

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. 12390  
ORDER NO. R-11382

APPLICATION OF TRILOGY OPERATING, INC. FOR COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 4, 2000, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 17th day of May, 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, Trilogy Operating, Inc. ("Trilogy"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Abo formation underlying the NW/4 SE/4 of Section 1, Township 20 South, Range 38 East, NMPM, Lea County, New Mexico, forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools spaced on 40 acres within this vertical extent, including but not limited to the House-San Andres Pool, Undesignated House-Blinbry Pool and Undesignated House-Abo Pool. This unit is to be dedicated to the applicant's Howser Well No. 1 (API No. 30-025-34970), which has been drilled but not completed at a standard oil well location within the NW/4 SE/4 of Section 1.

(3) This case was styled such that "*In the absence of objection this matter will be taken under advisement.*"

(4) The applicant appeared at the hearing through legal counsel. No other party

appeared at the hearing.

(5) The applicant has the right to drill and has drilled its Howser Well No. 1 at a standard oil well location within the NW/4 SE/4 of Section 1.

(6) There are interest owners in the proposed unit that have not agreed to pool their interests.

(7) The evidence presented by the applicant demonstrates that:

- (a) there are six interest owners within the proposed unit that the applicant has been unable to locate;
- (b) there are four interest owners within the proposed unit that have thus far not responded to Trilogy's attempts to lease their acreage;
- (c) by letter dated March 7, 2000, the applicant formally proposed the drilling of the Howser Well No. 1 to the four uncommitted interest owners and invited their participation in the drilling of the well. The letter further stated that Trilogy was in the process of preparing a compulsory pooling application for the proposed unit; and
- (d) Trilogy spudded the Howser Well No. 1 on March 14, 2000, and drilling operations on the well were completed on or about April 6, 2000.

(8) The applicant afforded the interest owners in the proposed unit very little time in which to elect to participate in the drilling of the Howser Well No. 1 prior to the well being spudded on March 14, 2000. In addition, the applicant has elected to drill the Howser Well No. 1 in advance of the interest in the proposed unit being consolidated by means of voluntary participation or force pooling.

(9) The risk penalty assessed against non-consenting working interest owners in this case should be reduced based upon the reasons outlined in Finding No. (8).

(10) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and 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 hydrocarbons, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within the unit.

(11) Trilogy Operating, Inc. should be designated the operator of the subject well and unit.

(12) 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.

(13) 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 100 percent thereof as a reasonable charge for the risk involved in drilling the well.

(14) 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.

(15) 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.

(16) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,500.00 per month while drilling and \$450.00 per month while producing, provided that this rate should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." 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.

(17) 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.

(18) 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 Trilogy Operating, Inc., all uncommitted mineral interests from the surface to the base of the Abo formation underlying the NW/4 SE/4 of Section 1, Township 20 South, Range 38 East, NMPM, Lea County, New Mexico, are hereby pooled forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools spaced on 40 acres within this vertical extent, including but not limited to the House-San Andres Pool, Undesignated House-Blinebry Pool and Undesignated House-Abo Pool. This unit shall be dedicated to the applicant's Howser Well No. 1 (API No. 30-025-34970), which has been drilled but not completed at a standard oil well location within the NW/4 SE/4 of Section 1.

(2) Should the well not be completed or abandoned within 120 days after the effective date of this order, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(3) Trilogy Operating, Inc. is hereby designated the operator of the subject well and unit.

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

(5) 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.

(6) 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.

(7) 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.

(8) 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, 100 percent of the above costs.

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

(10) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,500.00 per month while drilling and \$450.00 per month while producing, provided that this rate 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 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 interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(13) All proceeds from production from the well that 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

(14) 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.

(15) 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.

(16) 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.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
LORI WROTENBERY  
Director

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