

**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:**

**Reopened
CASE NO. 12104
Order No. R-11149-A**

**APPLICATION OF HARVARD PETROLEUM
CORPORATION FOR COMPULSORY POOLING
AND AN UNORTHODOX OIL 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 May 13, 1999, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 25th day of May, 1999, 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) This case was originally called and dismissed by Examiner Michael E. Stogner on March 4, 1999, after the applicant failed to appear or request a continuance.
- (3) The applicant, Harvard Petroleum Corporation, seeks an order pooling all mineral interests from the surface to the base of the San Andres formation underlying the following described acreage in Section 5, Township 8 South, Range 37 East, NMPM, Roosevelt County, New Mexico, and in the following manner:

Lots 3 and 4, the S/2 NW/4 and the SW/4 (W/2 equivalent), thereby forming a standard 319.09-acre gas spacing and proration unit for any and all pools developed on 320-acre spacing within that vertical extent which presently includes only the Bluit-San Andres Associated Pool;

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the SW/4 to form a standard 160-acre gas spacing and proration unit for any and all pools developed on 160-acre spacing within that vertical extent;

the E/2 SW/4 to form a standard 80-acre oil spacing and proration unit for any and all pools developed on 80-acre spacing within that vertical extent which presently includes only the Bluit-San Andres Associated Pool; and,

the SE/4 SW/4 to form a standard 40-acre oil spacing and proration unit for any and all pools developed on 40-acre spacing within that vertical extent.

All of these units are to be dedicated to the applicant's proposed Williams Well No. 1 to be drilled 990 feet from the South line and 1650 feet from the West line (Unit N) of Section 5, this location being standard for the 319.09, 160, and 40-acre spacing and proration units, but unorthodox for the 80-acre spacing and proration unit.

(4) At the hearing the applicant testified that the location for the proposed Williams Well No. 1 will be changed to 660 feet from the South line and 1650 feet from the West line (Unit N) of Section 5. Pursuant to the Special Rules and Regulations for the Bluit-San Andres Associated Pool as contained within Division Order No. R-5353, as amended, the newly proposed location will be unorthodox with respect to the 319.09 and 80-acre spacing and proration units, and standard with respect to the 160 and 40-acre spacing and proration units.

(5) At the hearing the applicant further testified that it will seek administrative approval from the Division for the proposed unorthodox location and therefore requested dismissal of that portion of the case.

(6) The Division has determined that re-advertisement of this case and re-notification for the proposed change in well location is unnecessary due to the fact that there is only one party being pooled in this case, being the heirs of Mary Ann Gilder, whom the applicant has been unable to locate.

(7) The applicant has the right to drill and proposes to drill its Williams Well No. 1 at the location described above.

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

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(9) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to 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 the production in any pool completion resulting from this order, this application should be approved by pooling all mineral interests, whatever they may be, within the units.

(10) Harvard Petroleum Corporation should be designated the operator of the well and units.

(11) Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

(12) Any non-consenting 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 the drilling of the well.

(13) Any non-consenting working 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 its 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) Reasonable charges for supervision (combined fixed rates) should be fixed at \$3,000.00 per month while drilling and \$308.00 per month while producing. 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 non-consenting working interest.

(16) All proceeds from production from the well that 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) If the operator of the pooled units fails to commence drilling the well to which the units are dedicated on or before September 1, 1999, or if all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should become null and void and of no effect whatsoever.

(18) The operator of the well and units should notify 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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(19) Prior to producing the Williams Well No. 1, the applicant should be required to obtain administrative approval from the Division for the proposed unorthodox location.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the San Andres formation underlying the following described acreage in Section 5, Township 8 South, Range 37 East, NMPM, Roosevelt County, New Mexico, are hereby pooled in the following manner:

Lots 3 and 4, the S/2 NW/4 and the SW/4 (W/2 equivalent), thereby forming a standard 319.09-acre gas spacing and proration unit for any and all pools developed on 320-acre spacing within that vertical extent which presently includes only the Bluit-San Andres Associated Pool;

the SW/4 to form a standard 160-acre gas spacing and proration unit for any and all pools developed on 160-acre spacing within that vertical extent;

the E/2 SW/4 to form a standard 80-acre oil spacing and proration unit for any and all pools developed on 80-acre spacing within that vertical extent which presently includes only the Bluit-San Andres Associated Pool; and,

the SE/4 SW/4 to form a standard 40-acre oil spacing and proration unit for any and all pools developed on 40-acre spacing within that vertical extent.

All of these units shall be dedicated to the applicant's Williams Well No. 1 to be drilled at a location 660 feet from the South line and 1650 feet from the West line (Unit N) of Section 5, this location being unorthodox for the 319.09 and 80-acre spacing and proration units, but standard for the 160 and 40-acre spacing and proration units.

PROVIDED HOWEVER THAT, the operator of the units shall commence drilling the well on or before September 1, 1999, and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the San Andres formation.

PROVIDED FURTHER THAT, in the event the operator does not commence drilling the well on or before September 1, 1999, Ordering Paragraph (1) shall be null and void and of no effect whatsoever, unless the operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should the well not be drilled to completion or abandoned 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.

(2) Harvard Petroleum Corporation is hereby designated the operator of the well and units.

(3) After the effective date of this order and within 90 days prior to commencing the well, the operator shall furnish the Division and each known working interest owner in the units an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting 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, 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.

(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 the schedule, the actual well costs shall be the reasonable well costs; provided, however, that 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.

(6) Within 60 days following determination of reasonable well costs, any non-consenting 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 its 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 proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and
- (b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

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

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(9) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$3,000.00 per month while drilling and \$308.00 per month while producing. 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 non-consenting working interest.

(10) 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.

(11) Any well costs or charges that 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 well that are not disbursed for any reason shall immediately 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.

(13) Should all the parties to this forced pooling order 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 units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

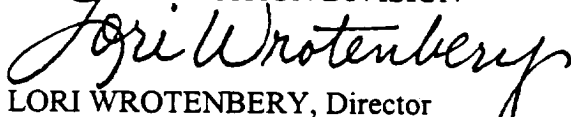
(15) That portion of the application seeking approval of an unorthodox location for the Williams Well No. 1 990 feet from the South line and 1650 feet from the West line (Unit N) of Section 5, is hereby dismissed.

(16) Prior to producing its Williams Well No. 1 in the Bluitt-San Andres Pool, the applicant shall obtain administrative approval from the Division for the unorthodox well location.

(17) Jurisdiction is hereby 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


LORI WROTENBERY, Director