

**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. 12299  
ORDER NO. R-11301**

**APPLICATION OF REDWOLF PRODUCTION, INC. FOR 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 December 2, 1999 and December 16, 1999 at Santa Fe, New Mexico, before Examiners Mark W. Ashley and David R. Catanach.

NOW, on this 29th day of December, 1999, 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 its subject matter.

(2) The applicant, Redwolf Production, Inc. ("Redwolf"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Pictured Cliffs formation underlying the following acreage in Section 36, Township 26 North, Range 13 West, NMPM, San Juan County, New Mexico:

(a) the N/2 to form a standard 320-acre gas spacing and proration unit for formations and/or pools developed on 320-acre spacing within that vertical extent, including the Basin-Fruitland Coal Gas Pool;

(b) the NE/4 to form a standard 160-acre oil spacing and proration unit for formations and/or pools developed on 160-acre spacing within that vertical extent, including the Undesignated WAW-Fruitland Sand-Pictured Cliffs Pool;

(c) the NE/4 NE/4 to form a standard 40-acre oil spacing and proration unit for formations and/or pools developed on 40-acre spacing within that vertical extent.

NOTE: After pooling, uncommitted working interest owners are referred to as “non-consenting working interest owners.”

(3) At the time of the hearing Redwolf testified that all the interests within the 40-acre and the 160-acre oil spacing and proration units have been voluntarily committed; therefore, the portion of the application relating to these units should be dismissed.

(4) The 320-acre gas spacing and proration unit is to be dedicated to the applicant’s Bear Well No. 1, located at a standard gas well location 790 feet from the North line and 1190 feet from the East line (Unit A) of Section 36. This location is currently governed by the *Special Rules and Regulations for the Basin-Fruitland Coal Gas Pool*, Division Order No. R-8768-A, issued in Case No. 9420 and dated July 16, 1991.

(5) The State of New Mexico owns the surface, but has transferred jurisdiction to the Navajo Agricultural Products Industries of the Navajo Tribe (“Tribe”).

(6) The applicant is a working interest owner within the subject proration unit and therefore has the right to drill for and develop the minerals underlying the unit.

(7) There are interest owners in the subject proration unit that have not agreed to pool their interests.

(8) Maralex Resources, Inc. (“Maralex”) and Energen Resources Corporation (“Energen”) appeared at the hearing through legal counsel. No other affected party appeared at the hearing in opposition to this application.

(9) Maralex objected to the application of Redwolf due to the fact that the Tribe has not yet granted a pipeline right-of-way to Redwolf. Maralex stated that a Basin-Fruitland Coal Gas well in the south half of Section 36 has been waiting for a pipeline right-of-way from the Tribe for over three years. Maralex’s concern is that its interest could be held nonproductive indefinitely while waiting on pipeline right-of-way approval.

(10) The Division does not have jurisdiction to address Maralex’s objection regarding pipeline right-of-way approval from the tribe. Therefore, this issue does not affect this decision. Presumably, Redwolf will consider the right-of-way issue in determining

whether and when to drill.

(11) Additionally, Maralex objected to the 200 percent risk penalty because the subject well is completely surrounded by offsetting Basin-Fruitland Coal Gas production.

(12) Energen objected to the application of Redwolf stating that proper notification was not given to Energen. Energen requested that the application of Redwolf be dismissed or, in the alternative, continued to the January 6, 2000 hearing to allow time for further negotiations between Energen and Redwolf.

(13) This case was continued to the December 16, 1999 hearing.

(14) Prior to the December 16, 1999 hearing, an agreement between Energen and Redwolf was reached and Energen withdrew its objection to Redwolf's application.

(15) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the above-described proration unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within the subject proration unit.

(16) Redwolf should be designated the operator of the subject well and unit.

(17) Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

(18) The evidence indicates that the subject well is offset in all directions by Basin-Fruitland Coal Gas production and that the probability of encountering a productive Basin-Fruitland Coal Gas well is high. Therefore the charge for risk involved in the drilling of the well should be reduced to 156 percent.

(19) Any non-consenting working interest owner who does not pay its share of estimated well costs should have withheld from production its share of the reasonable well costs plus an additional 156 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(20) 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.

(21) Following determination of reasonable well costs, any non-consenting working interest owner who has paid its 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.

(22) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,000.00 per month while drilling and \$400.00 per month while producing. The operator should be 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 each non-consenting working interest.

(23) All proceeds from production from the well that 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.

(24) If the operator of the pooled unit fails to commence drilling the well to which the unit is dedicated on or before April 1, 2000, or if all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should become of no effect.

(25) The operator of the well and unit should notify 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) Pursuant to the application of Redwolf Production, Inc., all uncommitted mineral interests from the surface to the base of the Pictured Cliffs formation underlying the N/2 of Section 36, Township 26 North, Range 13 West, NMPM, San Juan County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit for formations and/or pools developed on 320-acre spacing within that vertical extent, including the Basin-Fruitland Coal Gas Pool.

NOTE: After pooling, uncommitted working interest owners are referred to as “non-consenting working interest owners.”

(2) The portion of the application relating to the 160-acre and the 40-acre oil spacing and proration units is hereby dismissed.

(3) The unit is to be dedicated to the applicant's Bear Well No. 1, located at a standard gas well location 790 feet from the North line and 1190 feet from the East line (Unit A) of Section 36.

(4) The operator of the unit shall commence drilling the well on or before April 1, 2000, and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Pictured Cliffs formation.

(5) In the event the operator does not commence drilling the well on or before April 1, 2000, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause shown.

(6) Should the well not be drilled to completion or abandoned within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(7) Redwolf Production, Inc. is hereby designated the operator of the subject well and unit.

(8) After the effective date of this order and within 90 days prior to commencing the well, the operator shall furnish the Division and each known non-consenting working interest owner in the unit an itemized schedule of estimated well costs.

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting 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, 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.

(10) The operator shall furnish the Division and each known non-consenting 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 the schedule, the actual well costs shall be the reasonable well costs; provided, however, that 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 non-consenting 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 its share of the amount that estimated well costs exceed reasonable well costs.

(12) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and
- (b) as a charge for the risk involved in drilling the well, 156 percent of the above costs.

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

(14) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,000.00 per month while drilling and \$400.00 per month while producing. The operator should be 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 each non-consenting working interest.

(15) 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.

(16) 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) 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.

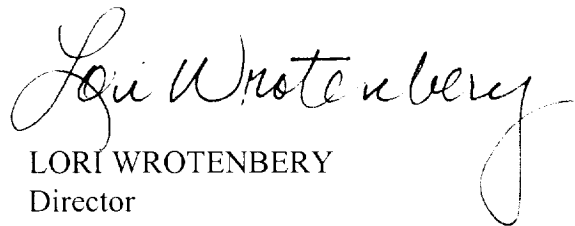
(18) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(19) 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 order.

(20) 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.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
LORI WROTENBERY  
Director

S E A L