

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. 13206
ORDER NO. R-12006-A

**APPLICATION OF MACK ENERGY CORPORATION TO AMEND
COMPULSORY POOLING ORDER NO. R-12006 TO INCLUDE ADDITIONAL OIL
WELLS FOR EXISTING 40-ACRE SPACING AND PRORATION UNITS, LEA
COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 22, 2004, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 24th day of February, 2004, 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) By Order No. R-12006, issued in Case No. 13070 on August 20, 2003, the Division granted the application of Mack Energy Corporation (herein referred either as "Mack" or "Applicant") for the compulsory pooling of all uncommitted mineral interests, whatever they may be, from the surface to a depth of 5,000 feet for any and all formations or pools developed on 40-acre spacing pursuant to Division Rule 104.B (1), which presently include, but are not necessarily limited to the **Undesignated Maljamar-Yates Pool (44590)**, **Undesignated Pearsall-Seven Rivers Pool (49950)**, **Undesignated Pearsall-Queen Pool (49970)**, **Maljamar Grayburg-San Andres Pool (43329)**, and **Undesignated Tamano-Delaware Pool (97270)**, underlying the following four 40-acre, more or less, standard oil spacing and proration units all located within the SW/4 of Section 31, Township 17 South, Range 32 East, NMPM, Lea County, New Mexico:

(A) the NE/4 SW/4 (Unit K) to be dedicated to Mack's Panther Federal Well No. 3 (**API** No. 30-025-36324), located at a standard oil well location 1650 feet from the South and West lines of Section 31;

(B) Lot 3 [NW/4 SW/4 equivalent (Unit L) containing 40.94 acres] to be dedicated to Mack's Panther Federal Well No. 1 (**API** No. 30-025-36307), located at a standard oil well location 1650 feet from the South line and 330 feet, more or less, from the West line of Section 31;

(C) Lot 4 [SW/4 SW/4 equivalent (Unit M) containing 40.92 acres] to be dedicated to Mack's proposed Panther Federal Well No. 5 (**API** No. 30-025-36492) to be drilled at a standard oil well location thereon; and

(D) the SE/4 SW/4 (Unit N) to be dedicated to Mack's proposed Panther Federal Well No. 6 (**API** No. 30-025-36326) to be drilled at a standard oil well location 990 feet from the South line and 2310 feet from the West line of Section 31.

(3) Division Order No. R-12006 further: (i) required Mack as operator of the four subject units, to commence drilling each well on or before December 31, 2003; and (ii) provided that a risk penalty of 200 percent be assessed against all uncommitted mineral interest owners in each unit for the risk involved in drilling each well.

(4) In the standard 40-acre oil spacing and proration unit comprising the NE/4 SW/4 (Unit K) of Section 31, Mack has drilled and completed the above-described Panther Federal Well No. 3 and is currently producing oil from the Undesignated Tamano-Delaware Pool.

(5) In the standard 40.94-acre oil spacing and proration unit comprising Lot 3 (Unit L) of Section 31, Mack has drilled and completed the above-described Panther Federal Well No. 1 and is currently producing oil from the Undesignated Tamano-Delaware Pool.

(6) Applicant now seeks to amend Division Order No. R-12006 to include an additional well in each of these standard 40-acre, more or less, oil spacing and proration units comprising: (i) ~~the~~ NE/4 SW/4 (Unit K) of Section 31; and (ii) Lot 3 [NW/4 SW/4 equivalent (Unit L)] of Section 31.

(7) Applicant proposes to drill its Panther Federal: (i) Well No. 4 (**API No. 30-025-36325**) in the NE/4 SW/4 (Unit K) of Section 31 at a standard oil well location 2310 feet from the South and West lines of Section 31; and (ii) Well No. 2 (**API No. 30-025-36323**) in Lot 3 (Unit L) of Section 31 at a standard oil well location 2310 feet from the South line and 990 feet from the West line of Section 31.

(8) Two or more separately owned tracts are embraced within each of these two units, **and/or** there are royalty interests **and/or** undivided interests in oil and gas minerals in one or more tracts included in either of these units that are separately owned.

(9) Applicant is an owner of an oil and gas working interest within both of these units and therefore has the right to drill for and develop the oil and gas minerals underlying both.

(10) There are certain mineral interest owners within these two units that **have** not agreed to pool their interests.

