

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:

CASES NOS. 8558 AND 8580
Order No. R-7969

APPLICATION OF HNG OIL COMPANY
FOR COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO

APPLICATION OF TEXACO PRODUCING, INC.
FOR COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8 a.m. on April 24, 1985, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 2nd day of July, 1985, 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) In Case No. 8558, the applicant, HNG Oil Company, seeks an order pooling all mineral interests in the Pennsylvanian formations underlying Lots 1, 2, 3, and 4, and the E/2 W/2 of Section 18, Township 24 South, Range 29 East, NMPM, Eddy County, New Mexico, forming a standard 318.88-acre gas spacing and proration unit.

(3) In Case No. 8580, the applicant, Texaco Producing, Inc., seeks an order pooling all mineral interests in the Pennsylvanian formations underlying Lots 3 and 4, the E/2 SW/4 and the SE/4 of said Section 18, forming a standard 319.70-acre gas spacing and proration unit.

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(4) Each applicant, HNG Oil Company and Texaco Producing, Inc., further seeks to be named the operator of its respective unit, as described above.

(5) At the April 10, 1985 hearing, Case No. 8558 was continued to the April 24, 1985 hearing so that it and Case No. 8580 could be heard simultaneously.

(6) At the time of the April 24, 1985 hearing, Cases Nos. 8558 and 8580 were consolidated for the purpose of testimony and should furthermore be consolidated for the purpose of issuing a single order inasmuch as both cases involve certain common acreage and the granting of one application would necessarily require the concomitant denial of the other.

(7) HNG Oil Company has the right to drill and is drilling its Fort "18" Federal Com Well No. 1 at a standard gas well location 1980 feet from the North line and 885 feet from the West line of said Section 18. Said well was spudded on March 25, 1985, and in doing so met a March 30, 1985, farmout obligation to various working interest owners in their proposed pooled unit.

(8) Texaco Producing, Inc. has the right to drill and proposes to drill a well at a standard gas well location 660 feet from the South line and 1980 feet from the West line of said Section 18 and according to the testimony, there would be no appreciable delay in which a well would be commenced should the proposed Texaco Producing, Inc. unit be approved.

(9) There are interest owners in both proposed proration units who have not agreed to pool their interests.

(10) The approval of the proration unit proposed to be pooled by HNG Oil Company, as described in Finding Paragraph No. (2) above, would include lands with the following working interest ownership:

	<u>ACRES</u>	<u>PERCENTAGE</u>
Leased to HNG	99.84	31.30958
Farmed Out to HNG	139.04	43.60261
Leased to Texaco	<u>80.00</u>	<u>25.08781</u>
TOTAL	318.88	100.00000

(11) The approval of the proration unit proposed to be pooled by Texaco Producing, Inc., as described in Finding Paragraph No. (3) above, would include lands with the following working interest ownership:

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	<u>ACRES</u>	<u>PERCENTAGE</u> <u>(approximate)</u>
Leased to Texaco	240.00	75.1
Leased to HNG	39.84	12.5
Farmed Out to HNG	<u>39.76</u>	<u>12.4</u>
TOTAL	319.70	100.0

(12) The geological evidence presented by both parties at the time of the hearing indicates that all of said Section 18 can reasonably be presumed to be productive of gas in the Pennsylvanian formation.

(13) The HNG Oil Company application for compulsory pooling (Case No. 8558) was received by the Division on March 6, 1985, and the Texaco Producing, Inc. application for compulsory pooling (Case No. 8580) was received by the Division on March 22, 1985.

(14) HNG Oil Company made the first attempt to voluntarily pool the subject lands leased to Texaco Producing, Inc., in the HNG proposed unit as described in Finding Paragraph No. (2) above, by having transmitted an "invitation" to either "join or farmout" by letter dated January 11, 1985, to Getty Oil Company, whereas Texaco Producing, Inc. responded with a counter-proposal by letter dated March 22, 1985 inviting HNG Oil Company to "participate" in their proposed unit, as described in Finding Paragraph No. (3) above.

(15) According to the testimony presented at the time of the hearing, all acreage operated and controlled by Getty Oil Company was transferred to Texaco Producing, Inc. on their merger date of January 1, 1985.

(16) Getty Oil Company and Texaco Producing, Inc. should be and are hereby considered throughout this order as one and the same.

(17) Considering the factors related to geology and productive acres as essentially being equal in these Cases, the application of HNG Oil Company in Division Case No. 8558 should be given preference over the application of Texaco Producing, Inc. in Division Case No. 8580 based upon HNG Oil Company's initiation of voluntary attempts to pool for drilling and the filing of their application to pool prior to the filing by Texaco Producing, Inc.

(18) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to

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the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas underlying the proposed spacing and proration unit, the application of HNG Oil Company, Case No. 8558, should be approved by pooling all mineral interest, whatever they may be, in the Pennsylvanian formation underlying Lots 1, 2, 3, and 4, and the E/2 W/2 of said Section 18.

(19) The application of Texaco Producing, Inc., Case No. 8580, for an order pooling all mineral interests in the Pennsylvanian formation underlying Lots 3 and 4, the E/2 SW/4 and the SE/4 of said Section 18 should be denied.

(20) HNG Oil Company should be designated the operator of the unit pooled by this order and the well being drilled thereon.

(21) Any non-consenting working interest owner 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.

(22) 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.

(23) 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.

(24) 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.

(25) At the time of the hearing the applicant proposed that the reasonable monthly fixed charges for supervision while drilling and producing should be \$5250.00 and \$525.00, respectively.

(26) The above drilling and producing charges are above the normal monthly fixed charges in this area for a well to a comparable depth and should therefore be adjusted to reflect a more reasonable rate.

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(27) \$4800.00 per month while drilling and \$480.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); 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 the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(28) All proceeds from production from the subject well 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.

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

(30) The operator of the well and unit shall notify the Director of 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) Division Cases Nos. 8558 and 8580 are hereby consolidated into one case for the entry of a single order.

(2) The application of Texaco Producing, Inc. (Case No. 8580) seeking an order pooling all mineral interests in the Pennsylvanian Formations underlying Lots 3 and 4, the E/2 SW/4, and the SE/4 of Section 18, Township 24 South, Range 29 East, NMPM, Eddy County, New Mexico, is hereby denied.

(3) All mineral interests, whatever they may be, in the Pennsylvanian formation underlying Lots 1, 2, 3, and 4 and the E/2 W/2 of said Section 18 are hereby pooled to form a standard 318.88-acre gas spacing and proration unit to be dedicated to the Fort "18" Federal Com Well No. 1 currently drilling at a standard gas well location 1980 feet from the North line and 885 feet from the West line of said Section 18.

PROVIDED FURTHER, that should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Order (3) of this order should not be rescinded.

(4) HNG Oil Company is hereby designated the operator of the subject well and unit.

(5) Within 60 days after the effective date of this order, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(6) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and 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.

(7) 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 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 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.

(8) 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 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.

(9) 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 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 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.

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

(11) \$4800.00 per month while drilling and \$480.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby 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 is hereby authorized to withhold from production 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.

(12) Any unsevered 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 the terms of this order.

(13) 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.

(14) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Eddy 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 said escrow agent within 30 days from the date of first deposit with said escrow agent.

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

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

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(17) 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



R. L. STAMETS,
Director

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