

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. 11993
ORDER NO. R-11047

**APPLICATION OF JOHN H. HENDRIX CORPORATION FOR COMPULSORY
POOLING AND AN UNORTHODOX OIL WELL LOCATION, LEA COUNTY,
NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on July 9, 1998 and August 6, 1998, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 16th day of September, 1998, the Division Director, having considered its 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 its subject matter.

(2) The applicant, John H. Hendrix Corporation ("Hendrix"), seeks an order pooling all mineral interests from the top of the Abo formation, at an approximate depth of 7000 feet, to the base of the Strawn formation, at an approximate depth of 8000 feet, underlying the following described acreage in Section 16, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico, in the following manner:

(a) the E/2 NW/4 to form a standard 80-acre oil spacing and proration unit for any and all pools developed on 80-acre spacing within that vertical extent, which presently include only the Undesignated Cass (Pennsylvanian) Pool; and,

(b) the NE/4 NW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools

developed on 40-acre spacing within that vertical extent, which presently include but are not necessarily limited to the Southeast Monument-Abo Pool.

(3) The proposed well location and 80-acre unit are within one mile of the horizontal limits of the Cass (Pennsylvanian) Pool and any production obtained from the Pennsylvanian interval will therefore be subject to the "*Special Rules and Regulations for the Cass Pool*," adopted by Division Order No. R-2825, as amended, which provides for standard 80-acre oil spacing and proration units with wells to be located within 150 feet of the center of either governmental quarter-quarter section or lot. All other oil bearing intervals within that vertical extent will be subject to Division Rule 104, which requires standard 40-acre oil spacing and proration units with wells to be located no closer than 330 feet from the outer boundary of the spacing unit.

(4) The original application filed by Hendrix in this matter (dated June 2, 1998) proposed to dedicate both units to its Wood State Well No. 4 to be drilled 660 feet from the North line and 2310 feet from the West line (Unit C) of Section 16. This location is considered to be standard for the proposed 40-acre unit but is unorthodox for the 80-acre unit in the Undesignated Cass (Pennsylvanian) Pool.

(5) On July 2, 1998 Hendrix reached an agreement with Conoco, Inc. ("Conoco") for the acquisition of its State "CC-16" Well No. 1 (**API No. 30-025-33284**), located 330 feet from the North line and 2080 feet from the West line (Unit C) of Section 16, which is to be recompleted and deepened in order to test all formations within the same vertical extent as the other proposed location. The State "CC-16" Well No. 1 was originally drilled in March, 1996 by Conoco to a total depth of 6950 feet and was subsequently completed in the Monument-Tubb Pool through a 6948-foot production string of 5-1/2 inch casing at a standard oil well location within a standard 80-acre oil spacing and proration unit comprising the E/2 NW/4 of Section 16.

(6) The location of the State "CC-16" Well No. 1 is standard for the proposed 40-acre unit and unorthodox for the 80-acre unit in the Undesignated Cass (Pennsylvanian) Pool.

(7) At the July 9, 1998 hearing this case was readvertised and continued to the August 6, 1998 hearing in order to correctly state Hendrix's intention in this application.

(8) The applicant is an interest owner within both of the subject units, and therefore has the right to drill for and develop the minerals underlying them.

(9) At this time, however, not all of the working interest owners in the units have agreed to pool their interests.

(10) Hendrix testified that the utilization of this relatively new Conoco wellbore will result in savings of approximately \$94,000.00 in drilling costs which will benefit all owners in these pooled units.

(11) The applicant presented testimony that indicates other operators in this area have experienced lost circulation in the Grayburg-San Andres formation resulting in substantial drilling cost overruns. It is the applicant's position that the use of the Conoco State "CC-16" Well No. 1 will avoid the potential for lost circulation in the Grayburg-San Andres formation which could substantially increase the costs of developing these units.

(12) Hendrix requested that it be able to recover either (a) the costs of drilling and completing the Wood State Well No. 4 to an approximate depth of 8000 feet, or (b) if Hendrix recompletes and deepens the Conoco State "CC-16" Well No. 1 to a depth of 8000 feet:

(i) \$ 320,000.00 for acquisition of the Conoco State "CC-16" Well No. 1;

(ii) the cost of the existing surface facilities at this well site in the amount of \$51,834.00; and

(iii) recompletion and deepening costs based on its AFE of \$133,730.00.

In either case, applicant requests a 200 percent risk penalty to be charged to any working interest owner who does not pay its share of costs in advance.

