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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. 9998
Order No. R-9093-B

APPLICATION OF YATES ENERGY
CORPORATION TO AMEND DIVISION
ORDER NO. R-9093, AS AMENDED,
EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 25 and August 22, 1990, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 19th day of September, 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) By Division Order No. R-9093, as amended, dated January 8, 1990, issued in Case No. 9845, the Division, upon the application of Yates Energy Corporation, pooled all mineral interests only in the Undesignated Tamano-Bone Spring Pool underlying the SE/4 SW/4 of Section 1, Township 18 South, Range 31 East, NMPM, forming a standard 40-acre oil spacing and proration unit to be dedicated to the applicant's Thornbush Federal Well No. 1 to be drilled at a standard location 330 feet from the South line and 1980 feet from the West line (Unit N) of said Section 1.

(3) The applicant, Yates Energy Corporation, seeks to amend said Order No. R-9093 to include a provision pooling all mineral interests within said unit in the expanded interval from the surface to the base of the Undesignated Tamano-Bone Spring Pool. The applicant further requests that this amendment be made retroactive to January 8, 1990.

(4) Chevron U.S.A. Inc. (Chevron), a 25 percent working interest owner in the subject unit whose interest was pooled by Order No. R-9093, appeared at the hearing in opposition to the application.

(5) The evidence and testimony indicates that Chevron, subsequent to the issuance of Order No. R-9093, elected not to participate in the drilling of the subject well to the Bone Spring formation.

(6) The applicant spudded the subject well on February 14, 1990, drilled to a total depth of approximately 9,060 feet, and tested the Bone Spring interval as non-productive.

(7) The applicant subsequently tested the San Andres formation at a depth of approximately 4,637 feet, and has completed the subject well as a San Andres producer with an initial potential of 82 barrels of oil per day.

(8) The subject well is currently shut-in by order of the Division until such time as the interests within the proration unit have been consolidated, either by voluntary agreement or by forced-pooling order of the Division.

(9) The applicant seeks to pool the interest of Chevron within the San Andres formation under the terms and conditions set forth in Order No. R-9093 with the exception of the drilling and producing overhead rates which are now proposed to be reduced to $3200.00 and $320.00, respectively.

(10) At the time of the hearing, Chevron made a motion to dismiss on the basis that the applicant has not made an attempt to secure a voluntary agreement as to its interest in the San Andres formation. A ruling on the motion was deferred until such time as evidence and testimony were presented, and was further deferred until such time as the motion could be addressed within this order.

(11) Chevron's motion to dismiss should be denied.

(12) At the request of Chevron, administrative notice was taken of the record and evidence presented in original Case No. 9845.

(13) Chevron opposes the application for the following reasons:

a) Yates has not attempted to obtain the voluntary joinder of Chevron as to its interest in the San Andres formation;

b) Chevron contends that it should only have to pay the proportionate cost of the well associated with drilling and completing in the San Andres formation;

c) Chevron contends that it should not have to pay a risk penalty associated with the San Andres completion if it elects to join the well and pay its proportionate share of costs; and,

d) Chevron is willing to join in the San Andres completion at this time under the terms of (b) and (c) above.

(14) The evidence and testimony presented in Case No. 9845 indicates that the applicant's original attempt to secure Chevron's voluntary agreement consisted of a proposal to drill a well to test the 1st Bone Spring Carbonate and the 2nd Bone Spring Sand, being the primary and secondary objectives, respectively.

(15) The evidence further indicates that at no time did the applicant discuss or convey to Chevron the possibility of a San Andres completion.

(16) The authority of the Division to pool interests in a proration unit is found in the Oil and Gas Act (N.M.S.A. 1978 Section 70-2-17). That section provides, among other things, that the Division shall describe the lands included in the unit and identify the pool or pools to which it applies. The section further provides that in the event of a dispute as to well costs, the Division shall determine proper costs, and that a risk penalty, not to exceed 200 percent, may be assessed against non-consenting parties.

(17) The evidence indicates that the applicant has not, neither initially nor subsequent to completing the subject well in the San Andres formation, attempted to secure a voluntary agreement with Chevron as to its interest in the San Andres formation.

(18) Prior to amending Order No. R-9093 or issuing a new order pooling all interests in the San Andres formation, the applicant should be required to conduct good faith negotiations with Chevron in order to determine a fair and equitable method whereby Chevron's interest as to the San Andres formation may be consolidated.

(19) The applicant should notify the Division in the event of a subsequent voluntary agreement with Chevron.

(20) Should the parties fail to reach a voluntary agreement, this matter should be reopened on the Examiner Docket for October 31, 1990, at which time the Division should consider additional evidence regarding conductance of negotiations, the proportionate share of well costs which are allocated to the San Andres completion, and the assignment of a risk penalty which is fair to both parties.

(21) The application should be temporarily denied.

(22) The subject well should remain shut-in until such time as all the interests in the subject proration unit have been consolidated.