

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. 10888  
ORDER NO. R-10060*

**APPLICATION OF MERRION OIL AND GAS CORPORATION FOR COMPULSORY  
POOLING AND A NON-STANDARD GAS PRORATION UNIT, RIO ARriba  
COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on December 16, 1993 and February 3, 1994, at Santa Fe, New Mexico, before Examiner Jim Morrow.

Now, on this 10th day of February, 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) The applicant, Merrion Oil & Gas Corporation (Merrion) seeks an order pooling all mineral interests in the Basin Dakota Pool underlying Lots 1 through 8 (N/2 equivalent) of Section 24, Township 27 North, Range 7 West, NMPM, Rio Arriba County, New Mexico, being a non-standard 352.07-acre gas spacing and proration unit presently dedicated to a well located 1720 feet from the North line and 1000 feet from the East line (Unit H) of said Section 24.

(3) The applicant proposes to drill an infill well at a standard gas well location in Lot 3 (NE/4 NW/4 equivalent) of said Section 24 to which said unit is also to be simultaneously dedicated.

(4) The applicant has the right to develop the subject unit and produce the gas underlying it; at this time however, not all the working interest owners in the proposed 352.07-acre gas spacing and proration unit have agreed to pool their interests.

(5) The applicant's witness presented documents and testimony at the December 16th hearing to show that 94.375% of the working interest owners in the subject unit have signed an operating agreement and are committed to participating in drilling the proposed well. Two working interest owners, Doris Henderson with 3.75% and Harriet M. Buchenau with 1.875% had not committed their interests. Until recently these two interests (along with the interest of Sara Mims with 1.875%) were participating as overriding royalty interests. In searching the title, Merrion discovered that the Henderson, Mims, and Bechenau interests should have converted to working interests due to reduced rates of production from the property. These interests have been treated as working interests since July 1, 1993. Ms. Buchenau advised Merrion that she does not believe she has a working interest, but if she does, she would elect to have it forced pooled. Ms. Henderson had not been found. Ms. Mims has agreed to participate.

(6) At the December 16th hearing, legal counsel for the Division instructed the Applicant to try harder to locate Ms. Henderson.

(7) The applicant submitted an affidavit on February 1, 1994. The affidavit stated that renewed efforts to locate Ms. Henderson had resulted in the discovery that Ms. Henderson had died on July 24, 1992. Two of Ms. Henderson's three heirs have agreed to participate in the proposed operation and the third has agreed to sell her interest to Merrion. Ms. Bechenau's interest (1.875%) is the only working interest which is not committed to participation in the operation at this time.

(8) The applicant submitted information to show that the North half of said Section 24 was approved as a non-standard gas proration unit on March 8, 1968. Since that time said unit has been dedicated to the Shelby Federal Com Well No. 1. Simultaneous dedication of the unit to the proposed infill well will not require further approval of the non-standard gas proration unit. The portion of the application concerning approval for a non-standard gas proration unit should therefore be dismissed.

(9) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent 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 gas in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

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

(11) 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.

(12) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for risk involved in the drilling of the well.

(13) 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.

(14) 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.

(15) Applicant requested that combined fixed-rate overhead charges be set at \$5012 and \$440, based on Ernst and Young survey results from 1992. 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.

(16) 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.

(17) Upon the failure of the operator of said pooled unit to commence work on the infill well to which said unit is to be dedicated on or before April 1, 1994, the order pooling said unit should become null and void and of no further effect whatsoever.

(18) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(19) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(20) No offset operator or interest owner appeared at the hearing in opposition to this application.

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, in the Basin Dakota Pool underlying Lots 1 through 8 (N/2 equivalent) of Section 24, Township 27 North, Range 7 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled to form a non-standard 352.07-acre gas spacing and proration unit for said pool.

(2) Said unit is to be simultaneously dedicated to an existing well located 1720 feet from the North line and 1000 feet from the East line (Unit H) of said Section 24 and to an infill well to be drilled at a standard gas well location in Lot 3 (NE/4 NW/4 equivalent) of said Section 24.

**PROVIDED HOWEVER THAT,** the operator of said unit shall commence the drilling of said well on or before the 1st day of April, 1994, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Basin Dakota Pool producing formation.

**PROVIDED FURTHER THAT,** in the event said operator does not commence the drilling of said well on or before the 1st day of April, 1994, Decretory Paragraphs Nos. (1) and (2) 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 Decretory Paragraph Nos. (1) and (2) of this order should not be rescinded.

(3) Merrion Oil and Gas Corporation is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and prior to commencing work on said well, the operator shall furnish the Division and each working interest owner in the subject unit an itemized schedule of estimated well costs.

(5) 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 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.

(6) 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 an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) 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.

(8) 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; and
- (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.

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

(10) \$5,012 per month while drilling and \$440 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.

(11) 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.

(12) 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.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall 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.

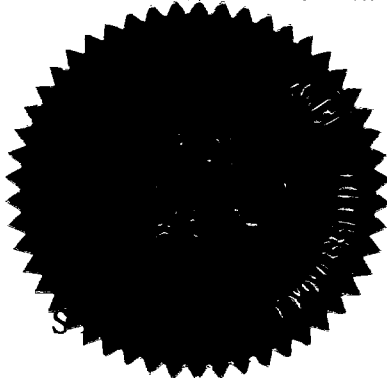
(14) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

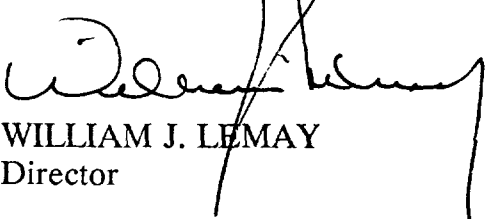
(16) The portion of this case involving the non-standard gas proration unit is hereby dismissed for the reason set out in Finding Paragraph No. 6.

(17) Jurisdiction of this cause is retained for 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