(13) At the time of the hearing, Mr. and Mrs. Roger Hansen and Dr. Henry Yeager, Jr., owners of 50% of the working interest in the subject spacing and proration units, appeared through legal counsel and requested that a risk penalty of less than 200% be imposed on their interest in the event they remain non-consent in either of the proposed wells. The basis for their request is that if the well is a reentry, the mechanical risk of making a commercial well is reduced, and that there are successful wells in the subject formations in offsetting tracts.

(14) Using the existing wellbore of the Conoco State "CC-16" Well No. 1, instead of drilling the Wood State Well No. 4, will result in lower costs for all interest owners in the well and also will benefit all owners by ensuring that additional cost overruns do not occur as a result of lost circulation in the Grayburg-San Andres formation.

(15) Hendrix should be entitled to recover the costs of (a) drilling and completing the Wood State Well No. 4 to an approximate depth of 8000 feet, or (b) if Hendrix recompletes and deepens the Conoco State "CC-16" Well No. 1:

(i) \$320,000.00 for the cost of the acquisition of the wellbore of the Conoco State "CC-16" Well No. 1;

(ii) \$51,834.00 for facilities at the site of the Conoco State "CC-16" Well No. 1; and

(iii) the reasonable costs of recompletion and deepening.

(16) Hendrix's evidence established that most of the commercial wells in the subject area are completed in multiple pay zones including the shallower Eumont, Grayburg, San Andres, Paddock, Blinbry, Tubb, and/or Drinkard formations. Since the Hendrix lease only covers the Strawn and Abo formations, the risk of not obtaining a commercial well is increased for Hendrix.

(17) The evidence further established that wells to the Strawn formation in the immediate area are located on the western flank on a structural nose that produces to the northwest and the southeast of the NE/4 NW/4 of Section 16. There are dry holes to the west of the subject acreage and noncommercial wells to the east. Hendrix also presented evidence on the Abo formation which shows that the Abo sands are thin and erratic in the area of interest.

(18) Based on the evidence and testimony presented in this case and on precedent established in compulsory pooling cases involving existing wellbores, the risk penalty to be applied to those working interest owners who do not voluntarily participate in the development of the subject spacing and proration units should be: (i) 150 percent for the \$320,000 acquisition costs of the Conoco State "CC-16" State Well No. 1 and the additional costs incurred for recompleting and deepening the Conoco State "CC-16" Well No. 1 (estimated to be \$133,730) with no risk penalty for the \$51,834 cost of the existing surface facilities; or (ii) 200 percent for the drilling and completion costs of the proposed Wood State Well No. 4.

(19) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in the units the opportunity to recover or receive without unnecessary expense its fair share of hydrocarbon production, the subject application should be approved by pooling all mineral interests, whatever they may be, within the units.

(20) John H. Hendrix Corporation should be designated the operator of the well that is used and the units dedicated thereto.

(21) Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated drilling and completion costs or acquisition and recompletion/deepening costs to the operator in lieu of paying its share of reasonable drilling and completion or acquisition and recompletion/deepening costs out of production.

(22) Any non-consenting working interest owner who does not pay its share of estimated drilling and completion or acquisition and recompletion/deepening costs should have withheld from production its share of reasonable drilling and completion or acquisition and recompletion/deepening costs plus the applicable risk penalty assigned in Paragraph (18) above.

(23) Any non-consenting working interest owner should be afforded the opportunity to object to the actual drilling and completion costs or recompletion/deepening costs but actual drilling and completion or recompletion/deepening costs should be adopted as the reasonable costs in the absence of such objection.

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

(25) Reasonable charges for supervision (combined fixed rates) should be fixed at \$3,500.00 per month while recompleting and deepening the Conoco State "CC-16" Well No. 1 or drilling and completing the proposed Wood State Well No. 4 and \$ 350.00 per month while producing the well dedicated to the units. The operator should be 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 each non-consenting working interest.

(26) All proceeds from production from the 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.

(27) If the operator of the pooled unit(s) fails to commence recompletion operations on the Conoco State "CC-16" Well No. 1 or drilling operations on the proposed Wood State Well No. 4 on or before November 30, 1998, or if all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should

become of no further effect whatsoever.

(28) Should any of the parties to this force-pooling reach voluntary agreement, this order should thereafter be of no further effect as to those parties.

(29) Hendrix should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, in all formations from the top of the Abo formation, at an approximate depth of 7000 feet, to the base of the Strawn formation, at an approximate depth of 8000 feet, underlying the following described acreage in Section 16, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

- (a) the E/2 NW/4 to form a standard 80-acre gas spacing and proration unit for the Undesignated Cass (Pennsylvanian) Pool; and
- (b) the NE/4 NW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing, which presently include but are not limited to the Southeast Monument-Abo Pool.

