

**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. 12775
ORDER NO. R-11719**

**APPLICATION OF CONCHO OIL & GAS CORP. FOR COMPULSORY
POOLING, AN UNORTHODOX OIL WELL LOCATION, AND VARIOUS NON-
STANDARD 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 December 6, 2001, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 31st day of January, 2002, 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) Concho Oil & Gas Corp., ("Concho"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying Lots 3 through 6 and 11 through 14, inclusive, of Section 6, Township 16 South, Range 34 East, NMPM, Lea County, New Mexico, in the following manner:

Lots 3 through 6 and 11 through 14, inclusive, forming a non-standard 298.36-acre gas spacing and proration unit (the "298.36-acre Unit") for all formations or pools spaced on 320 acres within this vertical extent, which presently include, but are not necessarily limited to, the Hume-Morrow Gas and Hume-Atoka Gas Pools;

Lots 11 through 14, inclusive, forming a non-standard 143.76-acre gas spacing and proration unit (the "143.76-

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acre Unit”) for all formations or pools spaced on 160 acres within this vertical extent; and

Lot 11, forming a standard 40-acre oil spacing and proration unit (the “40-acre Unit”) for all formations or pools spaced on 40 acres within this vertical extent, including but not necessarily limited to the Undesignated Kemnitz-Cisco Pool, the Undesignated Kemnitz-Canyon Pool and the Wolfcamp and Strawn formations.

(3) The above-described units (the Units) are to be dedicated to Concho’s proposed Big “D” State Well No. 1 to be drilled at a location 3498 feet from the North line and 1200 feet from the West line (Lot 11) of Section 6.

(4) The proposed location is standard for 320-acre and 160-acre gas pool completions; however, this location is unorthodox with respect to a 40-acre oil completion within Lot 11.

(5) The evidence presented demonstrates that:

- (a) the proposed non-standard gas proration units are necessitated by a variation in the legal subdivision of the United States Public Lands Survey;
- (b) no portions of the relevant legal subdivisions were excluded from the above-described non-standard units, so no parties exist to whom notice was required to be given of this application pursuant to Division Rule 120.7.A(3);
- (c) the unorthodox location of the well with respect to the 40-acre unit is necessitated, in part, by the existence of a pipeline that crosses Lot 11 diagonally from northeast to southwest, which precludes locating the proposed well at a standard location at a minimum distance from the west line of Lot 11;
- (d) three-D seismic data indicates the existence of a structural high between two dry holes previously drilled to the east and to the west respectively of the Units, and indicates a greater possibility of

encountering a favorable structure within the Wolfcamp, Strawn, Atoka and Morrow formations at the proposed unorthodox location than at a standard location to the east of the pipeline;

- (e) the working interest ownership of Lots 12 and 13, toward which the proposed location encroaches, is identical to the working interest ownership of Lot 11 where the proposed well will be located;
- (f) the royalty interest in all of Lots 11, 12 and 13 is owned by the State of New Mexico;
- (g) due notice of the proposed unorthodox oil well location was given to all "affected persons" as required by Division Ruls 1207.A(2); and
- (h) no person contacted the Division or appeared at the hearing to oppose this Application.

(6) Approval of the proposed non-standard gas proration units and unorthodox oil well location will afford the applicant the opportunity to produce the hydrocarbons that may be contained within the Wolfcamp, Strawn, Atoka and Morrow formations, and will not violate correlative rights.

(7) 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.

(8) Concho is an owner of an oil and gas working interest within each of the Units. Concho has the right to drill and proposes to drill its Big "D" State Well No. 1 (the "proposed well") to a common source of supply at a standard gas well location and at an unorthodox oil well location within Lot 11 of Section 6.

(9) There are interest owners in each of the proposed units that have not agreed to pool their interests.

(10) 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 the Units.

(11) Concho should be designated the operator of the proposed well and of the Units.

(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% thereof as a reasonable charge for the risk involved in drilling the well.

(13) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000 per month while drilling and \$600 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*." 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.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Concho Oil & Gas Corp., all uncommitted mineral interests from the surface to the base of the Morrow formation underlying Lots 3 through 6 and 11 through 14, inclusive, of Section 6, Township 16 South, Range 34 East, NMPM, Lea County, New Mexico, are hereby pooled, as follows:

Lots 3 through 6 and 11 through 14, inclusive, forming a non-standard 298.36-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Hume-Morrow Gas and Hume-Atoka Gas Pools;

Lots 11 through 14, inclusive, forming a non-standard 143.76-acre gas spacing and proration unit for all formations or pools spaced on 160 acres within this vertical extent; and

Lot 11 forming a standard 40-acre oil spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent, including but not necessarily limited to the Undesignated Kemnitz-Cisco Pool, the Undesignated Kemnitz-Canyon Pool and the Wolfcamp and Strawn formations.

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The Units shall be dedicated to Concho's proposed Big "D" State Well No. 1 to be drilled at a standard gas well location and at an unorthodox oil well location, hereby approved, 3498 feet from the North line and 1200 feet from the West line (Lot 11) of Section 6.

(2) The non-standard gas proration units described in Ordering Paragraph (1) above are hereby approved and established as non-standard gas spacing and proration units within the pools and formations indicated.

(3) The operator of the Units shall commence drilling the proposed well on or before April 30, 2002, 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 April 30, 2002, this order shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the proposed well not be drilled to completion, or be abandoned, within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why this order should not be rescinded.

(6) Applicant is hereby designated the operator of the proposed well and of the Units.

(7) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. ("Uncommitted 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, the operator shall furnish the Division and each known non-consenting working interest owner in the Units an itemized schedule of estimated well costs of the proposed well.

(8) 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 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.

(9) The operator shall furnish the Division and each known 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 notice and hearing.

(10) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated 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 paid, estimated well costs exceed reasonable well costs.

(11) 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% of the above costs.

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

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,000 per month while drilling and \$600 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 each non-consenting working interest.

(14) Except as provided in Ordering Paragraphs (12) and (14) 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.

(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 reach voluntary agreement subsequent to entry of this order, the compulsory pooling provisions of this order shall thereafter be of no further effect.

(17) 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.

(18) 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Lori Wrotenbery
LORI WROTENBERY
Director