

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. 13484  
ORDER NO. R-12424

APPLICATION OF EDGE PETROLEUM  
EXPLORATION COMPANY FOR COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO.

**ORDER OF THE DIVISION**

**BY THE DIVISION;**

This case came on for hearing at 8:15 a.m. on July 14, 2005, at Santa Fe, New Mexico, before Examiner Richard I. Ezeanyim.

NOW, on this 22<sup>nd</sup> day of September, 2005, 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) The applicant, Edge Petroleum Exploration Company ("Applicant"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the S/2 of Section 28, Township 19 South, Range 32 East, NMPM, Lea County, New Mexico, in the following manner:

the S/2 to form a non-standard 320-acre spacing and proration unit for any formations and/or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated Southeast Lusk-Atoka Gas Pool and Lusk-Morrow Gas Pool; and

the SW/4 to form a standard 160-acre spacing and proration unit for any formations and/or pools spaced on 160 acres within this vertical extent, which presently include but are not necessarily limited to the Lusk-Strawn Pool.

(3) The above-described units (the "Units") are to be dedicated to Applicant's South Lusk "28" Fed. Well No. 1, to be drilled at an orthodox well location 660 feet from the South line and 830 feet from the West line (Unit M) of Section 28.

(4) By Order No. R-2373, issued in case No. 2691 on November 21, 1962, the Division created the Lusk-Morrow Gas Pool and promulgated Temporary Special Rules and Regulations including a provision for 640-acre spacing and proration units, and said Rules and Regulations were made permanent by Division Order No. R-2373-B issued on May 19, 1965. The Morrow formation is within the boundaries of the Lusk-Morrow Gas Pool.

(5) By Order No. R-12404, issued in case No. 13506 on August 10, 2005, the Division approved the application of Edge Petroleum Exploration Company ("Edge") to establish a non-standard 320-acre spacing and proration unit within the Lusk-Morrow Gas Pool comprising the S/2 of Section 28, Township 19 South, Range 32 East, NMPM, Lea County, New Mexico.

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

(7) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill and proposes to drill its South Lusk "28" Fed. Well No. 1 to a common source of supply at a standard well location within the SW/4SW/4 of Section 28.

(8) There are interest owners in the proposed Units who have not agreed to pool their interests.

(9) At the hearing, the Applicant presented testimony that demonstrates that:

(a) The primary zones of interest in the proposed well are the Atoka and the Morrow formations. The Strawn formation is a secondary zone of interest;

(b) The Applicant originally sought to pool all uncommitted mineral interest owners from the surface to the base of the Morrow formation. However, at the hearing the Applicant stated that it sought to pool only depths from the top of the Strawn formation to the base of the Morrow formation. Therefore, the portion of this case seeking to pool depths above the top of the Strawn formation should be dismissed;

(c) Since the commencement of this case, the working interest owners owning rights below the base of the Strawn formation, which are developed on 320 acre spacing, have reached voluntary agreement with the Applicant. Therefore, the portion of this case seeking to pool 320-acre units should also be dismissed; and

(d) The mineral interest owners in the Strawn formation do not own any mineral interests above or below the Strawn formation.

(10) The Applicant requested that the uncommitted working interests in the SW/4 of Section 28 in the Strawn formation be pooled only for a completion attempt in an uphole zone, spaced on 160 acres, which should occur within 120 days of the commencement of the well. The Applicant also requested that the uncommitted mineral interests be asked to pay its share of the drilling costs from the surface to 100 feet below the deepest perforation if there is such a completion attempt, but shall not be responsible for costs of pipe, logs, plugback, etc. that are associated with operations or completion attempts which have previously been made in the wellbore below the base of the Strawn formation.

(11) Because an uphole completion attempt is time sensitive, the Applicant requested that uncommitted mineral interest owners in the Strawn formation be required to make an election on a completion attempt in the Strawn formation within 48 hours from the time a schedule of costs is furnished to them if there is a rig on location, and 30 days if there is no rig on location.

