

**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. 13653
ORDER NO. R-12537**

**APPLICATION OF BP AMERICA PRODUCTION COMPANY FOR
COMPULSORY POOLING AND DOWNHOLE COMMINGLING, SAN JUAN
COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came for hearing at 8:15 a.m. on March 16, 2006, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 24th day of April, 2006, 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) The applicant, BP America Production Company ("applicant" or "BP"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Dakota formation underlying the W/2 of Section 32, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, in the following manner:

the W/2 forming a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include, but are not necessarily limited to the Basin-Fruitland Coal Gas Pool (71629), the Blanco-Mesaverde Prorated Gas Pool (72319), and the Basin-Dakota Prorated Gas Pool (71599); and

the SW/4 forming a standard 160-acre gas spacing unit for all formations or pools spaced on 160 acres within this vertical extent, which presently include, but are not necessarily limited to the Blanco-Pictured Cliffs Gas Pool (72359), the Undesignated Aztec-Farmington Gas Pool (71160), and the Undesignated Farmer-Fruitland Sand Gas Pool (76570).

(3) The above-described units ("the Units") are to be dedicated to the applicant's ERNG Gas Com B LS Well No. 3M (API No. 30-045-33119), to be located at a standard gas well location 2150 feet from the South line and 725 feet from the West line of Section 32.

(4) The applicant is also in this case seeking approval for downhole commingling within this wellbore of oil and gas production from the Blanco-Mesaverde Prorated Gas Pool and the Basin-Dakota Prorated Gas Pool.

(5) Two or more separately owned tracts are embraced within the above-described Units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Units that are separately owned.

(6) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill and proposes to drill its ERNG Gas Com B LS Well No. 3M to a common source of supply at a well location within the SW/4 of Section 32 to a projected well depth of 7,432 feet.

(7) No other parties entered an appearance in this case.

(8) Applicant appeared at the hearing and presented exhibits and testimony from an expert landman as follows:

(a) The 320-acre W/2 of Section 32 spacing and proration unit for the Blanco-Mesaverde Prorated Gas Pool was formed in 1953 when the first well was drilled. The original operating and communitization agreements did not contain provisions for operations with only partial approval or allow multiple wells.

(b) The rules governing the Blanco-Mesaverde Prorated Gas Pool in 1953 only allowed for one well per spacing and proration unit. The current rules allow up to 4 wells.

(c) This spacing unit currently has three producing Mesaverde wells. The well proposed in this case would be the 4th and final well in this Blanco-Mesaverde Prorated Gas Pool spacing and proration unit.

(d) The well proposed in this case would also be the first Dakota well in this W/2 of Section 32 proposed Basin-Dakota Prorated Gas Pool spacing and proration unit.

(e) The pooling of interests and the drilling of this proposed well will not violate any provision of the 1953 Operating Agreement.

(f) The Blanco-Mesaverde and the Basin-Dakota Pools are pre-

approved within Division Rule 303C. The applicant desires to immediately commingle these formations within this wellbore in order to secure success of this drilling venture.

(g) Applicant has sought approval of a voluntary agreement and approval to drill this well from all interest owners in the W/2 of Section 32 and still lacks the consent of less than 2.5 percent of the working interests.

(h) Compulsory pooling is necessary in order to drill, complete, and produce the proposed well in the Mesaverde and Dakota formations.

(9) BP America Production Company should be designated the operator of the proposed well and of the Units.

(10) Downhole commingling these two pools within this wellbore will enable the applicant to extend the producing life of both pools and recover more gas from these reservoirs.

(11) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(12) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,000 per month while drilling and \$599 per month 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*."

(13) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Units 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 Units.

(14) The applicant's request for approval of downhole commingling should also be approved.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of BP America Production Company ("applicant"), all uncommitted mineral interests, whatever they may be, in the oil and gas from the surface to the base of the Dakota formation underlying the W/2 of Section 32, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, are hereby pooled as follows:

the W/2 forming a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include, but are not necessarily limited to the Basin-Fruitland Coal Gas Pool (71629), the Blanco-Mesaverde Prorated Gas Pool (72319), and the Basin-Dakota Prorated Gas Pool (71599); and

the SW/4 forming a standard 160-acre gas spacing unit for all formations or pools spaced on 160 acres within this vertical extent, which presently include, but are not necessarily limited to the Blanco-Pictured Cliffs Gas Pool (72359), the Undesignated Aztec-Farmington Gas Pool (71160), and the Undesignated Farmer-Fruitland Sand Gas Pool (76570).

The above-described units ("the Units") shall be dedicated to the applicant's ERNG Gas Com B LS Well No. 3M (API No. 30-045-33119), to be located at a standard gas well location 2150 feet from the South line and 725 feet from the West line of Section 32.

(2) BP America Production Company is hereby designated the operator of the proposed well and of the Units.

(3) The operator of the Units shall commence drilling operations on the proposed well on or before August 1, 2006 and shall thereafter continue drilling the well with due diligence to test the Dakota formation.

(4) In the event the operator does not commence drilling operations on the proposed well on or before August 1, 2006, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the units created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(6) The applicant is approved to commingle oil and gas production within the wellbore from the Basin-Dakota Prorated Gas Pool and the Blanco-Mesaverde Prorated Gas Pool. In accordance with Division Rule 303C.(1)(f), the production attributed to any commingled pool within the well shall not exceed the allowable applicable to that pool. Within 90 days following completion of this well, the operator shall supply the Division

in Aztec with a method of allocating both oil and gas production between these two pools. The operator shall notify the Aztec District Office upon implementation of commingling operations.

(7) Upon final plugging and abandonment of the ERNG Gas Com B LS Well No. 3M, the pooled units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(8) 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 Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs 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. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) 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.

(11) 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.

(12) The operator is hereby authorized to withhold the following costs and charges from production:

- (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 well, 200% of the above costs.

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

(14) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,000 per month while drilling and \$599 per month 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 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.

(15) Except as provided in Ordering Paragraphs (12) and (14) above, all proceeds from production from the well that 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

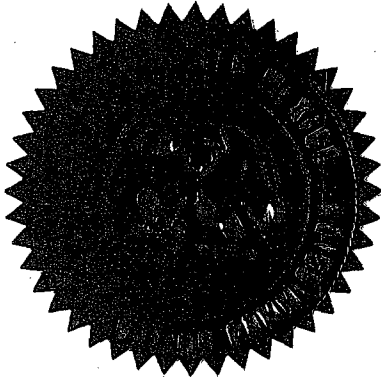
(16) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

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

(18) The operator of the well and Units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in cursive script, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.
Director