

**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. 12359
ORDER NO. R-11349**

**APPLICATION OF MARBOB ENERGY CORPORATION FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on March 16, 2000, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 22nd day of March, 2000, 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 its subject matter.

(2) The applicant, Marbob Energy Corporation ("Marbob"), seeks an order pooling all uncommitted mineral interests from the top of the Wolfcamp formation to the base of the Morrow formation underlying the E/2 of Section 16, Township 18 South, Range 27 East, NMPM, Eddy County, New Mexico, forming a standard 320-acre gas spacing and proration unit for any formation and/or pool developed on 320-acre spacing within this vertical extent, which presently includes the Undesignated Red Lake-Pennsylvanian, Undesignated East Red Lake Upper-Pennsylvanian, Undesignated Scoggin Draw-Strawn and Red Lake Atoka-Morrow Gas Pools. This unit is to be dedicated to the applicant's proposed Scoggin Draw State "C" Com Well No. 2 (API No. 30-015-30966) to be drilled at a standard gas well location 1020 feet from the North line and 1950 feet from the East line (Unit B) of Section 16.

(3) The applicant has the right to drill and proposes to drill its Scoggin Draw State "C" Com Well No. 2 at the standard gas well location described above.

- (4) The evidence presented by the applicant demonstrates that:
- (a) the E/2 of Section 16 is currently dedicated to the existing Marbob Scoggin Draw State "C" Com Well No. 1, located at a standard gas well location 1980 feet from the South and East lines (Unit J). This well, which was drilled by Oryx Energy Company in 1990, is currently completed in and producing from the Red Lake Atoka-Morrow Gas Pool;
 - (b) by compulsory pooling Order No. R-9071 dated December 14, 1989, the interests in the E/2 of Section 16 were consolidated by Oryx Energy Company for the purpose of drilling the Scoggin Draw State "C" Com Well No. 1;
 - (c) Marbob assumed operations on the Scoggin Draw State "C" Com Well No. 1 from Oryx Energy Company in October, 1992; and
 - (c) with the exception of Exxon-Mobil Producing Company, all of the interest owners in the E/2 of Section 16 are currently subject to an existing Joint Operating Agreement (JOA) dated January 17, 1990. Exxon-Mobil Producing Company remains the only interest owner that has not agreed to pool its interest.

(5) Marbob testified that it is still recovering well costs and risk penalties from non-consenting working interest owners in the Scoggin Draw State "C" Com Well No. 1 pursuant to the provisions contained within Division Order No. R-9071.

(6) Marbob further testified that production from the Scoggin Draw State "C" Com Wells No. 1 and 2 will be separately metered, and that drilling costs and risk penalties to be recovered from production from these wells will be maintained separately.

(7) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the proration 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 mineral interests, whatever they

may be, within the unit.

(8) Marbob should be designated the operator of the subject well and unit.

(9) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. 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.

(10) Any non-consenting 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 percent thereof as a reasonable charge for the risk involved in drilling the well.

(11) Any non-consenting 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.

(12) 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.

(13) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,250.00 per month while drilling and \$525.00 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.

(14) 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.

(15) If the operator of the pooled unit fails to commence drilling the well to which the unit is dedicated on or before July 1, 2000, or if all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should become of no effect.

(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 forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Marbob Energy Corporation, all uncommitted mineral interests from the top of the Wolfcamp formation to the base of the Morrow formation underlying the E/2 of Section 16, Township 18 South, Range 27 East, NMPM, Eddy County, New Mexico, are hereby pooled forming a standard 320-acre gas spacing and proration unit for any formation and/or pool developed on 320-acre spacing within this vertical extent, which presently includes the Undesignated Red Lake-Pennsylvanian, Undesignated East Red Lake Upper-Pennsylvanian, Undesignated Scoggin Draw-Strawn and Red Lake Atoka-Morrow Gas Pools. This unit shall be dedicated to the applicant's Scoggin Draw State "C" Com Well No. 2 (API No. 30-015-30966) to be drilled at a standard gas well location 1020 feet from the North line and 1950 feet from the East line (Unit B) of Section 16.

(2) The operator of the unit shall commence drilling the proposed well on or before July 1, 2000, and shall thereafter continue drilling the well with due diligence to test the Atoka and Morrow formations.

(3) In the event the operator does not commence drilling the well on or before July 1, 2000, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause shown.

(4) Should the well not be drilled to completion or be abandoned 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.

(5) Marbob Energy Corporation is hereby designated the operator of the subject well and unit.

(6) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. After the effective date of this order and within 90 days prior to commencing the well, the operator shall furnish the Division and each known non-consenting working interest owner in the unit an itemized schedule of estimated well costs.

(7) Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting 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, 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.

(8) The operator shall furnish the Division and each known non-consenting working interest owner an itemized schedule of actual well costs within 90 days following completion of the 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 the reasonable well costs; provided, however, that 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.

(9) Within 60 days following determination of reasonable well 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 well costs exceed estimated well costs and shall receive from the operator its share of the amount that estimated well costs exceed reasonable well costs.

(10) 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 30 days from the date the schedule of estimated well costs is furnished; and
- (b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

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

(12) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,250.00 per month while drilling and \$525.00 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.

(13) 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.

(14) 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.

(15) All proceeds from production from the well that are not disbursed for any reason shall 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

(16) 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.

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

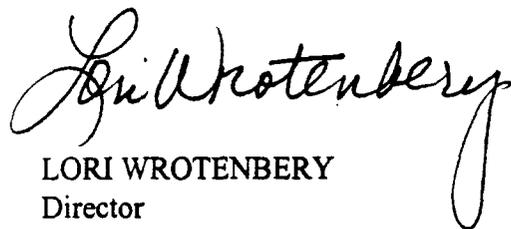
(18) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

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



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


LORI WROTENBERY
Director