

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. 11165
ORDER NO. R-6792-B

**APPLICATION OF NAUMANN OIL & GAS
INC. TO VACATE DIVISION ORDER NO. R-
6792, AS AMENDED, FOR COMPULSORY
POOLING, A NON-STANDARD GAS SPACING
AND PRORATION UNIT, AND FOR AN
UNORTHODOX SURFACE AND
SUBSURFACE GAS WELL LOCATION, LEA
COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on December 15, 1994 and on January 19, 1995 at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 20th day of February, 1995 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) By Division Order No. R-6792, dated October 2, 1981, ARCO Oil & Gas Company was authorized to directionally drill its Custer Wells Well No. 1 (API No. 30-025-27374) from a surface location 1810 feet from the North line and 2164 feet from the West line (Unit F) of Section 6, Township 25 South, Range 37 East, NMPM, Lea County, New Mexico, in such a manner as to penetrate the Devonian formation at an unorthodox gas well location within 100 feet of a point 1800 feet from the North line and 1480 feet from the West line of said Section 6 and to bottom said well in the Custer-Ellenburger Gas Pool within 100 feet of a point 1650 feet from the North line and 760 feet from the West line of said Section 6, and in no event closer than 660 feet to said West line of the Section. The N/2 equivalent of said Section 6 was dedicated to the well to form a 316.19-acre gas spacing and proration unit for both the Devonian and Ellenburger formations. Said Order also promulgated "*Special Rules and Regulations For The Application Of A "Production Limitation Factor" To A Non-Prorated Gas Well*" in which a production limitation factor on the Devonian production of 0.93 was applied to the subject well's deliverability to be determined by test twice a year.

(3) By Division Order No. R-6792-A, dated March 5, 1982, the "Production Limitation Factor" in the Devonian formation and the "*Special Rules and Regulations For The Application Of A "Production Limitation Factor" To A Non-Prorated Gas Well*" contained in said Order R-6792 were suspended; However, such suspension is to apply so long as the Custer Wells Well No. 1 remains completed in the Devonian interval from 9,435 feet to 9,482 feet.

(4) Said Order R-6792-A further provided that the operator of the subject well, prior to recompletion to any other interval within the Devonian formation, shall give notice to offset operators and obtain an order from the Division authorizing such recompletion.

(5) In August, 1991 the operator of this well at the time, Dakota Resources Inc., ceased production from the well and caused it to be shut-in and temporarily abandoned.

(6) At this time Naumann Oil & Gas Inc. ("Naumann"), as applicant in the immediate case, seeks an order pooling all mineral interests in the East Custer-Devonian Gas Pool underlying Lots 3 through 7, the SE/4 NW/4, and the E/2 SW/4 (W/2 equivalent) of Section 6, Township 25 South, Range 37 East, NMPM, Lea County, New Mexico, thereby forming a non-standard 312.95-acre gas spacing and proration unit for said pool. Said unit is to be dedicated to the aforementioned Dakota Resources Inc. Custer Wells Well No. 1, which is located at an unorthodox surface gas well location for Naumann's proposed spacing unit and is to be recompleted in the East Custer-Devonian Gas Pool, at an interval between 10,142 feet to 10,162 feet, which is at an unorthodox subsurface location 1750 feet, more or less, from the North line and 1269 feet, more or less, from the West line (Unit E) of said Section 6.

(7) Applicant further seeks an order vacating Division Order No. R-6792, as amended, that previously imposed a production limitation on Devonian gas production from said well.

(8) According to the testimony presented by the applicant and from well records filed with the Division the Custer Wells Well No. 1 was originally drilled to a total (measured) depth of 12,964 feet, 7-inch casing was set at 12,651 feet, apparently the deeper Ellenburger formation was never tested due to downhole problems (see "*Sundry Notices and Reports on Wells*", dated October 12, October 20, and December 1, 1981), the well was completed as a single producing gas well in the Devonian formation through perforations from 9,435 feet to 9,482 feet. From January, 1982 until August, 1991 this well produced 270,537 MCF of gas and 1,213 barrels of condensate from the East Custer-Devonian Gas Pool. Accordingly the joint operating agreement originally in place on this well at the time it was drilled provided that it would expire 90 days after cessation of production.

(9) Naumann, along with a partner Lagro Corporation, acquired the rights to deepen this well from the last operator Dakota Resources, Inc., who still owns an interest in the lease, and is proposing to re-establish gas production from the Pool by attempting to re-enter this well, drill out the plugs to a depth of approximately 10,200 feet and perforate in the Devonian formation at 10,142 feet to 10,162 feet. Naumann at the time of the January 19th hearing presented as evidence a copy of the "Directional Drilling Report" for this well dated October 19, 1981, from this survey the location of the proposed recompletion interval was determined (see Finding Paragraph No. [6], above).

(10) There are other owners of mineral interest in the proposed reoriented proration unit who have not agreed to pool their interests.

(11) No offset operators nor interested or affected parties to this matter appeared at the hearing in opposition to this application.

