

**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. 13391
ORDER NO. R-11926-A**

**APPLICATION OF SAN JUAN RESOURCES OF COLORADO, INC. TO
AMEND DIVISION ORDER NO. R-11926 TO INCLUDE SUBSEQUENT
OPERATIONS AND AN OPTIONAL INFILL GAS WELL PROVISION
(COMPULSORY POOLING), SAN JUAN COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 6, 2005, at Santa Fe, New Mexico, before Examiner David R. **Catanach**.

NOW, on this 3rd day of February, 2005, 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) By Order No. R-1 1926 issued in Case No. 12992 on March 25, 2003, the Division, upon the application of San Juan Resources, Inc., pooled all uncommitted mineral interests from the base of the Pictured Cliffs formation to the base of the Dakota formation underlying the S/2 of Section 18, Township 30 North, Range 11 West, **NMPM**, San Juan County, New Mexico, to form a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent. This unit was dedicated to the **Tecumseh** Well No. 1 which was drilled at a standard gas well location 1975 feet from the South line and 1480 feet from the East line (Unit J) of Section 18.

(3) The applicant, San Juan Resources of Colorado, Inc. ("San Juan Resources" or "applicant"), seeks to amend Division Order No. R-11926 to provide for subsequent operations within the subject spacing unit comprising the S/2 of Section 18 ("the Unit"), and to include its proposed **Tecumseh** Well No. 1E, an infill well to be drilled at a standard gas well location 1455 feet from the South line and 1225 feet from the West line (Unit L) of Section 18, as a well subject to the compulsory pooling provisions of the order.

(4) Bob L. Mosley, George and Janet Mosley, Leonard and Leona Mosley, Mary G. Mosley and Betty **Nelms** (collectively the "Mosley Group") all mineral interest owners within the Unit, appeared at the hearing through legal counsel and presented evidence in this case.

(5) Division records show that pursuant to Division Order No. R-11926, the Tecumseh Well No. 1 (the "original" or "parent" well) was drilled by San Juan Resources in June, 2003. The well is currently producing as a **downhole-commingling** well completion in the Basin-Dakota and **Blanco-Mesaverde** Gas Pools (authorized by Division Order No. DHC-1266AZ).

(6) At the hearing, San Juan Resources testified that in the original compulsory pooling hearing in Case No. 12992, which was heard by the Division on February 20, 2003, it made a mistake in tabulating the Mosley Group's interest within the Unit. At that time, San Juan Resources showed that each of the parties in the Mosley Group owned a 1.00470% interest in the Unit. Subsequent to the original hearing, San Juan Resources performed additional title work and has determined that each of the parties in the Mosley Group owns a 1.02587% interest in the Unit. San Juan Resources further testified that the discrepancy in the interest ownership for the Mosley Group was discovered prior to the drilling of the Tecumseh Well No. 1, and that the correct interest ownership has been utilized in determining the well cost and revenue distribution for each of the parties in the Mosley Group.

(7) In addition, the evidence presented demonstrates that Section 18 is an irregular section and that the subject Unit actually comprises 326.5 acres, not 320 acres as originally presented in Case No. 12992.

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

(9) San Juan Resources is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill its Tecumseh Well No. 1E at a standard gas well location within the NW/4 SW/4 (Lot 3) of Section 18 to test all formations or pools spaced on 320-acres, primarily being the Blanco-Mesaverde and Basin-Dakota Gas Pools.

(10) There are interest owners in the proposed Unit that have not agreed to pool their interests for the drilling of the proposed Tecumseh Well No. 1E.

(11) The evidence presented demonstrates that San Juan Resources has made a good faith effort to secure the voluntary joinder of all interest owners in the Unit for the purpose of drilling the Tecumseh Well No. 1E, but has been unable to do so.

(12) With the exception of Leonard and Leona Mosley, all of the parties within the Mosley Group have elected to voluntarily participate in the drilling of the Tecumseh Well No. 1E under a Division pooling order by virtue of signing San Juan Resource's Authority for Expenditure (AFE) dated September 21, 2004, and by **pre-paying** its share of well costs. All of the parties in the Mosley Group, however, have declined to execute a Joint Operating Agreement (JOA) with San Juan Resources.

