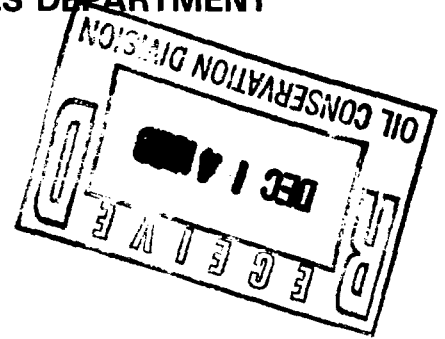


**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**



**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:**

**CASE NO. 12088
ORDER NO R-_____**

**APPLICATION OF XERIC OIL & GAS CORPORATION
FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO**

**XERIC'S
PROPOSED
ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on November 19, 1998 at Santa Fe, New Mexico, before Examiner Mark Ashley.

NOW, on this ____ day of December, 1998, the Division Director, having considered the testimony, the recorded 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) In accordance with Division Rule 1207.A(2), the applicant, Xeric Oil & Gas Corporation, seeks an order pooling all mineral interests from the surface to the base of the Abo formation underlying the NW/4SW/4 of Section 19, Township 20 South, Range 39 East, NMPM, Lea County, New Mexico to form a standard 40-acre spacing and proration unit for any and all formations and/or pools developed on 40 acre spacing within this vertical extent, which presently includes but is not necessarily limited to the Undesignated Terry-Blinbry Pool, DK-Drinkard Pool and the DK-Abo Pool.

(3) Xeric Oil & Gas Corporation has the right to drill a well in the proposed spacing unit and proposes to drill its Carter "19" Well NO 2 to a standard location in this spacing unit to a depth adequate to penetrate the Abo formation.

(4) Applicant has made a good faith effort to provide all working interest and unleased mineral owners with a written well proposal including an AFE but has not been able to locate these parties who therefore have not agreed to pool their interests.

(5) Xeric Oil & Gas Corporation seeks a compulsory pooling order against the following parties and their respective interests:

Alice T. Bannatyne	9/320
William H. Foster	9/640
Mary C. Foster Geddes	9/640
the heirs or devisees of Harold Muller and Helen Muller deceased	9/320

(6) Applicant has complied with Division Rule 1207.A(2) in order to properly pool these interests.

(7) In support of its application, Xeric Oil & Gas Corporation, by affidavit, has provided land and geologic testimony which demonstrated that:

(a) while applicant has drilled this well, there still is substantial risk that this marginal well will not be able to produce sufficient hydrocarbons to make it an economic project.

(b) there is substantial risk involved in this well and the maximum 200% risk factor should be awarded.

(8) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to 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 the production in any pool completion resulting from this order, this

application should be approved by pooling all mineral interests, whatever they may be, within the unit.

(9) Xeric Oil & Gas Corporation should be designated the operator of the subject well and unit.

(10) Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

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

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

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

(14) Reasonable charges for supervision (combined fix rates) should be fixed at \$4,000.00 per monthly while drilling and \$400.00 per month while producing. 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.

(15) All proceeds from production from the well that 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.

(16) The operator of the well and unit should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of the order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Abo formation underlying NW/4SW/4 of Section 19, Township 20 South, Range 39 East, NMPM, Lea County, New Mexico, **are hereby pooled** to form a standard 40-acre spacing and proration unit for any and all formations and/or pools developed on 40 acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Terry-Blinebry Pool, DK-Drinkard Pool and DK-Abo Pool. This unit is to be dedicated to its Carter "19" Well No. 2 which has been drilled at a standard location in this unit.

(2) Xeric Oil & Gas Corporation is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order, the operator shall send the Division and shall record with the Lea County Clerk a copy of this order.

(4) 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 who has not paid its share of estimated well costs within thirty (30) days from the date the schedule of estimated well costs is sent; and

(b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

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

(6) Reasonable charges for supervision (combined fix rates) are hereby fixed at \$4,000.00 per monthly while drilling and \$400.00 per month while producing. The operator is hereby 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.

(7) 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.

(8) Any well costs or charges that are to be paid put 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.

(9) All proceeds from production from the well that are not disbursed for any reason shall immediately be placed in escrow in Eddy 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 the escrow agent.

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

(11) The operator of the well and unit 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.

(12) 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

LORI WROTENBERY, Director