

**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. 10979  
Order No. R-10143**

**APPLICATION OF NAUMANN OIL & GAS  
INC. FOR COMPULSORY POOLING, AN  
UNORTHODOX GAS WELL LOCATION AND  
A NON-STANDARD GAS PRORATION UNIT,  
EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on May 26, 1994, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 5th day of July, 1994, the Division Director, having considered the testimony, the record, 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) By Order No. R-5451 entered in Case No. 5939 on July 5, 1977, the Division, upon application of C & K Petroleum Inc., pooled all mineral interests in the Pennsylvanian formation underlying Lots 1 through 4 and the E/2 W/2 (W/2 equivalent) of Section 7, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico. Said pooled unit was to be dedicated to the Carlsbad "7" Well No. 1 which was to be drilled at an unorthodox gas well location 760 feet from the South line and 690 feet from the West line (Unit M) of Section 7, also approved by Order No. R-5451.

(3) Division records and testimony presented in this case indicate that the Carlsbad "7" Well No. 1 was drilled during August, 1977 to a total depth of 11,698 feet in the Morrow formation. The well was completed in and cumulatively produced 11.9 MMCF of gas from the South Carlsbad-Morrow Gas Pool until March, 1978, at which time the well was plugged and abandoned.

(4) The applicant, Naumann Oil & Gas Inc., seeks an order pooling all mineral interests in the Undesignated Carlsbad-Strawn Gas Pool underlying the W/2 equivalent of Section 7, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, forming a non-standard 307.02-acre gas spacing and proration unit for said pool. Said unit is to be dedicated to the aforesaid Carlsbad "7" Well No. 1 which is proposed to be re-entered by the applicant.

(5) The non-standard gas proration unit is necessitated by a variation in the legal subdivision of the United States Public Lands Survey.

(6) According to evidence presented, the subject well and proration unit are located within the municipal boundaries of the City of Carlsbad, New Mexico.

(7) There are approximately 298 separate tracts within the proposed proration unit.

(8) The applicant has secured voluntary agreement with the owners of approximately 87 percent of the interest in the proration unit. The applicant has been unable to secure voluntary agreement with the owners of approximately 12 percent of the interest, and has been unable to locate the owners of approximately 1 percent of the interest in the proration unit.

(9) The applicant has the right to drill and proposes to re-enter the aforesaid Carlsbad "7" Well No. 1 for the purpose of testing the Carlsbad-Strawn Gas Pool.

(10) At the time of the hearing, the applicant testified that it had not attempted to secure voluntary agreement nor notified the following described interest owners of the forced pooling hearing as required by Division Rule No. 1207:

Ms. Josefina Lara Burciaga  
Mr. Constancio A. Lara

(11) On June 3, 1994, the applicant sent correspondence to Ms. Burciaga and Mr. Lara advising them that their share of well costs would be paid by Naumann Oil and Gas Inc. if they waived any right to reopen this case due to deficient notice. The applicant further advised these parties that any objection and request to reopen this case would necessarily have to be filed with the Division by June 23, 1994.

(12) The Division has not received any correspondence from these parties as of June 23, 1994.

(13) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(14) The applicant should be designated the operator of the subject well and unit.

(15) No offset operator and/or interest owner appeared in opposition to the proposed unorthodox gas well location.

(16) The applicant proposed that the value of the existing wellbore should be set at \$95,000. This value was determined by multiplying 25 percent times the original estimated dry hole cost of the Carlsbad "7" Well No. 1 (\$406,725.00).

(17) The applicant's proposed existing wellbore value is reasonable and should be adopted in this case.

(18) Applicant's re-entry and completion costs for a Strawn completion are estimated to be \$330,200.00.

(19) Estimated well costs should be \$425,200, determined as follows:

	\$95,000-Existing Wellbore Value
+	\$330,200-Estimated Re-entry and Completion Costs

(20) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(21) The applicant requested that a risk penalty of 200 percent be assessed against non-consenting interest owners.

(22) Inasmuch as the subject well has already been drilled, the remaining risk should apply only to re-entry and completion operations to be conducted on the well. The risk penalty should therefore be reduced accordingly.

(23) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 100 percent thereof as a reasonable charge for the risk involved in re-entry and completion operations.

(24) 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.

(25) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his 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.

(26) \$3500.00 per month while re-entering and completing and \$350.00 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 operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(27) 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.

(28) Upon the failure of the operator of said pooled unit to commence re-entry and completion operations on the well to which said unit is dedicated on or before October 1, 1994, the order pooling said unit should become null and void and of no effect whatsoever.

(29) 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.

(30) 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.

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**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, in the Undesignated Carlsbad-Strawn Gas Pool underlying Lots 1 through 4 and the E/2 W/2 (W/2 equivalent) of Section 7, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico, are hereby pooled forming a non-standard 307.02-acre gas spacing and proration unit for said pool. Said pooled unit shall be dedicated to the existing Carlsbad "7" Well No. 1 located at an unorthodox gas well location 760 feet from the South line and 690 feet from the West line (Unit M) of Section 7, also hereby approved.

PROVIDED HOWEVER THAT, the operator of said unit shall commence re-entry and completion operations on said well on or before the 1st day of October, 1994, and shall thereafter continue with due diligence to test the Strawn formation.

PROVIDED FURTHER THAT, in the event said operator does not commence re-entry and completion operations on said well on or before the 1st day of October, 1994, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should said well not be completed or abandoned within 120 days after commencement of operations thereof, said operator shall appear before the Division Director and show cause why Ordering Paragraph No. (1) of this order should not be rescinded.

(2) Naumann Oil & Gas Inc. is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs (\$425,000).

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known 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 said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.
- (B) As a charge for the risk involved in the drilling of the well, 100 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

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

(9) \$3500.00 per month while re-entering and completing and \$350.00 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 operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) 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.

(11) Any well costs or charges which are to be paid out of production shall be

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withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

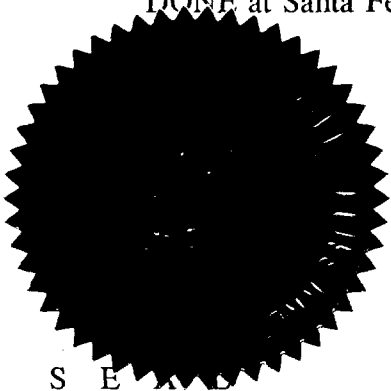
(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) 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.

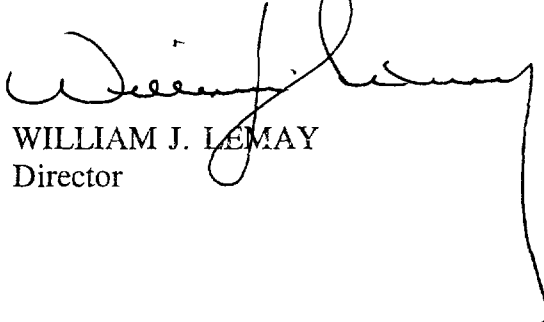
(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) Jurisdiction of this cause 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

  
WILLIAM J. LEMAY  
Director