

Entered April 14, 1982
JLR

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 7425
Order No. R-6945

APPLICATION OF H. L. BROWN, JR.
FOR COMPULSORY POOLING AND AN
UNORTHODOX LOCATION, LEA COUNTY,
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on December 2, 1981, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 14th day of April, 1982, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, H. L. Brown, Jr., originally requested an order in this case pooling all mineral interests from the top of the San Andres formation to the base of the Pennsylvanian formation underlying the S/2 of Section 26, Township 16 South, Range 37 East, to be dedicated to a well to be drilled at a standard location thereon, provided that in the event the subject well encountered production in the Casey-Strawn Pool and/or the West Knowles Drinkard Pool, the lands pooled would be the S/2 SW/4 of said Section 26. Applicant further requested approval for the commencement of a second well within 120 days after completion of the first well, said well to be drilled at an unorthodox location 1650 feet from the South line and 660 feet from the West line of Section 26, and dedicated to the N/2 SW/4 of said Section 26 which applicant also seeks to be pooled.

(3) That at the hearing the applicant amended his application to delete the Atoka and Morrow zones of the Pennsylvanian formation, so that the application as it now stands is for pooling only to the base of the Strawn.

(4) That the applicant has the right to drill on the lands proposed to be pooled and does propose to drill a well thereon.

(5) That there are interest owners in the lands proposed to be pooled who have not agreed to pool their interests.

(6) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said lands the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said lands.

(7) That due to the ambiguous nature of the application and the uncertainty of obtaining production from the various formations involved, the Division should prescribe certain lands to be pooled for specific production and certain contingent pooling involving other production from other formations.

(8) That the primary objective of the applicant is to dedicate the S/2 SW/4 of Section 26 to a well to be drilled to the Knowles-Drinkard Pool and the Casey-Strawn Pool, both 80-acre oil pools, said well to be drilled at a standard location within 150 feet of the center of the SW/4 SW/4 of said Section 26.

(9) That such spacing and proration unit in said pools for the aforesaid well should be approved and the applicant should be designated as the operator of said well and unit.

(10) That the second objective of the applicant is to dedicate the N/2 SW/4 of Section 26 to a well to be drilled to the Knowles-Drinkard Pool and the Casey-Strawn Pool, said well to be drilled at an unorthodox location 1650 feet from the South line and 660 feet from the West line of said Section 26, to be commenced within 120 days following completion of the first well.

(11) That such spacing and proration unit and unorthodox location for said pools should be approved, but the proposed second well should not be required to be drilled only at said unorthodox location, and a specific time frame within which to commence said well should be adopted.

(12) That a period of from 60 days to 180 days after completion of the first well should be sufficient to determine whether and where the second well should be drilled, and this period of time should be established for making such determination.

(13) That the applicant should be designated the operator of the second well and unit.

(14) That in the event either of the aforesaid wells is classified as a gas well in the Wolfcamp formation or in any other formation down through the Strawn formation, said well should have dedicated thereto for the gas producing formation 320 acres, being the S/2 of Section 26, Township 16 South, Range 37 East, NMPM, and said lands should be herein pooled to form such a spacing and proration unit.

(15) That all interests in the S/2 of the aforesaid Section 26 are common throughout, and ownership in all of the aforesaid three proration and spacing units proposed to be pooled, i.e., the S/2 SW/4 of Section 26, the N/2 SW/4 of Section 26, and the S/2 of Section 26 is therefore identical.

(16) That the proportionate share of each working interest owner, both as to production benefits and development and operating costs, would remain constant, whether one oil well, two oil wells, a gas well, or any combination thereof resulted from the proposed development.

(17) That after the effective date of this order and within 90 days prior to commencing the well in the S/2 SW/4 of Section 26, the operator should furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(18) That at least 60 but not more than 180 days after completion of the unit well in the S/2 SW/4 of Section 26, the operator should make a determination as to whether and where the second well herein authorized should be drilled, and should furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(19) That any non-consenting working interest owner in either of the aforesaid spacing and proration units 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.

(20) That 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.

(21) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but

that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(22) That 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.

(23) That \$3700.00 per month while drilling and \$435.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates) for each well; that 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 each of the subject wells, not in excess of what are reasonable, attributable to each non-consenting working interest.

(24) That all proceeds from production from the subject wells 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.

