

**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. 12995  
ORDER NO. R-11917**

**APPLICATION OF CONCHO OIL & GAS CORP. FOR COMPULSORY  
POOLING AND AN UNORTHODOX WELL LOCATION, EDDY COUNTY,  
NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on January 23, 2003, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 27th day of February, 2003, 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 of the subject matter.

(2) Concho Oil & Gas Corp., ("Applicant"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the N/2 of Section 20, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico, in the following manner:

The N/2, forming a standard 320-acre gas spacing and proration unit (the "Unit") for all formations or pools spaced on 320 acres within this vertical extent, which presently include, but are not necessarily limited to, the Atoka-Pennsylvanian Gas Pool, undesignated West Atoka-Morrow and undesignated Dayton-Strawn Gas Pool.

(3) The Unit is to be dedicated to Applicant's proposed Dayton Flyer Well No. 1 (the "proposed well") to be drilled at an unorthodox gas well location, 1980 feet

from the North and East lines (Unit G) of Section 20. Applicant seeks approval of the proposed unorthodox location.

(4) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(5) Applicant is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill to a common source of supply within the N/2 of Section 20.

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

(7) 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 interests, whatever they may be, in the oil and gas within the Unit.

(8) Applicant should be designated the operator of the proposed well and of the Unit.

(9) Any pooled 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% thereof as a reasonable charge for the risk involved in drilling the well.

(10) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6000 per month while drilling and \$600 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

(11) The applicable special pool rules for the Atoka-Pennsylvanian Pool provide for a maximum of one well per 320-acre unit, each such well to be located in either the NW/4 or the SE/4 of a governmental section and no closer than 990 feet to a quarter-section boundary. Accordingly, the location of the proposed well is unorthodox both because it is in the NE/4 of the Section and because it is closer than 990 feet to the south and west boundaries of the NE/4.

(12) Applicant presented geologic testimony to the following effect:

(a) The objective of the proposed well is to penetrate three separate sands in the Morrow formation identified as the t-3a, t-5 and t-7 sands.

(b) The t-5 sand was encountered and produced in a well drilled in the SE/4 of Section 20, but was not encountered in a subsequently abandoned well located in the NW/4 of the section, indicating that the t-5 sand does not continue to the west.

(c) The t-3a and t-7 sands have not been encountered in any well in the immediate vicinity but, based on similarity of structure to other locations where these sands exist, are believed to exist at the proposed location.

(d) Based on the witness's mapping of these sands, a well in the E/2 NW/4 would likely not encounter the t-7 sand, and a well in the W/2 of the NW/4 would likely not encounter the t-5 sand.

(e) A well located in the NE/4 990 feet or more from the west line of that quarter section would be down-dip from the proposed location and would entail a greater risk of encountering water that would reduce or preclude gas production.

(f) The proposed location is the optimal location to encounter all three sands, based on the witness's mapping.

(13) All offset operators were duly notified of this application, and no party other than Applicant entered an appearance or appeared at the hearing.

(14) To prevent waste and avoid the drilling of unnecessary wells, the unorthodox location of the proposed well should be approved.

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Concho Oil & Gas Corp., all uncommitted interests, whatever they may be, in the oil and gas from the surface to the base of the Morrow formation underlying the N/2 of Section 20, Township 18 South, Range 26 East, N.M.P.M., Eddy County, New Mexico, are hereby pooled, as follows:

The N/2, forming a standard 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent which presently include but are not necessarily limited to the Atoka-Pennsylvanian Gas Pool, undesignated West Atoka-Morrow Gas Pool and undesignated Dayton-Strawn Gas Pool.

The Unit shall be dedicated to Applicant's Dayton Flyer Well No. 1, to be drilled at an unorthodox location, 1980 feet from the North line and 1980 feet from the East line (Unit G) of Section 20.

- (2) The unorthodox location of the proposed well is hereby approved.
- (3) The operator of the Unit shall commence drilling the proposed well on or before May 31, 2003, and shall thereafter continue drilling the well with due diligence to test the Morrow formation.
- (4) In the event the operator does not commence drilling the proposed well on or before May 31, 2003, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.
- (5) Should the proposed 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.
- (6) Upon final plugging and abandonment of the proposed well, the pooled unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.
- (7) Applicant is hereby designated the operator of the proposed well and of the Unit.
- (8) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").
- (9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled 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 as hereinafter provided, 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. Pooled working interest owners who elect not to pay their share of estimated wells costs as provided in this Paragraph (7) shall thereafter be referred to as "non-consenting working interest owners."
- (10) The operator shall furnish the Division and each known pooled working interest owner (including each non-consenting working interest owner) an itemized schedule of actual well costs within 90 days following completion of the proposed 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 deemed to be the reasonable well costs. 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.

(11) Within 60 days following determination of reasonable well costs, any pooled 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 the amount, if any, that the estimated well costs it has paid exceed its share of 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; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

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

(14) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6000 per month while drilling and \$600 per month while producing, provided that these rates 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 pooled working interest owners.

(15) Except as provided in Ordering Paragraphs (12) and (14) above, 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.

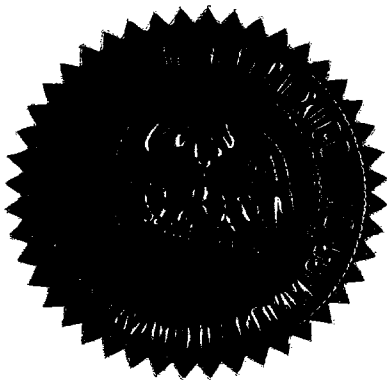
(16) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

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


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

(19) 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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