

From: Thomas Kellahin
To: Ezeanyim, Richard
Cc: Anne Jones
Sent: Thursday, November 18, 2004 9:46 AM
Subject: Re: Case 13322

Richard; Per your request, attached is a draft order

----- Original Message -----

From: Ezeanyim, Richard
To: 'Thomas Kellahin'
Sent: Thursday, September 16, 2004 11:34 AM
Subject: RE: Case 13322

Thank you. I will check that out.

-----Original Message-----

From: Thomas Kellahin [mailto:kellahin@earthlink.net]
Sent: Thursday, September 16, 2004 11:14 AM
To: REzeanyim@state.nm.us
Cc: Anne Jones
Subject: Case 13322

In accordance with your request at the hearing this morning, The Special Rules for the Basin Fruitland Coal-Gas Pool were changed on July 17, 2003 by Order R-8768-F, Case 12888, deleting the "alternate quarter-section" location requirement and substituting a two-well density as set forth in Rule 7(d)

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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. 13322
ORDER NO. R-10656-B**

**APPLICATION OF RICHARDSON OPERATING
COMPANY TO AMEND DIVISION ORDER-10656-A
FOR COMPULSORY POOLING AND AN
UNORTHODOX COAL-GAS WELL LOCATION
SAN JUAN COUNTY, NEW MEXICO**

WTK-Draft 11.15.04

**RICHARDSON'S PROPOSED
ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on September 16, 2004, at Santa Fe, New Mexico, before Examiner Richard Ezeanyim.

NOW, on this the --- day of November, 2004 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 over the parties, of this cause and the subject matter thereof.

BACKGROUND

- (2) On prior occasions, the Division has entered orders at the request of Richardson Operating Company ("Richardson") that affected the E/2 of Section 15, Township 27 North, Range 13 West that are summarized as follows:
 - a. Division Order R-10656, dated August 20, 1996, was entered in Case 11570

approving Richardson application for compulsory pooling of the NE/4 and the E/2 of Section 15, Township 27 North Range 13 West, NMPM, San Juan County, New Mexico, including the downhole commingling and the drilling of the ROPCO "15" GW "A"-PC/"B"-FC Well No. 1 (API# 30-045-29407) at an unorthodox well location in Unit H of this section. The compulsory pooling portion of this order expired on November 15, 1996 when Richardson failed to obtain as extension or commence drilling this well.

- b. Division Order R-10656-A, dated January 13, 1997 was entered in Case 11681 reinstating the compulsory pooling of the NE/4 for the Pictured Cliffs formation and pooling the E/2 for the formations in the Basin Fruitland Coal Gas Pool for the drilling, completion and production of the ROPCO "15" Well No. 1 (API #30-045-29407) including approval to drill this well at an unorthodox well location in Unit H of this section. This well was spud on December 6, 1996 and completed on February 2, 1997 for production from the Pictured Cliffs and the Fruitland formations. This order made no provision for the drilling of an option infill coalbed gas well in the Fruitland formation.
- c. Division Order R-10624, dated July 22, 1996, was entered in Case 11569 approving Richardson application for compulsory pooling of the Pictured Cliffs formation in the NE/4 of this section and the drilling of the ROPCO "15" GW-PC Well No. 2 (API# 30-045-29383) at an unorthodox well location in Unit H of this section. The compulsory pooling portion of this order expired on October 15, 1996 when Richardson failed to obtain as extension or commence drilling this well.
- d. Division Order R-10624-A, dated January 13, 1997, was entered in Case 11680 reinstating compulsory pooling of the SE/4 for the pictured Cliffs formation for the drilling, completion and production of the ROPCO "15" Well No. 2 (API#30-045-29383) including approval to drill and produce this well at an unorthodox well location. This well was spud on November 12, 1996 and completed on March 6, 1997 for production from the Pictured Cliffs formation.
- e. Commission Order R-8768-C, dated October 15, 2002, authorized the drilling and production of an optional "infill" coalbed gas well within an existing 320-acre spacing unit already dedicate to a coalbed gas well provided the infill well is drilled in a different quarter section of this spacing unit.
- f. On December 17, 2002, the Division approved Richardson's request to re-completed the ROPCO "15" Well No. 2 to add production from the Basin Fruitland Coal Gas Pool to be downhole commingling with production from the Pictured Cliff formation.

CURRENT REQUEST

- (3) Richardson has recompleted the ROPCO "15" Well No. 2, located in the SE/4 of this section to include the formations in the Basin Fruitland Coal Gas Pool and seeks to amended the compulsory pooling order, R-10656-A, to include the ROPCO "15" Well No. 2, located in the SE/4 of this section, as the optional infill coalbed gas well at a unorthodox coal-gas well location, be dedicated to a standard 320-acre gas spacing unit consisting of the E/2 of this section that is already dedicated to the ROPCO "15" Well No. 1 located in the NE/4 of this section.
- (4) Subsequent to filing its application in this case (Case 13322) further review of Richardson's record revealed that the Division had already approved the ROPCO "15" Well No. 2 for production from the Basin Fruitland Coal Gas Pool as an unorthodox well location by Administrative Order NSL-4907, dated June 27, 2003.

