

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. 13176
ORDER NO. R-8618-A

APPLICATION OF EAGLE RESOURCES, L.P.
FOR COMPULSORY POOLING AND AN
UNORTHODOX GAS WELL LOCATION,
ROOSEVELT COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on October 23, 2003, at Santa Fe, New Mexico before Examiner Michael E. **Stogner**.

NOW, on this 7th day of November, 2003, 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 its **subject** matter.

(2) Eagle Resources, **L.P.** ("Applicant") seeks an order pooling all uncommitted mineral interests from the surface to the base of the **Ordovician** formation underlying the following acreage in Section 34, Township 2 South, Range 29 East, **NMPM**, Roosevelt County, New Mexico:

(a) the N/2 to form a standard **320-acre** lay-down deep gas spacing unit for any and all formations **and/or** pools developed on 320-acre spacing within that vertical extent, which presently include but are not necessarily limited to the **Tule-Pennsylvanian** Gas Pool (86443) and **Undesignated Tule-Montoya** Gas Pool (86442);

(b) the NE/4 to form a standard 160-acre shallow gas spacing unit for any and all formations **and/or** pools developed on 160-acre spacing within that vertical extent, which presently include but are not necessarily limited to the **Undesignated Tule-San Andres** Gas Pool (86444);

(c) the N/2 NE/4 to form a standard lay-down 80-acre oil spacing and proration unit for any pool with special rules providing for the development of that pool on 80-acre spacing within that vertical extent; and

(d) the NW/4 NE/4 to form a standard 40-acre oil spacing and proration unit for formations **and/or** pools developed on 40-acre spacing within that vertical extent.

(3) Subsequent to the hearing, it was determined that there are no pools within the immediate area of this well that are spaced on 80 acres [see Division Rule 104.A (2)]; therefore, the request to pool the 80-acre unit should be dismissed at this time.

(4) The Applicant is a working interest owner within the remaining 320-acre, 160-acre, and 40-acre units and therefore has the right to develop the minerals underlying these units.

(5) At this time the Applicant proposes to re-enter **and recomplete** the temporarily abandoned Cook Well No. 1 (**API** No. 30-041-20823), which is located 330 feet from the North line and 1980 feet from the East line (Unit B) of Section 34.

(6) This well and the N/2 of Section 34, being a standard 320-acre lay-down deep gas spacing unit were the subject of Division Order No. **R-8618**, issued in Cases No. 9309 and 9321 on March 28, 1988, which order: (i) pooled all mineral interests from the surface to the base of the **Ordovician** formation; (ii) designated Marshall Pipe and Supply Company ("Marshall") as the operator of the unit; and (iii) approved the Cook Well No. 1 to be drilled at the above-described unorthodox deep gas well location. Division records indicate that Marshall drilled this well in 1988 to a depth of 7,205 feet. In 1997 Marshall set a cast iron bridge plug at a depth of 6,950 feet with 35 sacks of cement on top, thereby temporarily abandoning this well without producing any oil or gas.

(7) Under the current statewide well spacing rules this location is: (i) standard for the proposed 40-acre oil unit [see Division Rule **104.B(1)**]; **(ii)** unorthodox for a shallow gas well in southeast New Mexico spaced on **160-acre** units [see Division Rule **104.C(3)**]; and (iii) still unorthodox for a deep gas well within the subject 320-acre unit [see Division Rule **104.C(2)(a)**].

(8) There are certain mineral interest owners within the proposed 40-acre, 160-acre, and 320-acre units who have not agreed to pool their interests.

(9) 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 mineral interests, whatever they may be, within these units.

(10) Applicant should be designated the operator of the subject well and units.

(11) Pursuant to Division Rule **35.A**, 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 percent thereof as a reasonable charge for the risk involved in re-entry and recompletion operations.

(12) At the time of the hearing the Applicant proposed fixed overhead and administrative costs of \$7,500.00 per month while re-entering the Cook Well No. 1 and \$650.00 per month while producing.

