

**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. 12393

**APPLICATION OF SANTA FE SNYDER
CORPORATION FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

CASE NO. 12433

**APPLICATION OF SOUTHWESTERN ENERGY
PRODUCTION COMPANY FOR
COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

ORDER NO. R-_____

**SANTA FE SNYDER CORPORATION'S
PROPOSED**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on May 18, 2000 and on June 15, 2000 at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this ____ day of June, 2000, The Division Director, having considered the testimony, the recorded 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) Division Cases No. 12393 and 12433 were consolidated at the time of the hearing for the purpose of testimony, and, in order to provide a comprehensive decision in these cases, one order should be entered for both cases.

SUMMARY OF PROCEEDINGS

(3) On April 6, 2000, Santa Fe Snyder Corporation ("Santa Fe") filed the referenced compulsory pooling application seeking to pool the N/2 of Section 17, Township 23 South, Range 34 East, which was set for hearing on May 4, 2000.

(4) On April 27, 2000, Southwestern Energy Production Company ("Southwestern") filed a competing compulsory pooling application seeking to pool the W/2 of this section which was originally set for hearing on June 1, 2000.

(5) Section 17, Township 23 South, Range 34 East, NMPM, Eddy County, New Mexico consists of two federal oil and gas leases, one comprising the N/2 and the other comprising the S/2 of this section.

(a) the N/2 is federal lease NM-97157 dated 9/1/96 with the working interest ownership divided 50 % to Santa Fe and 50 % to Southwestern,

(b) the S/2 is federal lease LC-065194 dated 5/1/51 with 100 % of the working interest ownership held by Santa Fe.

(6) As a result of a pre-hearing conference decision by the Division, the two referenced cases were heard at a Division Examiner's hearing held on May 18, 2000. At that hearing, evidence was introduced which demonstrates that:

(a) Santa Fe is the proposed operator of the Paloma Blanco "17" Federal Well No. 1 located in Unit E of this section and to be dedicated to a standard 320-acre spacing unit consisting of the N/2 of Section 17 which consists of one federal oil & gas lease.

(b) Southwestern Energy Production Company's ("Southwestern") competing compulsory pooling application is for a 320-acre gas spacing unit consists of the W/2 of this section which would involve multiple federal leases.

(c) on May 1, 2000, the Bureau of Land Management ("BLM") issued a letter to the Division stating the BLM regulation and policy concerning communitization of multiple leases when a single federal lease can be developed in conformity with established well spacing patterns.

(d) in certain circumstances the BLM will grant an exception to this policy if adequate engineering and/or geologic data indicates communitization of multiple leases will result in more efficient drainage of an area.

(e) by letter dated May 11, 2000, Southwestern had submitted its geologic data to the BLM and had requested that the BLM approve a W/2 spacing unit.

(f) on May 16, 2000, Santa Fe submitted its geological data to the BLM and requested that the BLM approve its APD for a N/2 spacing unit

(g) on May 17, 2000, the BLM approved Santa Fe's APD.

(7) At the conclusion of the hearing, the cases were continued to the June 15, 2000 Examiner's docket.

(8) On June 7, 2000, Santa Fe filed a motion to dismiss Southwestern's Case 12433 because by letter dated May 31, 2000, the BLM advised the Division that the BLM, pursuant to 43 CFR 3105.2-2, (i) has determined that it is the public interest to approve the N/2 spacing unit for Santa Fe's well thereby avoiding the communitization of multiple leases as proposed by Southwestern, and (ii) asked that the Division dismiss Southwestern's compulsory pooling application in Case 12433.

Division Decision

(9) The Division finds that:

(a) because all of Section 17 consists **only** of federal oil & gas leases, the BLM has exclusive jurisdiction to determine the orientation of the 320-acre gas spacing units in these cases;

(b) by approving Santa Fe's APD, the BLM thereby denied Southwestern's requested orientation;

(c) this action by the BLM in exercising its jurisdiction over these federal oil and gas leases, has made moot Southwestern's competing pooling application; and

(d) accordingly, the Division has no alternative but to dismiss Southwestern's pooling application and to grant Santa Fe's application.

(10) Santa Fe and Southwestern have been unable to reach a voluntary agreement and a compulsory pooling order in favor of Santa Fe should be entered.

(11) Santa Fe should be designated the operator of the subject well and the unit.

(12) Both parties agreed at the hearing that overhead rates of \$6000.00 while drilling and \$600.00 while producing should be adopted in this case.

(13) In addition, both parties proposed that a risk penalty of 200 percent be assessed against any non-consenting working interest owners.

(14) 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 above-described units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, the application of Santa Fe should be approved by pooling all uncommitted mineral interests, whatever they may be, within these units.

(15) 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 the estimated costs to the operator in lieu of paying its share of reasonable well costs out of production.

(16) Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs first to Santa Fe, as the operator, respectively, in lieu of paying its share of reasonable well costs out of production.

(17) 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.

(18) 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.

(19) 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.

(20) \$6000.00 per monthly while drilling and \$600.00 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 operation the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(21) 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.

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

(23) Santa Fe as the operator of the well and these units shall notify the Director of the Division on writing of the subsequent voluntary agreement of all parties subject to the pooling provisions of the order.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Santa Fe Snyder Corporation in Case No. 12393, all uncommitted mineral interest from the surface to the base of the Morrow formation underling the following acreage in Section 17, Township 23 South, Range 34 East, Lea County, New Mexico, are hereby pooled in the following manner:

(a) the N/2 to form a 320-acre gas spacing and proration unit for formations and/or pools developed on 320-acre spacing within that vertical extent, including the Antelope Ridge Morrow Gas Pool;

(b) the NW/4 to form a 160-acre gas spacing and proration unit for formations and/or pools developed on 160-acre spacing within that vertical extent; and

(b) the SW/4NW/4 to form a 40-acre oil spacing and proration unit for formations and/or pools developed on 40-acre spacing within that vertical extent.

(2) These spacing and proration units are to be dedicated to the Santa Fe's proposed Paloma Blanco "17" Federal Well No 1 to be drilled and completed at a standard location within Unit E of this section.

(3) Southwestern Energy Production Company's application in Case 12433 is hereby denied.

(4) Santa Fe Snyder Corporation is hereby designated the operator of the subject well and units.

(5) Santa Fe, as operator of these units, shall commence drilling the well on or before September 31, 2000 and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Morrow formation.

(6) In the event, Santa Fe either fails to commence drilling its well on or before September 31, 2000, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause shown.

(7) Should the well not be drilled to completion or abandoned within 120 days after commencement, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(8) 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 said well, Santa Fe shall furnish the Division and each known non-consenting working interest owner in the units an itemized schedule of estimated well costs.

(9) 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 Santa Fe 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 operation costs but shall not be liable for risk charges.

(10) 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 said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within the 45-day period the Division will determine reasonable well costs after public notice and hearing.

(11) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated well 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.

(12) 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 the drilling of the well, 200 percent of the above costs.

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

(14) \$6000.00 per month while drilling and \$600.00 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 operation such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(15) 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.

(16) 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.

(17) All proceeds from production from the well which are not disbursed for any reason shall immediately 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.

(18) 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.

(19) 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 forced pooling provisions of this order.

(20) 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