

**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. 15531
ORDER NO. R-14267**

**APPLICATION OF M & M ENERGY, LLC FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on October 13, 2016, at Santa Fe, New Mexico before Examiner, Scott Dawson.

NOW, on this 20th day of January, 2017, 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 of the subject matter.

(2) M & M Energy, LLC, ("Applicant"), seeks an order pooling all uncommitted interests from the surface to the base of the San Andres formation, in the following described tract in Section 6, Township 22 South, Range 36 East, NMPM, Lea County, New Mexico, to form a standard 40-acre oil spacing and proration unit (the "Unit") for any and all formations or pools spaced on 40 acres within this vertical extent:

the NE/4 SW/4 of Section 6, to be dedicated to the Applicant's proposed Day Fee Well No. 9 (API No. PENDING), a vertical well to be drilled at a standard surface location 1650 feet from the South line and 2310 feet from the West line (Unit K) of Section 6.

The foregoing identified well is hereinafter called "the proposed well."

(3) There is one tract embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in the tract included in the Unit that are separately owned.

(4) Applicant is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill a well to a common source of supply within the Unit at the proposed location indicated above.

(5) There are interest owners in the Unit that have not agreed to pool their interests and there are unlocated interest owners.

(6) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the 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 interests, whatever they may be, in the oil and gas within the Unit.

(7) Applicant should be designated the operator of the proposed well and of the Unit.

(8) Any pooled working interest owner who does not pay its share of estimated well costs for any well should have withheld from production from the Unit where such well is located its share of reasonable well costs of such well, plus an additional 200% (pursuant to Rule 19.15.13.8.A NMAC) thereof as a reasonable charge for the risk involved in drilling the well.

(9) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000 per month, per well, while drilling and \$600 per month, per well, while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of M & M Energy, LLC, all uncommitted interests, whatever they may be, in the oil and gas from the surface to the base of the San Andres formation in the following described tract in Section 6, Township 22 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled to form one standard 40-acre oil spacing and proration unit ("the Unit") for all formations or pools spaced on 40 acres within this vertical extent:

the NE/4 SW/4 of Section 6, to be dedicated to Applicant's proposed Day Fee Well No. 9 (**API No. PENDING**) to be drilled at a standard location 1650 feet from the South line and 2310 feet from the West line (Unit K) of Section 6.

(2) The operator of the Unit shall commence drilling the proposed well on the Unit on or before December 31, 2017, and shall thereafter continue drilling the well with due diligence to test the San Andres formation.

(3) In the event the operator does not commence drilling the proposed well on or before the date provided in Ordering Paragraph (2), then Ordering Paragraph (1) shall be of no effect, unless extended by order of the Division Director for good cause demonstrated by satisfactory evidence.

(4) Should the proposed well not be drilled or completed within 120 days after commencement thereof, then Ordering paragraph (1) shall be of no further effect, and the unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of time for completion of the proposed well for good cause shown by satisfactory evidence.

(5) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, such pooled Unit created by this order shall terminate, unless this order has been amended to authorize further operations.

(6) M & M Energy, LLC (OGRID 294619) is hereby designated the operator of the proposed well and of the Unit.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit, separately, an itemized schedule of estimated costs of drilling, completing and equipping the proposed well to be drilled on such Unit ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs is furnished for the well, any pooled working interest owner having an interest in the Unit on which such proposed well will be located shall have the right to pay its share of estimated well costs for such proposed well to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, 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 for such proposed well. Pooled working interest owners who elect not to pay their share of estimated well costs of the proposed well as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners." as to such Unit.

(9) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed 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 deemed to be the reasonable well costs. 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.

(10) Within 60 days following determination of reasonable well costs, any pooled 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 the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(11) The operator is hereby authorized to withhold the following costs and charges from production from the Unit, separately:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the proposed well on such Unit, 200% of the above costs.

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

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,000 per month, per well, while drilling and \$600 per month, per well, while producing, provided that these rates shall be adjusted annually pursuant to Section III. 1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production from the Unit separately 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 pooled working interest owners.

(14) Except as provided in Paragraphs (11) and (13) above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 7-8A-31, as amended).

(15) Any unleased mineral interests 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. 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.

(16) Division Rule 19.15.13 regarding infill wells in a compulsory pooled spacing unit shall apply to the Unit separately to the same extent and in the same manner as though the Unit was pooled by a separate order.

(17) Should all the parties to this compulsory pooling order with respect to the Unit reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect as to such Unit.

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

(19) 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

DAVID R. CATANACH
Director