

**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. 12545  
ORDER NO. R-11507**

**APPLICATION OF HARVEY E. YATES COMPANY 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 November 16, 2000, at Santa Fe, New Mexico, before Examiner Mark W. Ashley.

NOW, on this 15th day of December, 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, Harvey E. Yates Company ("Heyco"), seeks an order pooling all uncommitted mineral interests underlying the following acreage in Section 7, Township 20 South, Range 27 East, NMPM, Eddy County, New Mexico:

(a) the N/2 to form a 318.22-acre gas spacing and proration unit for formations and/or pools developed on 320-acre spacing within that vertical extent, and for the McMillan-Morrow Gas Pool;

(b) the NW/4 to form a standard 158.22-acre gas spacing and proration unit for formations and/or pools developed on 160-acre spacing within that vertical extent;

(c) the N/2 NW/4 to form a standard 79.04-acre oil spacing and proration unit for formations and/or pools developed on 80-acre spacing within that vertical extent; and

(d) the SW/4 NW/4 to form a standard 39.18-acre oil spacing and proration unit for formations and/or pools developed on 40-acre spacing within that vertical extent, including the McMillan Seven Rivers-Queen Pool.

(3) In order to form 80-acre oil spacing and proration units, an existing pool spaced on 80 acres has to be within one mile of the proposed unit. Division records indicate that there are not any pools spaced on 80 acres within one mile of the proposed 80-acre unit; therefore, the portion of the application seeking to pool the N/2 NW/4 of Section 7 should be dismissed.

(4) By Division Order No. R-11448, issued in Case No. 12473 and dated August 31, 2000, the Division granted Heyco an exception to the well location and spacing requirements provided within the "*Special Rules and Regulations for the McMillan-Morrow Gas Pool*" for (i) the formation of a non-standard 318.22-acre gas spacing and proration unit comprising Lots 1 and 2, the E/2 NW/4 and the NE/4 (N/2 equivalent) of Section 7, Township 20 South, Range 27 East, NMPM, Eddy County, New Mexico, and (ii) the dedication of this unit to its proposed Turner Federal "7" Well No. 1 to be drilled at an unorthodox gas well location 1980 feet from the North line and 660 feet from the West line (Lot 2/Unit E) of Section 7.

(5) By Division Order No. R-2917-C, issued in Case No. 12463 and dated August 28, 2000, the Division granted Pogo Producing Company's request to amend the "*Special Rules and Regulations for the McMillan-Morrow Gas Pool*" to allow for, among other things, up to four wells on a standard 640-acre proration unit, with each initial and infill well to be located no closer than 660 feet to the outer boundary of the quarter section on which the well is located and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary.

(6) The subject spacing and proration units are to be dedicated to the applicant's Turner 7 Federal Deep Well No. 1, which has been drilled and completed at a location 1980 feet from the North line and 660 feet from the West line of Section 7. This location is standard pursuant to Division Order No. R-2917-C.

(7) The applicant is a working interest owner within the subject units and therefore has the right to drill for and develop the minerals underlying the subject units.

(8) There are interest owners in the subject units that have not agreed to pool their interests.

(9) No affected party appeared at the hearing or objected to this application.

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

(11) Heyco should be designated the operator of the subject well and units.

(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) At the time of the hearing Heyco testified that the Turner 7 Federal Deep Well No. 1 has already been drilled and that it was drilled prior to pooling all interests. Therefore, Heyco is not requesting any charges for risk involved in the drilling of the subject well.

(14) 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.

(15) 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.

(16) 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.

(17) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,350.00 per month while drilling and \$635.00 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.

(18) 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.

(19) If all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should become of no effect.

(20) The operator of the well and units 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 Harvey E. Yates Company, all uncommitted mineral interests underlying the following acreage in Section 7, Township 20 South, Range 27 East, NMPM, Eddy County, New Mexico, are hereby pooled in the following manner:

(a) the N/2 to form a 318.22-acre gas spacing and proration unit for formations and/or pools developed on 320-acre spacing within that vertical extent, and for the McMillan-Morrow Gas Pool;

(b) the NW/4 to form a standard 158.22-acre gas spacing and proration unit for formations and/or pools developed on 160-acre spacing within that vertical extent; and

(c) the SW/4 NW/4 to form a standard 39.18-acre oil spacing and proration unit for formations and/or pools developed on 40-acre spacing within that vertical extent, including the McMillan Seven Rivers-Queen Pool.

(2) The portion of the application seeking to form a standard 79.04-acre oil spacing and proration for the N/2 NW/4 of Section 7 is hereby dismissed.

(3) The subject spacing and proration units are to be dedicated to the applicant's Turner 7 Federal Deep Well No. 1, which has been drilled and completed at a standard location 1980 feet from the North line and 660 feet from the West line of Section 7.

(4) Harvey E. Yates Company is hereby designated the operator of the subject well and units.

(5) 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 units an itemized schedule of estimated well costs.

(6) 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.

(7) 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.

(8) 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.

(9) The operator is hereby authorized to withhold from production 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.

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

(11) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,350.00 per month while drilling and \$635.00 per month while producing. The operator shall 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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.

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

(17) 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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