

**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. 13391
ORDER NO. R-11926-A**

**APPLICATION OF SAN JUAN RESOURCES OF COLORADO, INC.
TO AMEND DIVISION ORDER-11926 TO INCLUDE
SUBSEQUENT OPERATIONS AND AN OPTIONAL "INFILL"
GAS WELL PROVISIONS (COMPULSORY POOLING)
SAN JUAN COUNTY, NEW MEXICO**

WTK-Draft 1.7.05

**SAN JUAN RESOURCES' PROPOSED
ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 6, 2005, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this the ___ day of January, 2005 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) Previously in this matter, the Division, at the request of San Juan Resources, Inc. the operating company for San Juan Resources of Colorado, Inc. ("San Juan Resources") entered Division Order R-11926, dated March 25, 2003, in Case 12992, approving San Juan Resources application for compulsory pooling of the S/2 of Section 18, Township 30 North, Range 11 West, NMPM, San Juan County, New Mexico, from the base of the Pictured Cliffs formation to the based on the Dakota formation, including the drilling and producing the Tecumseh Well No. 1 (API# 30-045-31340) at an standard well location in Unit J of this section.

CURRENT REQUEST

- (3) The Applicant, San Juan Resources having drilled, completed and now producing the Tecumseh Well No. 1 the "parent well," seeks to amend Division Order R-11926 to provide for subsequent operations and the inclusion of the first optional "infill well", its Tecumseh Well No. 1-E, to be located in Unit L of this section as a well subject to this compulsory pooling order.
- (4) In addition, San Juan Resources seeks to clarify and correct certain additional matters.

OTHER PARTIES

- (5) In addition to the Applicant, the following parties entered their appearances and appeared at the hearing through counsel: O. Leonard and Leona M. Mosley, George A. and Janet R. Mosley, Bob L. Mosley, Mary Gwendolyn Mosley and Betty A. Nelms (collectively the "Mosley Group").
- (6) None of the other parties whose interest is to be pooled filed appearances in this case. **See San Juan Resources Exhibit 6.**
- (7) The Mosley Group are unleased mineral owners within tracts 2 and 3 of this spacing unit that consist of the S/2 of this section.

ISSUES

- (8) The Mosley Group has declined to sign a Joint Operating Agreement ("JOA") with the Applicant and has advised the Division and the Applicant that they desire to participate in the Tecumseh Well No. 1-E (the "infill well") pursuant to the Division's compulsory pooling order by prepaying their individual shares of the estimated well costs and thereby avoid the risk charge.

(9) The Applicant has proposed to the Division and to the Mosley Group that:

- a. The adoption of provisions for subsequent operations for both the original well and the infill well that are modeled after Article IV of a standard JOA; See **San Juan Resources' Exhibit 14.** ✓
- b. An opportunity for Bob Mosley and Betty Mosley to elect to participate in the infill well despite the fact that they are non-consenting working interest owners in the parent well and any subsequent operation for the parent well; ✓
- c. The records in these proceedings should be corrected to reflect that the total acres contained within the S/2 of this section are 326.50-acres instead of 320-acres. ✓
- d. The record in these proceedings should be corrected to reflect that subsequent to the hearing held on February 20, 2003, San Juan Resources, based upon further title work, determined that each of the 5 Mosley Group owners hold a 1.02587% (8/8th) interest in this spacing unit rather than 1.00470%. See **San Juan Resources' Exhibit 5.** ✓
- e. Even though increases in actual costs are anticipated, the parties will utilize San Juan Resources AFE, dated September 21, 2004, for purposes of calculating the prepayment sum due from the Mosley Group for their election to participate in the infill well pursuant to this compulsory pooling order; ✓
- f. San Juan Resources has correctly and accurately accounted to the Mosley Group for their individual shares of the costs and production from the parent well; ✓
- g. The charges for supervision during production of \$890 per month per well set forth in paragraph (13) of Order R-11926 should be change to \$550.00 per month per well. ✓

PROPOSED ACTION BY THE DIVISION

(10) That San Juan Resources has complied with the notice and publication requirements of the Division. See **San Juan Resources' Exhibits 15 and 16.** ✓

(11) Pursuant to Section 70-2-17(C) NMSA (1978) and in order to 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, underlying this spacing unit, San Juan Resources 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 should include:

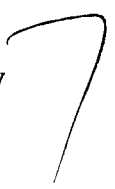
- a. The compulsory pooling of any working interest owner and/or mineral owner who owned an interest not voluntarily committed to the drilling of this well as of the date the application was filed and any said party's successors, grantees, or assignees.
- b. San Juan Resources, Inc., as the operating company for San Juan Resources of Colorado, Inc., continues to be named operator for the infill well and the parent well;
- c. Amending Order R-11926 to provide for the Tecumseh Well No. 1-E as the first optional "infill" including provisions for subsequent operations as proposed by San Juan Resources **BUT** excluding provisions for gas balancing and gas marketing;
- d. Continuing to provide for overhead rates per month drilling (\$4,904.00) and per month (\$550.00) operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;
- e. provisions for all compulsory pooled parties to participate in the costs of drilling, completing, equipping and operating the infill well;
- f. 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 operator as the carrying party, can recover out of production that compulsory pooled party's share of the costs of the drilling, completing, equipping and operating the infill well, including a risk factor penalty of 200%:

(12) Approval as set forth above and in the following ordering paragraphs will avoid the drilling of 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.

(13) As part of their penalty for failure to participate in the parent well, a non-consenting party for the parent well pursuant to a compulsory pooling order should not have the right to propose an infill well or any subsequent operations on either the parent or infill well.

IT IS THEREFORE ORDERED THAT:

(1) The application of San Juan Resources of Colorado, Inc. in this case is hereby **GRANTED** and it is hereby-designated operator of this spacing unit 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 base of the Pictured Cliffs formation thorough the base on the Dakota formation underlying the S/2 of Section 18, Township 30 North, Range 11 West, NMPM, San Juan County, New Mexico, **are hereby pooled** on a unit basis.

(4) That the parent well in this spacing unit is the Tecumseh Well No. 1 located in Unit J of this section and the first optional well in this spacing unit shall be the Tecumseh Well No. 1-E to be located in Unit L of this section.

(5) San Juan Resources, Inc., as operator, is authorized to submit the post order election to the compulsory pooled party for this infill well.

(6) 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) San Juan Resources, Inc., or its successor, shall continue to be the operator of the parent well and the infill well;
- (b) The operator or any working interest owner who consents to and has 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 receiving such a notice shall have thirty (30) day 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) days 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 than 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 non-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) day 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) San Juan Resources' proposed drilling-completion program and the corresponding Authority for Expenditures ("AFE") in the amount of \$648,454.00 are hereby **APPROVED.**]

(9) The operator of this unit shall commence the proposed well on or before April 1, 2005 and shall thereafter continue drilling the well with due diligence to test the Pictured Cliffs and Dakota formations. ✓

(10) In the event the operator does not commence drilling the proposed infill well on or before April 1, 2005, Ordering Paragraph () shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause. ✓

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

(12) 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

(13) 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.

(14) 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.

(15) 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.

(16) 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.

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

(18) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,905.00 per month while drilling and \$550.00 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.

(19) 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.

(20) Any unleased mineral interest, 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.

(21) 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.

(22) 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.

(23) 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.

(24) 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.

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

(26) 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