(13) San Juan Resources has proposed to the Division and to the Mosley Group that:

- (a) certain provisions modeled after Article VI of the American Association of Petroleum **Landmen** (A.A.P.L.) Model Form Operating Agreement dated 1982 relating to subsequent operations for the parent well and infill well should be incorporated into this amended pooling order;
- (b) all interest owners in the Unit should be given the opportunity to participate in the drilling of the Tecumseh Well No. 1E, even if these parties went non-consent in the drilling of the parent well;
- (c) the amended pooling order issued by the Division should reflect the actual acreage contained within the Unit, and that the record in these proceedings should reflect the Mosley Group's corrected interest ownership within the Unit;

- (d) even though increases in actual costs are anticipated, San Juan Resources will utilize its AFE dated September 21, 2004 for the purpose of calculating the prepayment sum due from the Mosley Group for their election to participate in the drilling of the Tecumseh Well No. 1E pursuant to this amended pooling order;
- (e) reasonable charges for drilling and producing supervision for the Tecumseh Well No. 1E should be established at \$4,905.00 per month while drilling and \$550.00 per month while producing. While the drilling rate remains the same, the proposed producing rate has been reduced by \$340.00 from the amount authorized by Division Order No. R-1 1926 for the Tecumseh Well No. 1; and
- (f) production from the parent well cannot be used to pay for the costs of the infill well, nor can production from the infill well be used to pay for the costs of the parent well. The recovery of costs for subsequent operations shall be paid by the production from the well on which those operations were conducted.

(14) The Mosley Group generally does not object to the inclusion within this amended pooling order of certain provisions modeled after Article VI of the A.A.P.L. Model Form Operating Agreement dated 1982.

(15) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by amending Division Order No. R-1 1926 to provide for subsequent operations within the Unit, and to include the Tecumseh Well No. 1E as an infill well **subject** to the compulsory pooling provisions of the order.

(16) San Juan Resources, the current operator of the Tecumseh Well No. 1 and of the Unit, should be designated the operator of the Tecumseh Well No. 1E.

(17) 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 Tecumseh Well No. 1E.

(18) Reasonable charges for supervision (combined fixed rates) for the Tecumseh Well No. 1E should be fixed at \$4,905.00 per month while drilling and \$550.00 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COP AS form titled "*Accounting Procedure-Joint Operations*."

(19) In order to further clarify the rights and obligations of the interest owners in the Unit, and in order to prevent waste and protect correlative rights, certain provisions modeled after Article VI of the A.A.P.L. Model Form Operating Agreement dated 1982 should be incorporated into this order.

(20) The effect of this amendment to Division Order No. R-1 1926 should be to authorize the drilling of the first infill well, the Tecumseh Well No. 1E, and to authorize subsequent operations on either the Tecumseh Well No. 1 or the Tecumseh Well No. 1E. This amendment does not consolidate the interest ownership within the Unit for the purpose of drilling additional infill wells beyond the Tecumseh Well No. 1E.

IT IS THEREFORE ORDERED THAT:

(1) The application of San Juan Resources of Colorado, Inc. to amend Division Order No. R-1 1926 to provide for subsequent operations within an existing **326.5-acre** gas spacing and proration unit comprising the S/2 of irregular Section 18, Township 30 North, Range 11 West, **NMPM**, San Juan County, New Mexico, this Unit having been previously compulsory pooled by Division Order No. R-1 1926, and to include its proposed Tecumseh Well No. 1E as an infill well subject to the compulsory pooling provisions of the order, this well to be drilled at a standard gas well location **1455** feet from the South line and 1225 feet from the West line (Unit L/Lot 3) of Section 18, is hereby approved.

(2) The operator of the Unit shall commence drilling operations on the Tecumseh Well No. 1E on or before May 1, 2005 and shall thereafter continue drilling operations with due diligence to test the Dakota formation.