(11) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste, and afford to the owner of each interest **in** these two units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved.

(12) Applicant should be designated the operator of the proposed wells.

(13) Pursuant to Division Rule 35.A, any pooled working interest owner who does not pay its share of estimated well costs with respect to either of the two proposed wells 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 the drilling of such well.

(14) Reasonable charges for supervision (combined fixed rates) for each well should be fixed at \$ 3,500.00 per month while drilling and \$ 475.00 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 from each well the proportionate share of both the supervision charges and the actual expenditures required for operating such 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 Mack Energy Corporation ("Applicant") Division Order No. R-12006 is hereby amended to authorize two of the units thereby created to be dedicated to Applicant's proposed additional wells as follows:

(A) the 40 acres comprising the NE/4 SW/4 (Unit K) of Section 31, Township 17 South, Range 32 East, NMPM, Lea County, New Mexico, is to be dedicated to Applicant's proposed Panther Federal Well No. 4 (API No. 30-025-36325) to be drilled at a standard oil well location 2310 feet from the South and West lines of Section 31; and

(B) Lot 3 of Section 31 [NW/4 SW/4 equivalent (Unit L) containing 40.94 acres], is to be dedicated to Applicant's proposed Panther Federal Well No. 2 (API No. 30-025-36323) to be drilled at a standard oil well location 2310 feet from the South line and 990 feet from the West line of Section 31.

(2) The operator of these two units shall commence drilling each of the proposed wells on or before May 15, 2004, and shall thereafter continue drilling each of the wells with due diligence to a depth of 5,000 feet.

(3) In the event the operator does not commence drilling either of the proposed wells on or before May 15, 2004, this order shall be of no further effect as to such proposed well, unless the operator obtains a time extension from the Division Director for good cause.

(4) Should either of the proposed wells not be drilled and completed within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded as to such proposed well.

(5) Upon final plugging and abandonment of the last unit well on either of the above-described units, this Order shall terminate as to such unit, unless this Order has been amended to authorize further operations.

(6) Applicant is hereby designated the operator of the proposed wells.

(7) Uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in either of these two units, including **unleased** mineral interests, who are not parties to an operating agreement governing such unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in each of these two units an itemized schedule of estimated well costs of drilling, completing, and equipping the proposed well to which such unit is hereby dedicated ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs is furnished for either well, any pooled working interest owner who owns an interest in the unit hereby dedicated to such well shall have the right to pay its share of estimated well costs of such well 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 of such well but shall not be liable for risk charges applicable to such well. Pooled working interest owners who elect not to pay their share of estimated well costs of either well as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners" with respect to such well.

(9) The operator shall furnish the Division and each known pooled working interest owner (including each non-consenting working interest owner) in the unit dedicated to such well an itemized schedule of actual well costs of such well 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.

(10) Within 60 days following determination of reasonable well costs of either well, any pooled working interest owner who has paid its share of estimated well costs of such well 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.

(11) The operator is hereby authorized to withhold the following costs and charges from production from either well:

- (a) the proportionate share of reasonable well costs of such well attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling such well, 200 percent of the above costs (see Division Rule 35.A).

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

(13) Reasonable charges for supervision (combined fixed rates) for each of the proposed wells are hereby fixed at \$ 3,500.00 per month while drilling and \$ 475.00 per month while producing, provided that these rates 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 from each well the proportionate share of both the supervision charges and the actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each pooled working interest owner.

(14) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the proposed wells 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.

(15) 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.

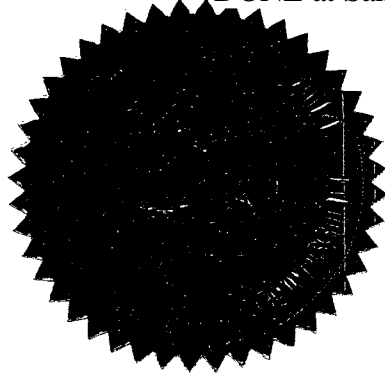
(16) Should all the parties to this compulsory pooling order, as to either of these two units, reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect as to such well and respective unit affected by this order.

(17) The operator of the above-described wells and units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this Order as to one or both of the units.

(18) Division Order No. R-12006 shall remain in full force and effect except to the extent amended hereby.

(19) 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


LORI WROTENBERY
Director