

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

APPLICATION OF TXO PRODUCTION
CORPORATION FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

CASE: 8783
ORDER: R-8136

JOSEPH S. SPRINKLE
REQUEST FOR STAY
OF DIVISION ORDER

Comes now JOSEPH S. SPRINKLE, by and through his attorneys, Kellahin & Kellahin, and pursuant to Division Memorandum 3-85 requests that the Division Stay Order R-8136 and as grounds therefore states:

1. On January 9, 1986, the Division completed its hearing on TXO Production Corporation's application for the compulsory pooling of Mr. Sprinkle's 31.25% interest.

2. On January 22, 1986, the Division entered its compulsory pooling order R-8136, a copy of which is enclosed as Exhibit A.

3. On January 28, 1986, TXO Production Corporation filed its application for a DeNovo Hearing of this case which has been set by the Commission for hearing on February 26, 1986.

4. On January 29, 1986, TXO Production Corporation notified Mr. Sprinkle that he had thirty days in which to prepay his share of the costs of the subject well or be subject to a risk factor penalty.

5. That Mr. Sprinkle's election period under the order will expire on February 28, 1986, just two days after commencement of the Commission docket on which the DeNovo case is now scheduled.

6. That unless the Division Order is stayed, Mr. Sprinkle will be denied a reasonable period of time in which to make an election following the Commission hearing.

7. TXO has attempted to enforce against Mr. Sprinkle the terms of a Division Order that TXO has appealed. Such action for all practical purposes will force Mr. Sprinkle to make an election to participate under the terms of a pooling order which is still being contested and has not become a final order of this Commission.

WHEREFORE, in order to protect the correlative rights of Mr. Sprinkle, we request that the Division Stay Order R-8136 so as to give Mr. Sprinkle a reasonable

period of time after entry of the Commission's order in which to exercise an election to participate in the subject well or go non-consent.

Kellahin & Kellahin

By 

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CASE NO. 8783
Order No. R-8136

APPLICATION OF TXO PRODUCTION
CORPORATION 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 January 9, 1986, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 22nd day of January, 1986, 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) At the time of the hearing this case was consolidated with Case No. 8755 for the purpose of testimony.

(3) The applicant, TXO Production Corporation, seeks an order pooling all mineral interests in all formations from 4,825 feet beneath the surface to the base of the Bone Spring formation underlying the SE/4 NW/4 (Unit F) of Section 26, Township 18 South, Range 32 East, NMPM, Lea County, New Mexico.

(4) Joseph Sprinkle, owner of a 31.25 percent undivided interest in the entire NW/4 of said Section 26 appeared at the hearing in opposition to TXO's application.

(5) The applicant has the right to drill and proposes to drill its Sprinkle Federal Well No. 4 at a standard location in the SE/4 NW/4 of said Section 26, to a depth sufficient to test the Bone Spring formation at approximately 8,700 feet.

EXHIBIT A

(6) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(7) 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 oil 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.

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

(9) 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. In such event, the operator shall furnish to such interest owner, during the drilling and completion of such well, and upon establishing production therein, all information reasonably available to the operator, including daily drilling reports, all electric and mud logs, results of drillstem tests, and all productivity tests, completion data, oil and gas analysis tests, and like information; provided that nothing herein shall require operator to perform any additional tests not conducted in the reasonable and ordinary course of its business.

(10) While at the time of the hearing Joseph Sprinkle recommended a 25 percent risk penalty factor for the drilling of the subject well and TXO Production Company recommended a 180 percent risk penalty, the geological evidence presented by both parties is insufficient to justify either of the proposed risk penalty factors but does, however, indicate that 150 percent is a fair and reasonable risk penalty factor to be imposed for the risk involved in the drilling of the subject well.

(11) TXO Production Corporation presented as evidence in this case an AFE (Authorization For Expenditure) showing the estimated well costs, including drilling cost, completion cost, and production equipment cost, for said Sprinkle Federal Well No. 4 to be \$615,550.00.

(12) The evidence and testimony indicates the above estimated well costs to be just and reasonable for the subject well.

(13) 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 150 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(14) 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.

(15) 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.

(16) At the time of the hearing the applicant proposed that the reasonable monthly fixed charges for supervision while drilling and producing should be \$5,374.00 and \$538.00 respectively.

(17) The above drilling and producing charges are above the normal monthly fixed charges in this area for a well to a comparable depth and should therefore be adjusted to reflect a more reasonable rate.

(18) \$4100.00 per month while drilling and \$410.00 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.

(19) 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.

(20) Due to provisions within the Leasing Agreement an extended period of time to commence drilling this well should be given.

(21) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is

dedicated on or before July 1, 1986, the order pooling said unit should become null and void and of no effect whatsoever.

(22) 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.

(23) 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, in all formations from 4,825 feet beneath the surface to the base of the Bone Spring formation underlying the SE/4 NW/4 (Unit E) of Section 26, Township 18 South, Range 32 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 40-acre oil spacing and proration unit to be dedicated to the Sprinkle Federal Well No. 4 to be drilled at a standard oil well location thereon.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the first day of July, 1986, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Bone Spring formation;

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the first day of July, 1986, 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 for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement 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) TXO Production Corporation 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.

(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. In such event, the operator shall furnish to such interest owner, during the drilling and completion of such well, and upon establishing production therein, all information reasonably available to the operator, including daily drilling reports, all electric and mud logs, results of drillstem tests, and all productivity tests, completion data, oil and gas analysis tests, and like information; provided that nothing herein shall require operator to perform any additional tests not conducted in the reasonable and ordinary course of its business.

(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, that if there is an 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 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, 150 percent of the pro rata share of reasonable well costs

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) \$4100.00 per month while drilling and \$410.00 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 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.

(11) 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.

(12) 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.

(13) Should all parties to this forced pooling 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.

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Case No. 8783

Order No. R-8136

(15) 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 hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


R. L. STAMETS,
Director

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