ACTION BY RICHARDSON

- (5) On March 28, 2003, Richardson, as the operator of these wells and these spacing units, sent to all unleased mineral interest owners and working interest owners a written well proposal, including an AFE, for the addition of the ROPCO "15" Well No. 2 as an "infill" coalbed gas well to be dedicated to the E/2 of Section 15.
- (6) Despite reasonable efforts, Richardson was unable to conclude a voluntary agreement with those interest owners.
- (7) Pursuant to Commission Order R-11992, effective August 15, 2003, Richardson requests that the 200% risk charge set forth in Order R-10656-A be applied to this infill well.
- (8) Pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Richardson needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.
- (9) In accordance with the Division's notice requirements, a copy of this application was sent to the parties whose interest is to be pooled and of the applicant's request for a hearing of this matter before the Division. In addition, the Richardson had notice published in the newspaper on August 12, 2004 for the September 2, 2004 hearing all in compliance with Division Order R-_____
- (10) Richardson's affidavit, introduce at the hearing, complies with the requirements of Rule 1207.A (1)(b).

PROPOSED ACTION BY THE DIVISION

(11) The Division should adopt provisions in this order that: Pursuant to Section 70-2-17(C) NMSA (1978) and in order to obtain its just and equitable share of potential production underlying these spacing units, Richardson should be granted an order by the Division pooling the identified and described mineral and/or working interest owners set forth in this case (hereinafter "compulsory pooled parties") so as to prevent waste and protect correlative rights for this infill well upon terms and conditions which include:

- a. Richardson Operating Company continue to be named operator of the infill well;
- b. Amending Order R-10656-A to provide for the ROPCO "15" Well No. 2 as an optional "infill" coal-gas well including provision for subsequent operations;
- c. Dismissing the request for approval of an unorthodox coal-gas well location for the ROPCO "15" Well No. 2 because it has already to approved by a Division administrative order;
- d. providing for overhead rates per month drilling and per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;
- e. avoiding the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owners of each interest in said units the opportunity to recover or receive without unnecessary expense his just and fair share of hydrocarbon production in any pool, the subject application should be approved by compulsory pooling of any working interest owner and/or mineral owner who owned an interest not voluntarily committed to the drilling of this well as of the date the application was filed and any said party's successors, grantees, or assignees.
- f. provisions for all compulsory pooled parties to participate in the costs of drilling, completing, equipping and operating the infill well and any subsequent well;
- g. in the event a compulsory pooled party fails to timely elect to voluntarily commit its interest and participate pursuant to this order, then said compulsory pooled party's interest is hereby involuntarily committed to participation pursuant to the terms and conditions of the compulsory pooling provisions of this order and shall be deemed a non-consenting owner whose interest shall be carried so the carrying parties can recover out that compulsory pooled party's share of production from that well, that compulsory pooled party's share of the costs of the drilling, completing, equipping and operating the initial well, including a risk factor penalty of 200%:

(12) Approval as set forth above and in the following ordering paragraphs will avoid the drilling unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) The application of Richardson Operating Company in this case is hereby **GRANTED** and is hereby-designated operator of these corresponding spacing units and wells.

(2) Each and every compulsory pooled party received actual notice of this hearing in accordance with Division Rule 1207 which the Division finds to have afforded each said party a fair and reasonable opportunity to appear and participate and that none of the compulsory pooled parties appeared and they have waived their rights to object and are **hereby compulsory pooled as set forth herein.**

(3) Effective as of the date of the filing of the application in this case, the interests of uncommitted mineral interest owners of an interest in the mineral estate who have failed to agree to voluntarily commit their interests ("compulsory pooled parties") identified in this case, including, if any, their assignees, successor and grantees, from the Fruitland formation underlying the E/2 of Section 15, Township 27 North, Range 13 West, NMPM, San Juan County, New Mexico, **are hereby pooled** on a unit basis.

(4) That the first optional well in these spacing units shall be the ROPCO "15" GW "A"-PC/"B"-FC Well No. 2 that is located in Unit H of this section.

(5) Richardson Operating Company is authorized to submit the post order election to the compulsory pooled party for this infill well.

(6) If any pooled party, within 30 days of receipt of a proposal, including "AFE" for this optional infill well in this spacing unit objects to either the costs or the 200% risk factor penalty being applied to the second well, then those issues shall be decided by the Division after notice and hearing.

PROVIDE FURTHER THAT, pursuant to Division Rule 104, an optional infill well may be drilled and produced within this 320-acre spacing unit or subsequent operations conducted for either the original well or the infill well in accordance with the following provisions:

(a) Richardson Operating Company, or its successor, shall continue be the operator of the infill well;

(b) The operator, any working interest owner who consent to and paid its share of costs of the original well, pursuant to either an voluntary agreement or a compulsory pooling order, may propose drilling of an infill well or subsequent operations of either

the original well or the infill well by giving written notice of the proposed well to all working interest owners and all unleased mineral owners with the 320-acre pooled unit. Any such proposal shall specify the work to be performed, the location, proposed depth, objective formations and the estimated costs of the operation.

