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 NOS. 9479 & 9455
Order No. R-8748

APPLICATION OF TXO PRODUCTION
CORPORATION FOR COMPULSORY POOLING
AND AN UNORTHODOX OIL WELL LOCATION,
LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on September 14, 1988, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 28th day of September, 1988, 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, TXO Production Corporation, seeks an order pooling all mineral interests from the surface to the base of the Atoka formation underlying either the SE/4 SE/4 of Section 13, Township 17 South, Range 37 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all formations within said vertical limits spaced on statewide 40-acre spacing, or the E/2 SE/4 of said Section 13 to form a standard 80-acre oil spacing and proration unit within the Undesignated South Humble City-Strawn and Undesignated Humble City-Atoka Pools, both aforementioned units to be dedicated to a well to be

drilled at an unorthodox oil well location 1310 feet from the South line and 660 feet from the East line (Unit P) of said Section 13.

(3) In companion Case No. 9455, the applicant, TXO Production Corporation, seeks approval only of the unorthodox oil well location described in Finding No. (2) above.

(4) Division Case Nos. 9455 and 9479 were consolidated at the time of the hearing for the purpose of testimony, and inasmuch as the subject of Case No. 9455 (unorthodox oil well location) is also contained within the subject of the immediate Case No. 9479, one order should be entered for both cases.

(5) The applicant has the right to drill and proposes to drill a well at the unorthodox location described above.

(6) The applicant presented geologic evidence which indicates that a well drilled at the proposed location should penetrate the Strawn formation, which is the primary objective, at a more structurally advantageous position than a well drilled at a standard location thereon, thereby increasing the likelihood of obtaining commercial production.

(7) The proposed unorthodox location for a standard 80-acre proration unit does not encroach on any offset acreage and should therefore be approved.

(8) The proposed unorthodox location for a standard 40-acre proration unit is only 10 feet from the outer boundary of the proposed proration unit and due to the inherent drift of wellbores in a northerly direction in this area, there is a possibility that the bottomhole location of a 40-acre oil completion will actually be in the NE/4 SE/4 of said Section 13.

(9) Evidence and testimony in this case indicates only a slight possibility of a 40-acre oil completion and inasmuch as it is unknown at this point whether the bottomhole location will actually be in the SE/4 SE/4 of said Section 13, that portion of this case requesting the compulsory pooling of said SE/4 SE/4 of said Section 13 and for approval of an unorthodox 40-acre oil well location should be denied.

(10) The applicant should be allowed to re-open Case No. 9479 and/or Case No. 9455 in the event of a 40-acre oil completion, should it be determined that the bottomhole location of said 40-acre oil completion is in the SE/4 SE/4 of said Section 13 or, in the alternative, to request a new case should it be determined that the bottomhole location of said 40-acre oil completion is in the NE/4 SE/4 of said Section 13.

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

(12) 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 production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within the E/2 SE/4 of said Section 13.

(13) The applicant should be designated the operator of the subject well and unit.

(14) 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.

(15) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(16) 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.

(17) 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.

(18) The applicant requested that overhead rates of $5500.00 per month while drilling and $550.00 per month while producing be fixed as reasonable charges for supervision.

(19) The 1987 Survey of Combined Fixed-Rate Overhead Charges for Oil and Gas Producers, published by Ernst & Whinney, shows average overhead rates of $4961.00 while drilling and $475.00 while producing for a 12,000 foot well in this area.

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

(21) $5000.00 per month while drilling and $500.00 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, 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.

(22) 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.

(23) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before January 1, 1989, the order pooling said unit should become null and void and of no effect whatsoever.

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

(25) The operator of the well 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.

IT IS THEREFORE ORDERED THAT:

(1) This order is hereby entered covering Division Cases Nos. 9455 and 9479.

(2) That portion of the application requesting the pooling of all mineral interests from the surface to the base of the Atoka formation underlying the SE/4 SE/4 of Section 13, Township 17 South, Range 37 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit for any and all pools and/or formations spaced on 40 acres, and requesting approval of an unorthodox 40-acre oil well location 1310 feet from the South line and 660 feet from the East line (Unit P) of said Section 13, is hereby denied.

(3) The applicant shall be allowed to re-open Case No. 9479 and/or Case No. 9455 in the event of a 40-acre oil completion, should it be determined that the bottomhole location of said 40-acre oil completion is in the SE/4 SE/4 of said Section 13 or, in the alternative, to request a new

case should it be determined that the bottomhole location of said 40-acre oil completion is in the NE/4 SE/4 of said Section 13.

(4) All mineral interests, whatever they may be, from the surface to the base of the Atoka formation underlying the E/2 SE/4 of Section 13, Township 17 South, Range 37 East, NMPM, Undesignated South Humble City-Strawn and Undesignated Humble City-Atoka Pools, Lea County, New Mexico, are hereby pooled to form a standard 80-acre oil spacing and proration unit for said pools and/or any other pools spaced on 80 acres within said vertical limits, said unit to be dedicated to a well to be drilled at an unorthodox 80-acre oil well location 1310 feet from the South line and 660 feet from the East line (Unit P) of said Section 13.

PROVIDED HOWEVER, the operator of said unit shall commence the drilling of said well on or before the 1st day of January, 1989, and shall thereafter continue drilling said well with due diligence to a depth sufficient to test the Atoka formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of January, 1989, Ordering Paragraph No. (4) 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 Ordering Paragraph No. (4) of this order should not be rescinded.

(5) TXO Production Corporation is hereby designated the operator of the subject well and unit.

(6) 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.

(7) 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.

(8) 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 objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(9) 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.

(10) 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.

(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.

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

(12) $5000.00 per month while drilling and $500.00 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, 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.

(13) 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.

(14) 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.

(15) All proceeds from production from the subject well 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.

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

(17) The operator of the well 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.

(18) 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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