

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. 9310
Order No. R-8646

APPLICATION OF SUN EXPLORATION AND
PRODUCTION COMPANY FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 16, 1988, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 5th day of May, 1988, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and having been 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) The applicant, Sun Exploration and Production Company, seeks an order pooling all mineral interests from the surface to either the base of the Morrow formation or to a depth of 13,700 feet, whichever is deeper, underlying the following described acreage in Section 26, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, in the following described manner:

The N/2 of said Section 26 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools within said vertical limits developed on 320-acre spacing;

The S/2 NW/4 of said Section 26 to form a standard 80-acre oil spacing and proration unit in the Undesignated EK-Bone Spring Pool; and

The SE/4 NW/4 of said Section 26 to form a statewide standard 40-acre oil spacing and proration unit for any and all formations and/or pools within said vertical limits developed on 40-acre spacing.

(3) The applicant has the right to drill and proposes to dedicate the above described units to the Corbin Federal Com Well No. 1 currently being drilled at a location 1650 feet from the North line and 1980 feet from the West line (Unit F) of said Section 26.

(4) Testimony in this case indicates that the Morrow formation is the primary objective in the subject well and that the Bone Spring and shallower formations are secondary targets.

(5) The above-described well location is standard for the proposed 320-acre gas or 40-acre oil spacing and proration units but is unorthodox for the proposed 80-acre Undesignated Bone Spring spacing and proration unit.

(6) The applicant presented no evidence or testimony which demonstrates the necessity for an unorthodox Bone Spring well location and should therefore be required to obtain approval from the Division for an unorthodox location should a Bone Spring completion result in the subject well.

(7) The evidence in this case indicates that the applicant has obtained voluntary agreement by farmout to drill the subject well with the various working interest owners located within the proposed spacing and proration units as described above, with the exception of Santa Fe Exploration Company, who owns a 20% working interest in the proposed 40-acre unit, a 10% working interest in the proposed 80-acre unit, and a 15% working interest in the proposed 320-acre unit.

(8) Santa Fe Exploration Company appeared at the hearing in opposition to the application.

(9) Testimony and evidence in this case indicates that Santa Fe Exploration Company is in disagreement with certain terms and conditions within the Joint Operating Agreement proposed by the applicant and is also in disagreement with the well costs as proposed by the applicant at the hearing.

(10) Evidence in this case indicates that the applicant has made a reasonable attempt to secure a fair voluntary agreement with Santa Fe Exploration Company and has further presented as evidence a schedule of estimated well costs which appears to be reasonable at this point.

(11) Under the terms of this pooling order, Santa Fe Exploration Company will have the right to object to actual well costs after they have been determined, at which time the Division will determine reasonable well costs after notice and hearing.

(12) 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 units.

(13) The applicant should be designated the operator of the subject well and units.

(14) 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.

(15) 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 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(16) 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.

(17) 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.

(18) At the time of the hearing, the applicant proposed that \$6128.00 per month while drilling and \$613.00 per month while producing be fixed as reasonable charges for supervision (combined fixed rates).

(19) The proposed overhead costs are substantially higher than those contained in the 1987 Ernst & Whinney Survey of Combined Fixed-Rate Overhead Charges for Oil and Gas Production, which indicates average drilling and producing overhead rates of \$4963.00 and \$477.00, respectively.

(20) The overhead charges in this case should be adjusted to reflect amounts more in line with current average industry rates.

(21) \$5500.00 per month while drilling and \$550.00 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.

(22) 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.

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

(24) 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.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to either the base of the Morrow formation or to a depth of 13,700 feet, whichever is deeper, underlying the following described acreage in Section 26, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, are hereby pooled in the following described manner:

The N/2 of said Section 26 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools within said vertical limits developed on 320-acre spacing;

The S/2 NW/4 of said Section 26 to form a standard 80-acre oil spacing and proration unit in the Undesignated EK-Bone Spring Pool; and

The SE/4 NW/4 of said Section 26 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools within said vertical limits developed on 40-acre spacing.

(2) All of the above-described units shall be dedicated to the applicant's Corbin Federal Com Well No. 1 located at a standard 320-acre gas and 40-acre oil spacing and proration unit location 1650 feet from the North line and 1980 feet from the West line (Unit F) of said Section 26.

(3) In the event the subject well is completed in the Bone Spring formation, the applicant shall be required to obtain approval from the Division for an unorthodox location within the EK-Bone Spring Pool.

(4) Sun Exploration and Production Company is hereby designated the operator of the subject well and units.

(5) After the effective date of this order, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(6) 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.

(7) 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.

(8) 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.

(9) 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, 200 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.

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

(11) \$5500.00 per month while drilling and \$550.00 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.

(12) Any unsevered 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.

(13) 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.

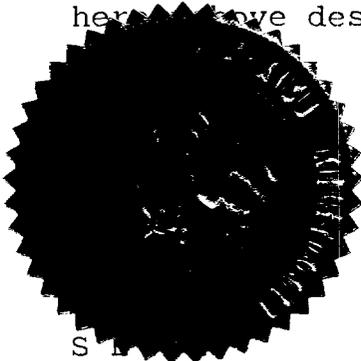
(14) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said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

(15) 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.

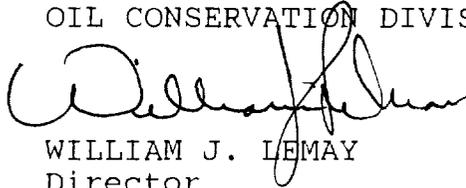
(16) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(17) Jurisdiction of this cause 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 hereabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


WILLIAM J. LEMAY
Director