(13) The proposed monthly rate for re-entering the existing wellbore (drilling well rate) is in excess of the "maximum" rate for wells of similar depth in New Mexico according to the latest available "Fixed Rate Overhead **Survey** 2002 - 2003." published by Ernst & Young, LLP of Houston, Texas.

(14) The proposed **overhead** rate charges while re-entering the existing Cook Well No. 1 should therefore be adjusted to conform to the survey rates described above with allowance for inflation.

(15) Reasonable charges for supervision (combined fixed rates) should be fixed at \$ 6,000.00 per month while re-entering and \$ 650.00 per month while producing, provided that these rates should be adjusted annually pursuant to Section **III. 1 .A.3.** of the **COP AS** form titled "*Accounting Procedure-Joint Operations.*" The operator should be 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 each pooled working interest.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Eagle Resources, L. P. ("Applicant"), all uncommitted mineral interests, whatever they may be, from the surface to the base of the **Ordovician** formation underlying the following-described acreage in Section 34, Township 2 South, Range 29 East, **NMPM**, Roosevelt County, New Mexico, are hereby pooled in the following manner:

(a) the N/2 to form a standard 320-acre lay-down deep gas spacing unit for any and all formations **and/or** pools developed on 320-acre spacing within that vertical extent, which presently include but are not necessarily limited to the **Tule-Pennsylvanian** Gas Pool (86443) and **Undesignated Tule-Montoya** Gas Pool (86442);

(b) the NE/4 to form a standard 160-acre shallow gas spacing unit for any and all formations **and/or** pools developed on 160-acre spacing within that vertical extent, which presently include but are not necessarily limited to the **Undesignated Tule-San Andres** Gas Pool (86444); and

(c) the **NW/4 NE/4** to form a standard 40-acre oil spacing and proration unit for formations **and/or** pools developed on 40-acre spacing within that vertical extent.

(2) These three units are to be dedicated to the Applicant's existing Cook Well No. 1 (**API** No. 30-041-20823), located 330 feet from the North line and **1980** feet from the East line (Unit B) of Section 34.

(3) This location, hereby approved, is standard for the 40-acre oil spacing and proration unit but unorthodox for both: (i) the 320-acre lay-down deep gas spacing unit; and (ii) the 160-acre shallow gas spacing unit.

(4) That portion of Eagle Resources, L. P.'s application for the formation and pooling of an 80-acre oil spacing and proration unit comprising the N/2 NE/4 of Section 34 is hereby dismissed.

(5) Eagle Resources, L. P. is hereby designated the operator of the subject well and units.

(6) The operator shall commence re-entry operations on this well on or before February 1, 2004, and shall thereafter continue re-entering this wellbore with due diligence to a depth sufficient to test the **Ordovician** formation.

(7) In the event the operator does not commence re-entry operations on the well on or before February 1, 2004, Ordering Paragraph No. (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(8) Should the well not be re-entered and recompleted within 120 days after commencement thereof, Ordering Paragraph No. (1) shall be of no further effect, and the units created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to re-enter and recomplete the well for good cause demonstrated by satisfactory evidence.

(9) Upon final plugging and abandonment of this wellbore, the pooled units created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(10) 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 these three units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the units an itemized schedule of estimated well costs of re-entering, **recompleting**, and equipping the above-described Cook Well No. 1 ("well costs").

(11) Within 30 days from the date the schedule of estimated well costs 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."

(12) The operator shall furnish the Division and each known pooled working interest owner (including each non-consenting working interest owner) 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 exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs that it has paid exceeds 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 re-entering and recompleting the existing wellbore, 200 percent of the above costs (see Division Rule 35.A).

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

(16) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$ 6,000.00 per month while re-entering and \$ 650.00 per month while producing, provided that this rate shall be adjusted annually pursuant to Section III.1.A.3 of the COP AS form titled "Accounting Procedure-Joint Operations." The operator is hereby 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 each 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 Roosevelt 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, that portion of this order authorizing compulsory pooling shall thereafter be of no further effect.

(20) The operator of the above-described 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.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in cursive script, reading "Lori Wrotenbery".

LORI WROTENBERY
Director