(3) In the event the operator does not commence drilling operations on the Tecumseh Well No. 1E on or before May 1, 2005, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(4) Should the Tecumseh Well No. 1E not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the authority to drill this infill well within the Unit created by Division Order No. R-11926 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.

(5) Upon final plugging and abandonment of the Tecumseh Well No. 1 and the Tecumseh Well No. 1E, the pooled Unit created by Division Order No. R-1 1926 shall terminate, unless this order has been amended to authorize further operations.

(6) San Juan Resources of Colorado, Inc., being the current operator of the Tecumseh Well No. 1 and of the Unit, is hereby designated the operator of the Tecumseh Well No. 1E.

(7) 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 Unit, including **unleased** mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the subject well ("well costs").

(8) 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."

(9) For the purpose of this order, it is hereby established that each of the parties within the Mosley Group owns a 1.02587% interest in the Unit. In addition, the operator of the Unit shall utilize its AFE dated September 21, 2004 for the purpose of calculating the prepayment sum due from the Mosley Group for their election to participate in the drilling of the Tecumseh Well No. 1E.

(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 Tecumseh Well No. 1E. 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 from the Tecumseh Well No. 1E:

- (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) for the Tecumseh Well No. 1E are hereby fixed at \$4,905.00 per month while drilling and \$550.00 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COP AS 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 San Juan 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 amended compulsory pooling order reach voluntary agreement subsequent to entry of this order, this amendment to Division Order No. R-1 1926 shall thereafter be of no further effect.

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

IT IS FURTHER ORDERED THAT:

(19) The following-described additional provisions shall be applicable to operations conducted within the Unit:

- (a) The operator or any working interest owner who consents to and has paid its share of costs of the original well, pursuant to either a voluntary agreement or a compulsory pooling order, may propose subsequent operations on either the parent or infill well by giving written notice of the proposed subsequent operations to all working interest owners and all unleased mineral owners within the Unit. Any such proposal shall specify the work to be performed, objective formation and the estimated costs of the operation;

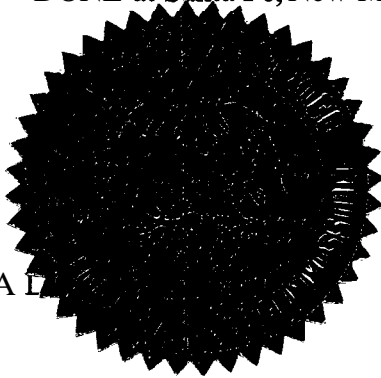
- (b) The parties receiving such notice shall have a thirty (30) day election period after receipt of this notice within which to notify the proposing party whether they elect to participate in the costs of the subsequent operations. Failure of a party receiving such notice to deliver to the proposing party a written election, plus payment for its share of the total costs within the thirty (30) day election period shall constitute an election by that party not to participate in the costs of the proposed operation and shall be a “non consenting” party;
- (c) Any non-consenting party shall be subject to a 200% risk penalty charge for the subsequent operation;
- (d) Production from the original well cannot be used to pay for the costs of the infill well, nor can production from the infill well be used to pay for the costs of the original well. The recovery of costs for subsequent operations shall be paid by the production from the well on which those operations were conducted; and
- (e) If all parties elect to participate in the subsequent operation, the operator shall, within ninety (90) days after the expiration of the thirty (30) day election period, actually commence and conduct operations with due diligence at the risk and expense of all parties;

(20) The effect of this amendment to Division Order No. R-11926 is to authorize the drilling of the first infill well, the Tecumseh Well No. 1E, and to authorize subsequent operations on either the Tecumseh Well No. 1 or the Tecumseh Well No. 1E. This amendment does not consolidate the interest ownership within the Unit for the purpose of drilling additional infill wells beyond the Tecumseh Well No. 1E.

(21) 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.

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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Handwritten signature of Mark E. Fesmire, PE, in black ink.

MARK E. FESMIRE, PE
Director