(25) That upon the failure of the operator to commence drilling of the first of the aforesaid wells, to which the S/2 SW/4 of Section 26 is dedicated, on or before August 1, 1982, this order should become null and void and of no effect whatsoever.

(26) That upon the failure of the operator to commence drilling of the second of the aforesaid wells, to which the N/2 SW/4 of Section 26 is dedicated, within 60 days after the determination described in Finding No. (18) above is made, that part of this order pooling the N/2 SW/4 of Section 26 should become null and void and of no effect whatsoever.

(27) That the unorthodox location for the well proposed to be drilled in the N/2 SW/4 of Section 26 should be approved, but that said location should not be considered binding for said unit, and the unit well may be drilled at any standard location thereon or, subject to prior and separate approval by the Division, at some other unorthodox location.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the West Knowles-Drinkard Pool and in the Casey-Strawn Pool underlying the S/2 SW/4 of Section 26, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 80-acre spacing and proration unit to be dedicated to a well to be drilled at a standard location thereon.

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the first day of August, 1982, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Strawn formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the first day of August, 1982, Order (1) 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 Order (1) of this order should not be rescinded.

(2) That H. L. Brown, Jr., is hereby designated the operator of the subject well and unit.

(3) That 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.

(4) That at least 60 days but not more than 180 days after the completion of the unit well on the S/2 SW/4 of the aforesaid Section 26, the operator shall make a determination as to whether and where to drill another well, to be located on the N/2 SW/4 of said Section 26, and shall, within 10 days of such determination so advise the Division Director and each known working interest owner of such fact, and shall furnish the Division and each known working interest owner in the N/2 SW/4 of said Section 26 an itemized schedule of estimated well costs.

(5) That when the operator has made a determination to drill such second well, and has so notified the Division and each known working interest owner of such fact, and has furnished the itemized schedule of estimated well costs as required above, all mineral interests, whatever they may be, in

the West Knowles-Drinkard Pool and the Casey-Strawn Pool underlying the N/2 SW/4 of Section 26, Township 16 South, Range 37 East, NMPM, Lea County, New Mexico, shall be considered pooled to form a standard 80-acre spacing and proration unit to be dedicated to such second well.

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of such second well within 90 days after making the determination to drill said well, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Strawn formation.

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well within 90 days after determining said well should be drilled, the pooling provisions of Order (5) 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 the pooling provisions of Order (5) of this order should not be rescinded.

PROVIDED FURTHER, that said well may be drilled at an unorthodox location 1650 feet from the South line and 660 feet from the West line of Section 26, Township 16 South, Range 37 East, NMPM.

(6) That H. L. Brown, Jr. is hereby designated the operator of the subject well and unit.

(7) That within 30 days from the date the schedule of estimated well costs is furnished to him in accordance with Order (3) or Order (4) of this Order, any non-consenting working interest owner shall have the right to pay his share of estimated well costs for that well to the operator in lieu of paying his share of reasonable well costs out of production, and that 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) That 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 each well; that 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, that if there is

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

(9) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance for that well 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) That 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 for that well 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 for that well 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) That the operator shall distribute said costs and charges withheld from production from a well to the parties who advanced the well costs for that well.

(12) That \$3700.00 per month while drilling and \$435.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates) for each well; that the operator is hereby authorized to withhold from production from each well 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 from each well 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) That in the event either of the wells authorized by this order should be completed as a gas well in the Wolfcamp or

Pennsylvanian formations and so classified by the Division's Hobbs District Supervisor, the S/2 of Section 26, Township 16 South, Range 37 East, NMPM, is hereby pooled to form a standard 320-acre gas spacing and proration unit to be dedicated to said well.

(14) That any unsevered mineral interest underlying the S/2 SW/4, N/2 SW/4, or the S/2 of Section 26, Township 16 South, Range 37 East, NMPM, 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.

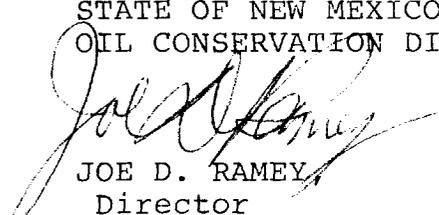
(15) That any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(16) That all proceeds from production from either of the subject wells 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; that 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.

(17) That 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


JOE D. RAMEY,
Director

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