not pay his share of the reasonable and equitable value of the existing State "A" Well No. 4 ($195,782.00) should have his share of said amount withheld from production.

(31) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs for the State "A" Com Well No. 5, but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(32) 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.

(33) $5500.00 per month while drilling the State "A" Com Well No. 5 and $550.00 per month while producing the unit wells 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 wells, not in excess of what are reasonable, attributable to each non-consenting working interest.

(34) 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.

(35) Upon the failure of the operator of said pooled unit to commence the drilling of the State "A" Com Well No. 5 on said unit on or before January 15, 1991, this order should become null and void and of no effect whatsoever.

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

(37) The operator of the wells and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(38) For purposes of assigning a gas allowable in the Eumont Gas Pool, the subject 280-acre non-standard gas proration unit should be assigned an acreage factor of 1.75.

(39) The allowable assigned to the aforesaid proration unit should be permitted to be produced from any well on said unit in any proportion.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, in the Eumont Gas Pool underlying the N/2 SE/4 and SE/4 SE/4 of Section 5, and the NE/4 of Section 8, Township 21 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled forming a non-standard 280-acre gas spacing and proration unit to be simultaneously dedicated to the existing State "A" Well No. 4 located at an unorthodox gas well location 660 feet from the North and East lines (Unit A) of said Section 8, and to its proposed State "A" Com Well No. 5 to be drilled at an undetermined location in the SE/4 of said Section 5.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of January, 1991, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Eumont Gas Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of January, 1991, Ordering 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 Director 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 Ordering Paragraph No. (1) of this order should not be rescinded.

(2) Doyle Hartman is hereby designated the operator of the subject wells and unit.

(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 unit an itemized schedule of estimated well costs for the new infill well.

(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 the reasonable and equitable value ($195,782.00) of the existing State "A" Well No. 4 and the estimated well costs for the new infill well, the State "A" Com Well No. 5, to the operator in lieu of paying his share of such value and costs out of production, and any such owner who pays his share of such value and costs within 30 days 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 infill 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 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 well 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 the estimated well costs of the new infill well within 30 days from the date the schedule of estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of said new infill well, 50 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.

(C) Its pro rata share of the reasonable and equitable value of the existing State "A" Well No. 4 ($195,782.00) attributable to each non-consenting working interest owner who has not paid his share of said costs within 30 days from the date of this order.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) $5500.00 per month while drilling and $550.00 per month while producing the unit wells are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from unit 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 unit production the proportionate share of actual expenditures required for operating such wells, 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 pursuant to this order 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.

(12) All proceeds from unit production which are not disbursed for any reason shall immediately 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 said escrow agent within 30 days from the date of first deposit with said escrow agent.

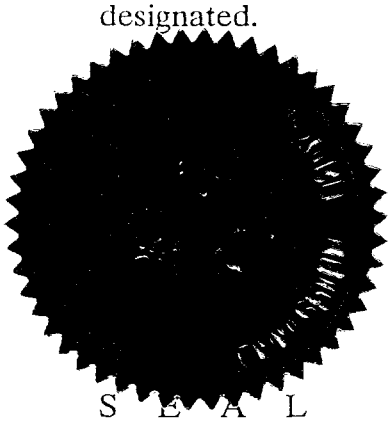
(13) Should all parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, the pooling provisions of this order shall thereafter be of no further effect.

(14) The operator of the wells and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) The subject 280-acre non-standard gas proration unit herein authorized shall receive an acreage factor in the Eumont Gas Pool of 1.75 for allowable purposes to be produced from any well on said unit in any proportion.

(16) 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.



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WILLIAM J. LEMAY
Director