

**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. 15366
ORDER NO. R-14097**

**APPLICATION OF MATADOR PRODUCTION COMPANY FOR A NON-
STANDARD SPACING AND PRORATION UNIT, COMPULSORY POOLING
AND NON-STANDARD LOCATION, LEA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on September 3, 2015, at Santa Fe, New Mexico, before Examiner Phillip R. Goetze.

NOW, on this 14th day of December, 2015, 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) Matador Production Company (the "Applicant" or "Matador") seeks approval of a non-standard 160-acre oil spacing and proration unit and project area (the "Unit") in the Quail Ridge; Bone Spring Pool (Pool code 50640) consisting of the W/2 E/2 of Section 16, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Bone Spring formation.

(3) The Unit will be dedicated to Applicant's Cimarron 16 19S 34E RN State Well No. 133H (the "proposed well"; API No. 30-025-Pending), a horizontal well to be drilled from a surface location 250 feet from the North line and 1015 feet from the East line (Unit A) of Section 16 to a terminus 240 feet from the South line and 1506 feet from the East line (Unit O) of Section 16, Township 19 South, Range 34 East, NMPM.

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Amtex EX 4

(4) Applicant also seeks approval of the completed interval of the proposed well with the first perforation point being 330 feet from the North line and 1506 feet from the East line (Unit B) of Section 16 while the last perforation point is to be located 330 feet from the South line and 1506 feet from the East line (Unit O) of Section 16. The location of the completed interval is unorthodox because the perforated interval is less than 330 feet from the outer boundary of the project area.

(5) The proposed well is within the Quail Ridge; Bone Spring Pool. Spacing in this pool is governed by Division Rule 19.15.15.9(A) NMAC, which provides for standard 40-acre units, each comprising a governmental quarter-quarter section. The proposed Unit and project area consists of four adjacent quarter-quarter sections.

(6) Applicant appeared at the hearing through counsel and presented land and geologic evidence to the effect that:

- (a) the Bone Spring formation, including the 3rd Bone Spring sand, in this area is suitable for development by horizontal drilling;
- (b) the proposed orientation of the horizontal well North to South or South to North is appropriate for the Unit;
- (c) all standard units to be included in the Unit are expected to be productive in the Bone Spring, so that formation of the Unit as requested will not impair correlative rights;
- (d) Applicant will utilize the same surface location in Unit A for drilling the proposed well which was used for the existing well, the Cimarron 16 19S 34E RN State Well No. 134H (API No. 30-025-42352). The existing well is located within a 160-acre project area being the E/2 E/2 of Section 16.
- (e) Applicant stated the unorthodox location of the completed interval of the proposed well will provide greater resource recovery in the east half of the section since the existing well was located closer to the eastern boundary of its respective project area.
- (f) Applicant testified that the interest owners for the E/2 E/2 and the W/2 E/2 of Section 16 were common and that Matador was the designated operator for the adjoining project area;
- (g) Applicant provided notice of this application to all uncommitted mineral interest owners by certified mail, return receipt requested, and by publication in a newspaper in general circulation in Lea County, New Mexico, for unlocatable uncommitted mineral interest owners; and

- (h) Applicant attempted good faith effort to obtain a voluntary joinder with Amtex Energy, Inc.

(7) No other party appeared at the hearing, or otherwise opposed the granting of this application.

(8) On September 25, 2015, an Entry of Appearance was filed through counsel on behalf of Amtex Energy, Inc. ("Amtex") and William Savage who opposed the application.

(9) Subsequently on October 5, 2015, Matador filed a Motion to Quash Entry of Appearance in response to the September filing. Matador stated that Amtex, being a working interest owner and offset operator, was properly notified per Division rule. Matador was not aware of any title information that would require Mr. Savage (in his individual capacity) to be noticed in the same manner. Matador noted that Mr. Savage was president of Amtex and, therefore, received notification as a working interest owner and as an offset operator. Matador contended that Amtex had sufficient notice along with knowledge of the application in order to have made an appearance at hearing on September 3, 2015, to oppose the application. Matador further stated that notification of Mr. Savage was not required under Division Rule 19.15.4.12(A) NMAC since Mr. Savage was not qualified as a working mineral interest owner.

