

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. 10407
ORDER NO. R-9636

APPLICATION OF GREAT LAKES
CHEMICAL CORPORATION FOR AN
EXCEPTION TO DIVISION ORDER
NO. R-333-I AND THE REASSIGNMENT
OF RETROACTIVE GAS ALLOWABLES,
SAN JUAN COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

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DIST. 3

This cause came on for hearing at 8:15 a.m. on January 23, 1991, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 12th day of February, 1992 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, Great Lakes Chemical Corporation, seeks the retroactive assignment of gas allowables to the following described six wells located in Township 27 North, Range 8 West, NMPM, Blanco-Mesaverde Pool, San Juan County, New Mexico and exception to the provisions of Division Order No. R-333-I whereby each of the following wells would be exempt from any late penalties on allowables caused by failure to timely submit deliverability well test data:

LEASE	WELL NO.	UNIT LETTER	SECTION	DEDICATED ACREAGE (GPU)	ACREAGE FACTOR
Graham*	1	A	4	320.79 acres comprising the E/2 equivalent	1.0
Graham*	1A	P	4	320.79 acres comprising the E/2 equivalent	1.0
Graham	3	J	3	160 acres comprising the SE/4	0.5
Hammond**	55	B	26	320 acres comprises the E/2	1.0
Hammond**	55A	I	26	320 acres comprises the E/2	1.0
Hammond	5	F	35	160 acres comprising the NW/4	0.5
Wells identified with * and ** are on common proration units.					

(3) Division records reflect that a deliverability test was filed on the Graham Well No. 1 for 1984 and that the subsequent deliverability test should have been filed for 1986 and the deliverability test which should have been filed for 1989, were not filed with the Division as required. The Division records indicate that the applicant filed a deliverability test on this well with the Division on March 5, 1991.

(4) Division records reflect that a deliverability test was filed on the Graham Well No. 1A for 1984 and that the subsequent deliverability test should have been filed for 1986 and the deliverability test which should have been filed for 1989, were not filed with the Division as required. The Division records indicate that the applicant filed a deliverability test on this well with the Division on June 5, 1991.

(5) Division records reflect that a deliverability test was filed on the Graham Well No. 3 for 1984 and that the subsequent deliverability test should have been filed for 1986 and the deliverability test which should have been filed for 1989, were not filed with the Division as required. The Division records indicate that the applicant filed a deliverability test on this well with the Division on March 5, 1991.

(6) Division records reflect that a deliverability test was filed on the Hammond Well No. 5 for 1984 and that the subsequent deliverability test should have been filed for 1986 and the deliverability test which should have been filed for 1989, were not filed with the Division as required. The Division records indicate that the applicant filed a deliverability test on this well with the Division on March 5, 1991.

(7) Division records reflect that a deliverability test was filed on the Hammond Well No. 55 for 1984 and that the subsequent deliverability test should have been filed for 1986 and the deliverability test which should have been filed for 1989, were not filed with the Division as required. The Division records indicate that the applicant filed a deliverability test on this well with the Division on June 5, 1991.

(8) Division records reflect that a deliverability test was filed on the Hammond Well No. 55A for 1984 and that the subsequent deliverability test should have been filed for 1986 and the deliverability test which should have been filed for 1989, were not filed with the Division as required. The Division records indicate that the applicant filed a deliverability test on this well with the Division on June 5, 1991.

(9) To the fullest extent of the Gas Proration rules, such delinquency could be subject to the provisions of Section 2.B. of the *Rules and Procedures for Northwest New Mexico* as promulgated by Division Order No. R-333-I, issued in Case No. 8586, dated October 2, 1987 and made effective September 11, 1987. Said order states:

"All Annual and Biennial Deliverability and Shut-In Pressure Tests required by these rules must be filed with the Division's Aztec office and with the appropriate gas transportation facility within 90 days following the completion of each test. Provided however, that any test completed between October 31 of the test year and January 31 of the following year are due no later than January 31. No extension of time for filing tests beyond January 31 will be granted except after notice and hearing.

Failure to file any test within the above-prescribed times will subject the well to the loss of one day's allowable for each day the test is late. A well classified as marginal shall be shut-in one day for each day the test is late."

(10) Great Lakes is a chemical manufacturing company with its principal place of business located in the State of Indiana. The production of natural gas is not its primary business and it operates only six wells in the State of New Mexico.

(11) Through confusion and oversight, Great Lakes failed to file deliverability tests for the years 1986 and 1989 for said wells.

(12) There was evidence submitted at the hearing which would indicate that such "confusion" could be partially attributable to the Division inasmuch as:

- a) the Division's failure to continue notification of operators who are delinquent in filing as they apparently did in the late 1970s; and,
- b) the Division's continued assigning of allowables for said wells using the 1984 deliverability test results.

(13) In early 1991, the Division's District Office at Aztec became aware of the delinquent tests for the Great Lakes wells and, following district policy, assigned said wells allowables based only upon acreage factors back to April, 1990.