(12) There apparently being no further need to reestablish any kind of "prorationing" in the East Custer-Devonian Gas Pool or the limitation of production on the subject well, as provided for in said Order No. R-6792, both Division Order Nos. R-6792 and R-6792-A should be placed in abeyance at this time.

(13) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said reoriented spacing unit the opportunity to recover or receive without unnecessary expense his just and fair share of hydrocarbons in the East Custer-Devonian Gas Pool, the subject application should be approved by pooling all mineral interests within said interval, whatever they may be, within Lots 3 through 7, the SE/4 NW/4, and the E/2 SW/4 (W/2 equivalent) of said Section 6.

(14) Naumann Oil & Gas Inc. should be designated the operator of the subject well and non-standard 312.95-acre gas spacing and proration unit.

(15) 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.

(16) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the recompletion of the well.

(17) Any non-consenting interest owner should be afforded the opportunity to object to the actual recompletion costs but actual recompletion costs should be adopted as the reasonable recompletion costs in the absence of such objection.

(18) Following determination of reasonable recompletion costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable recompletion costs exceed estimated recompletion costs and should receive from the operator any amount that paid estimated recompletion costs exceed reasonable recompletion costs.

(19) \$ 4,000.00 per month while recompleting and \$ 342.00 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.

(20) 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.

(21) Upon the failure of the operator of said pooled unit to commence recompletion of the well to which said acreage is dedicated on or before April 30, 1995, the order pooling said unit should become null and void and of no further effect whatsoever.

(22) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(23) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) Division Order Nos. R-6792, dated October 2, 1981, and R-6292-A, dated March 5, 1982 are hereby placed in abeyance until further notice.

(2) All mineral interests, whatever they may be, in the East Custer-Devonian Gas Pool underlying Lots 3 through 7, the SE/4 NW/4, and the E/2 SW/4 (W/2 equivalent) of Section 6, Township 25 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled to form a non-standard 312.95-acre gas spacing and proration unit for said pool. Said unit shall be dedicated to the existing Dakota Resources Inc. Custer Wells Well No. 1 (API No. 30-025-27374), which is located at an unorthodox surface gas well location 1810 feet from the North line and 2164 feet from the West line (Unit F) of said Section 6 and is to be recompleted in the East Custer-Devonian Gas Pool in an interval from approximately 10,142 feet to 10,162 feet, which is at an unorthodox subsurface location 1750 feet, more or less, from the North line and 1269 feet, more or less, from the West line (Unit E) of said Section 6.

PROVIDED HOWEVER THAT, the operator of said unit shall commence recompleting said well, with due diligence, on or before the thirtieth day of April, 1995.

PROVIDED FURTHER THAT, in the event said operator does not commence with the recompleting of said well on or before the thirtieth day of April, 1995, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be recompleted, or abandoned, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Naumann Oil & Gas Inc. ("Naumann") is hereby designated the operator of the subject well and non-standard 312.95-acre gas spacing and proration unit.

(4) After the effective date of this order and within 90 days prior to commencing recompletion operations, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(5) 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 recompletion costs to the operator in lieu of paying his share of reasonable recompletion costs out of production, and any such owner who pays his share of estimated recompletion costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(6) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual recompletion costs within 90 days following said recompletion; if no objection to the actual recompletion costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual recompletion costs shall be the reasonable recompletion costs; provided however, if there is an objection to actual recompletion costs within said 45-day period the Division will determine reasonable recompletion costs after public notice and hearing.

(7) Within 60 days following determination of reasonable recompletion costs, any non-consenting working interest owner who has paid his share of estimated recompletion costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable recompletion costs exceed estimated recompletion costs and shall receive from the operator his pro rata share of the amount that estimated recompletion costs exceed reasonable recompletion costs.

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

- (a) The pro rata share of reasonable recompletion costs attributable to each non-consenting working interest owner who has not paid his share of estimated recompletion costs within 30 days from the date the schedule of estimated recompletion costs is furnished to him; and
- (b) As a charge for the risk involved in recompleting the well, 200 percent of the pro rata share of reasonable recompletion costs attributable to each non-consenting working interest owner who has not paid his share of estimated recompletion costs within 30 days from the date the schedule of estimated recompletion costs is furnished to him.

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

(10) \$ 4,000.00 per month while recompleting and \$ 342.00 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.

(11) 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 the terms of this order.

(12) 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.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Lea 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.

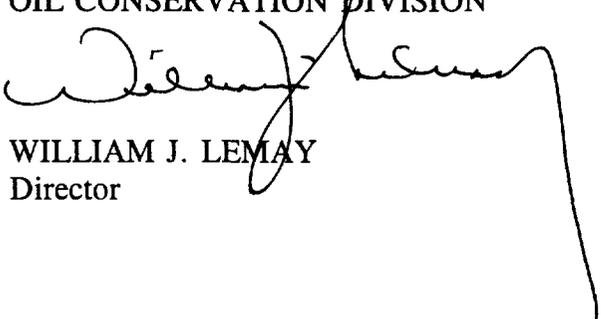
(14) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(15) The operator of the subject well and non-standard 312.95-acre gas spacing and proration unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(16) Jurisdiction is hereby 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


WILLIAM J. LEMAY
Director