- (c) The parties received such a notice shall have thirty (30) days election period after receipt of this notice within which to notify the proposing party whether they elect to participate in the costs of the subsequent operations or the infill well. Failure of a party receiving such notice to deliver to the proposing party an written election, plus payment for this share of the total costs, within a thirty (30) day election period shall constitute an election by that party not to participate in the costs of the well or the proposal operation and shall be "a non-consenting party."
- (d) Any non-consenting party shall be subject to a 200% risk penalty charge for that well or the operations.
- (e) Production from the original well cannot be used to pay for the costs of the infill well or can production from the infill well be used to pay for the costs of the original well. The recovery of costs for subsequent operations shall be paid by the production from the well on which those operations were conducted.
- (f) If all parties elect to participate in the infill well or in subsequent operations ("a consenting party"), the operator shall, within ninety (90) day after the expiration of the thirty (30) day election period, actually commence and conduct operations with due diligence at the risk of expense of all parties.
- (g) If less that all parties elect to participate in the infill well or the subsequent operations, then all parties who elected not to participate shall be considered non-consenting working interest owners and all the provisions of this order shall apply to the drilling of the infill well or the subsequent operations with the FOLLOWING EXCEPTIONS:
 - a. The proposing party shall be solely responsible for carrying the no-consenting working interest owner's interest subject to the risk penalty charge provided for in the order. The proposing party may enter into an agreement, or recognize an existing agreement, that provides for the sharing of the non-consenting interest by the consenting parties. The proposing party, at its election, may withdraw such proposal if there is insufficient participation and shall notify the Division and all other parties of such decision.
 - b. If the operator is a non-consenting working interest owner in the infill well, the consenting parties shall either: (a) request the operator to perform the work required for the account of the consenting parties, or (b) designate one of the consenting parties as operator of the infill well. If the infill well results in a producer of oil and/or gas in paying quantities, one of the consenting parties

shall be designated as operator and shall complete and equip the well to produce at the sole costs and risk of the consenting parties and thereafter the operator designated by this compulsory pooling order shall operate this well at the expense and for the account of the consenting working interest owners.

- c. To be entitled to the benefits of this order, the operator, or the designated consenting party, shall within ninety (90) days after the expiration of the thirty (30) days election period, actually commence and conduct the operations with due diligence at the sole risk and expense of the consenting parties.
- d. If operations for the drilling of an infill well results in a dry hole, the consenting parties shall plug and abandon the well and restore the surface location at their sole costs, risk and expense.

(7) If operations for the drilling of a proposed infill well or any subsequent operation for either the original well or the infill well have not been commenced within the time provided, and if any party still desires to drill the infill well, written notice proposing same must be resubmitted in accordance with the provision hereof as if no prior proposal had been made

PROVIDED HOWEVER THAT:

(8) Richardson's proposed drilling-completion program and the corresponding Authority for Expenditures ("AFE") are hereby **APPROVED**.

(9) After the effective date of this order and within 90 days, the operator shall furnish the Division and each compulsory pooled party in the subject unit an itemized schedule of estimated well costs for this infill well.

(10) Within 30 days from the date the schedule of estimated well costs is furnished to him, any compulsory pooled party 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 compulsory pooled party who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk factor penalty charges.

(11) The operator shall furnish the Division and each compulsory pooled party with an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well cost 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, 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.

(12) Within 60 days following determination of reasonable well costs, any compulsory pooled party 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.

(13) The operator is hereby authorized to withhold from the compulsory pooled party the following costs and charges from production:

- A. The pro rata share of reasonable well costs attributable to each compulsory pooled party who has not paid his share of estimated well costs within 30 days from the date of schedule of estimated well costs is furnished to him; and
- 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 compulsory pooled party who has not paid his share of estimated total completed well costs within 30 days from the date the schedule of estimated costs is furnished to him.

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

(15) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5048.20 per month while drilling and \$589.01 per month while producing, provided that these rates shall be adjusted annually pursuant to the Unit Operating Agreement. The operator is 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 compulsory pooled party's interest.

(16) The operator shall furnish the Division and each compulsory pooled party with an itemized schedule of actual **operating** well costs to be charged on a monthly basis in the form of a joint interest billing within 90 days following completion of the well; if no objection to the actual **operating** well cost or the joint interest billing 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, 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.

(17) Any unleased mineral int, which are to be paid out of production, 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.

(18) 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.

(19) All proceeds from production from the subject well which 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 said escrow agent within 30 days from the date of first deposit with said escrow agent.

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

(21) The operator shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(22) The operator shall record a certified copy of this order with the appropriate county clerk in this the spacing unit is located and provide proof of record to the Division.

(23) 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

MARK E. FESMIRE
DIRECTOR