(14) Later in 1991, the Division's Aztec Office notified Great Lakes that it was proposing to calculate allowables for each of these wells using only acreage factors retroactive to April 1, 1987.

(15) Such action would result in the creation of substantial amounts of additional overproduction for these wells and would cause some of them to be shut-in through the 1992-1993 allowable year and would impose an excessive penalty on Great Lakes.

(16) In this case, Great Lakes has applied for an exception to Division Order No. R-333-I and the assignment of gas allowables to its six Blanco Mesaverde Pool wells in such a manner as to avoid excessive penalties on allowables caused by failure to submit deliverability test data at the specified time(s).

(17) El Paso Natural Gas Company, who is the gas transporter for the six subject wells, appeared at the hearing and opposed the granting of this application because the reinstatement of gas allowables for the periods during which deliverability tests were delinquent is contrary to the requirements of Division Orders and is not in the best interest of the regulatory process.

(18) El Paso Natural Gas Company perhaps added to Great Lakes' confusion by informing Great Lakes by letter dated January 23, 1989 concerning test scheduling. Evidently, no follow-up from El Paso was issued to Great Lakes about such scheduling.

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(19) Evidence was submitted which indicates that there may be many similar instances of such failure by other operators to file deliverability test data and failure of the Division to take timely action to adjust allowables based on such failure.

(20) The failure of Great Lakes to file the deliverability tests in question was not done with the purpose of abusing the gas proration system.

(21) The matter in which the Division handles this particular situation and any similar situations in the future should be considered on a case by case basis. However, the Division can set certain uniform parameters at this time which could be used to establish standards in settling this type of error whether it be intentional or inadvertent.

(22) Great Lakes has requested the Division to retroactively assign the deliverabilities submitted in June, 1991 back to April 1, 1987. This would allow underproduction on all of Great Lakes wells at this time.

(23) El Paso proposed the Division set the allowable to zero for the period April, 1987 through March, 1991, thereby each proration unit would receive overproduction.

(24) In a similar instance where deliverability tests were delinquent (Division Order No. R-7669 issued in Case No. 8298; Application of Mesa Petroleum Company) the applicant's request for a retroactive allowable was *denied*, however, the overproduction status of the well was adjusted to zero.

(25) If the subject proration units had been properly assigned a zero allowable starting April 1, 1987, by March 30, 1991 the following overproduction would have accrued:

Graham Well No. 3	61,666 MCF
Graham Well Nos. 1 and 1A	214,906 MCF
Hammond Well No. 5	98,620 MCF
Hammond Well Nos. 55 and 55A	144,760 MCF

(26) Considering the mitigating circumstances of this case, all of the applicable rules governing the proration of gas in the Blanco Mesaverde Pool should be observed. Therefore, the four gas proration units that are subject in this case should be assigned allowables equal to zero for the period of April 1, 1987 to March 30, 1991. Further, each proration unit should be made to accrue overproduction in the amounts shown in Finding Paragraph No. (25) above. HOWEVER, notwithstanding Great Lakes' inadvertence in this matter, said overproduction in each of the four gas proration units should be adjusted to zero as of 7:00am on April 1, 1991.

(27) The entry of an order with the above stated adjustments will not result in waste or violate correlative rights.

IT IS THEREFORE ORDERED THAT:

(1) The application of Great Lakes Chemical Corporation for assignment of retroactive gas allowables to the six wells located on the following described four gas proration units in Township 27 North, Range 8 West, NMPM, Blanco Mesaverde Pool, San Juan County, New Mexico is hereby *denied*:

LEASE	WELL NO.	UNIT LETTER	SECTION	DEDICATED ACREAGE (GPU)	ACREAGE FACTOR
Graham*	1	A	4	320.79 acres comprising the E/2 equivalent	1.0
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Hammond	5	F	35	160 acres comprising the NW/4	0.5
Wells identified with * and ** are on common proration units.					

(2) Further, Great Lakes' request for an exception to the provisions of Division Order No. R-333-I whereby each of the above-described wells would be exempt from any late penalties on allowables caused by failure to timely submit deliverability well data is hereby *denied*.

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(3) The four subject gas proration units shall receive allowables equal to zero for the period April 1, 1987 to March 30, 1991. Further, each proration unit shall be made to accrue the following overproduction as of the March 30, 1991 date:

Graham Well No. 3	61,666 MCF
Graham Well Nos. 1 and 1A	214,906 MCF
Hammond Well No. 5	98,620 MCF
Hammond Well Nos. 55 and 55A	144,760 MCF

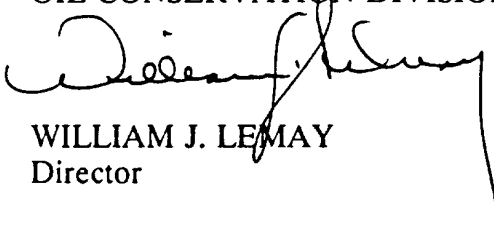
IT IS ORDERED HOWEVER THAT:

(4) The above described overproduction in each of the four gas proration units shall be adjusted to zero as of 7:00am on April 1, 1991.

(5) 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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