These unit(s) are to be dedicated either to the existing Conoco, Inc. State "CC-16" Well No. 1 (API No. 30-025-33284), located 330 feet from the North line and 2080 feet from the West line (Unit C) of Section 16, or to the proposed Wood State Well No. 4 to be drilled at a location 660 feet from the North line and 2310 feet from the West line (Unit C) of Section 16.

PROVIDED HOWEVER THAT, the operator of the unit(s) shall either commence recompletion and deepening operations on the Conoco State "CC-16" Well No. 1 or drilling operations on its proposed Wood State Well No. 4 on or before November 30, 1998, and shall thereafter continue the recompletion/deepening or the drilling operations with diligence to a depth sufficient to test the Strawn formation.

PROVIDED FURTHER THAT, in the event the operator does not commence either the recompletion/deepening or drilling operations on or before November 30, 1998, Ordering Paragraph (1) of this order shall be of no further effect unless the operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should the well subsequently dedicated to the unit(s) not be deepened or drilled to completion, or abandonment, within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(2) Unorthodox well locations in the Undesignated Cass (Pennsylvanian) Pool for the Wood State Well No. 4 proposed at a location 660 feet from the North line and 2310 feet from the West line (Unit C) and the Conoco State "CC-16" Well No. 1 located 330 feet from the North line and 2080 feet from the West line (Unit C) of Section 16, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico are hereby approved.

(3) John H. Hendrix Corporation ("Hendrix") is hereby designated operator of the well that is used and the unit(s) dedicated thereto.

(4) After the effective date of this order and within 90 days prior to commencing recompletion/deepening or drilling operations, the operator shall furnish the Division and each known working interest owner in the unit(s) an itemized schedule of estimated drilling and completion costs or acquisition and recompletion/deepening costs, whichever is applicable.

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

(a) If Hendrix's proposed Wood State Well No. 4 is drilled:

(i) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days after receiving the schedule of estimated well costs; and

(ii) as a charge for the risk involved in drilling and completing the well, an additional 200 percent of such costs.

(b) If the wellbore of the Conoco State "CC-16" Well No. 1 is used:

(i) the proportionate share of the \$320,000.00 cost of acquisition of the wellbore and the \$51,834.00 cost of facilities at the well site and the reasonable cost of recompletion and deepening of the well attributable to each non-consenting working interest owner who has not paid its share of costs within 30 days after receiving the schedule of estimated well costs; and

(ii) as a charge for the risk of acquiring the wellbore (\$320,000.00) and recompleting and deepening the well, an additional 150 percent of such costs.

(6) Within 30 days from the date of receipt of the schedule of estimated drilling and completion or acquisition and recompletion/deepening costs, any non-consenting working interest owner shall have the right to pay its share of estimated drilling and completion or acquisition and recompletion/deepening costs to the operator in lieu of paying its share of reasonable estimated drilling and completion or acquisition and recompletion/deepening costs out of production, 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.

(7) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual drilling and completion or recompletion/deepening costs within 90 days following completion of whichever well is used. If no objection to the actual applicable costs is received by the Division and the Division has not objected within 45 days following receipt of the schedule, these actual costs shall be deemed reasonable costs; provided, however, that if there is an objection to actual costs within the 45-day period, the Division will determine reasonable costs after notice and hearing.

(8) Within 60 days following determination of reasonable costs, any non-consenting 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 costs exceed estimated costs and shall receive from the operator its share of the amount that estimated costs exceed reasonable costs.

(9) The operator shall distribute the costs and charges withheld from production

to the parties who advanced the applicable costs.

(10) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$3,500.00 per month while recompleting and deepening the Conoco State "CC-16" Well No. 1 or drilling and completing the proposed Wood State Well No. 4 and \$ 350.00 per month while producing the well dedicated to the unit(s). The operator is hereby authorized to withhold from production the proportionate share of both such supervision charges and the 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 this order.

(12) Any well costs or charges that 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 production proceeds from the well subsequently dedicated to the unit(s) which are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the 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.

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

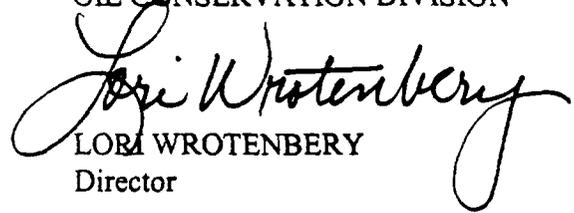
(15) Hendrix shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(16) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

Case No. 11993
Order No. R-11047
Page 10

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


LORI WROTENBERY
Director

SEAL