(10) On October 13, 2015, counsel for Amtex and Mr. Savage filed a Response to Motion to Quash. Amtex stated its correlative property rights were threatened by Matador's compulsory pooling application and that Amtex wished to retain its ability for *de novo* appeal of an order by Division.

(11) Lastly, Applicant filed a Reply in Support of Its Motion to Quash Entry of Appearance on October 22, 2015. Matador provided historical information for consideration in the original filing for entry by Amtex.

The Division concludes as follows:

(12) The filing of the Entry of Appearance by Amtex was 22 days following the formal hearing of Case No. 15366 on September 3, 2015 Docket. Applicant's Exhibit No. 5 documents three return receipt cards (Article Numbers 7014 3490 001 8089 7522, 7014 3490 001 8089 7782, and 7014 3490 001 8089 7713) addressed to Amtex and returned to the Applicant with an endorsed delivery date of August 12, 2015. Applicant testified that additional attempts to contact Amtex by phone were unsuccessful. Based on the delivery date of the return receipt cards, Amtex received proper notice within the 20-day requirement found in Division Rule 19.15.4.9(B) NMAC. Additionally, Amtex made no effort following notice to enter an appearance to protest or request a continuance of the case to adequately prepare a protest of the application. Therefore, Entry of Appearance submitted by Amtex was not timely and should not be considered.

(13) Approval of the proposed non-standard unit will enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights.

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

(15) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

(16) There are interest owners in the Unit that have not agreed to pool their interests.

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

(18) The proposed unorthodox location of the completed interval will provide for greater resource recovery thereby preventing waste while protecting correlative rights.

(19) Matador should be designated the operator of the proposed well and the Unit.

(20) 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 proposed well.

(21) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month while drilling and \$700 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) A non-standard 160-acre oil spacing and proration unit and project area (the "Unit") is hereby established for the Bone Spring formation [Quail Ridge; Bone Spring Pool (Pool code 50640)] consisting of the W/2 E/2 of Section 16, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico.

(2) Pursuant to the application of Matador Production Company, all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to Applicant's **Cimarron 16 19S 34E RN State Well No. 133H** (the "proposed well"; API No. 30-025-Pending), a horizontal well to be drilled from a surface location 250 feet from the North line and 1015 feet from the East line (Unit A) of Section 16 to a terminus 240 feet from the South line and 1506 feet from the East line (Unit O) of Section 16, Township 19 South, Range 34 East, NMPM. The unorthodox location of the completed interval for the proposed well in the Bone Spring formation is hereby approved.

(4) The operator of the Unit shall commence drilling the proposed well on or before December 31, 2016, and shall thereafter continue drilling the proposed well with due diligence to test the Bone Spring formation.

(5) In the event the operator does not commence drilling the proposed well on or before December 31, 2016, Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(6) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not completed in all of the spacing units included in the proposed Unit within 120 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Unit so that it includes only those spacing units in which the well is completed.

(7) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled Unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(8) Matador Production Company (OGRID 228937) is hereby designated the operator of the well and 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 Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this Order, 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 proposed well ("well costs").

(10) 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."

(11) 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.

(12) Within 60 days following determination of reasonable well costs, any pooled 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 the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

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

- (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.

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

(15) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,000 per month while drilling and \$700 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.

(16) Except as provided in Paragraphs (13) and (15) above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 7-8A-31, as amended).

(17) Any unleased mineral interests 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.

(18) 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.

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

(20) The Entry of Appearance filed by Amtex Energy, Inc. on September 25, 2015, for this case is untimely and no further testimony will be accepted.

(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

David R. Catanach

DAVID R. CATANACH
Director