(12) The cost allocation formula proposed by the Applicant for a completion attempt in the Strawn formation is fair and reasonable, and should be adopted. This cost allocation formula is detailed in exhibit 7 and should be attached and made part of this order.

(13) Cimarex Energy Company appeared at the hearing through legal counsel in support of the application.

(14) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Units 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 Units.

(15) Edge Petroleum Operating Company should be designated the operator of the subject well and of the Units.

(16) 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.

(17) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,500.00 per month while drilling and \$650.00 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*."

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Edge Petroleum Exploration Company, all uncommitted mineral interests from the top to the base of the Strawn formation underlying the SW/4 of Section 28, Township 19 South, Range 32 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

the SW/4 to form a standard 160-acre spacing and proration unit for any formations and/or pools spaced on 160 acres within this vertical extent which presently include but are not necessarily limited to the Lusk-Strawn Pool.

The above-described Unit shall be dedicated to Applicant's South Lusk "28" Fed. Well No. 1 to be drilled at a standard well location 660 feet from the South line and 830 feet from the West line (Unit M) of Section 28.

(2) The portions of the application requesting the pooling of (i) the depths above the top of the Strawn formation, and (ii) the 320-acre well units, are hereby dismissed.

(3) The operator of the Unit shall commence drilling the proposed well on or before December 30, 2005 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 December 30, 2005, 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 subject well not be drilled, and a completion attempt be made in the Strawn formation, within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the Unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(6) The cost allocation formula proposed by the Applicant for a completion attempt in the Strawn formation is fair and reasonable, and is hereby adopted. This cost allocation formula is detailed in exhibit 7 which is attached and made part of this order.

(7) Upon final plugging and abandonment of the subject well, the pooled Unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(8) Edge Petroleum Operating Company is hereby designated the operator of the subject well and of the Unit.

(9) 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 Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, and if within the time period specified in Ordering Paragraph (5) a completion is attempted in the Strawn formation, 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 subject well ("well costs"); provided, however, if the

operator has actual data on drilling costs, that data shall be used in lieu of estimated well costs.

(10) All costs of drilling the proposed well to a depth below the base of the Strawn formation shall be initially borne by the owners of these rights. However, if a completion is attempted in a formation lying in the Strawn formation within the time permitted by Ordering Paragraph (5), then the working interest owners of the rights in the Strawn formation shall bear their proportionate shares of drilling and completion costs from the surface to 100 feet below the deepest perforation. The interest owners in the Strawn formation shall not be responsible for the costs of pipe, logs, plugback, etc. that are associated with operations or completion attempts which have previously been made in the wellbore below the base of the Strawn formation.

(11) Within the time set forth below that the schedule of estimated drilling costs, or schedule of actual drilling costs, on a completion attempt in the Strawn formation 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 well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners." The election of a pooled working interest owner shall be made (a) within 48 hours if a rig is on location, or (b) within 30 days if no rig is on location, from the time that the schedule of the costs is furnished.

(12) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) 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.

(13) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated well costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceeded estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceeded its share of reasonable well costs.

(14) 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.

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

(16) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,500.00 per month while drilling and \$650.00 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.

(17) Except as provided in Ordering Paragraphs (14) and (16) above, all proceeds from production from the well that 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

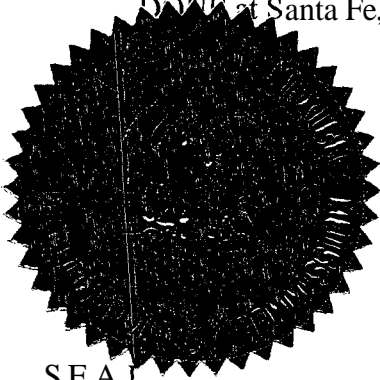
(18) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working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

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

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

(21) 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.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.  
Director