

**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
TO CONSIDER:**

**CASE NO. 16098
ORDER NO. R-20206**

**APPLICATION OF ADVANCE ENERGY PARTNERS HAT MESA, LLC FOR A
NON-STANDARD OIL SPACING AND PRORATION UNIT AND COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 31, 2018, at Santa Fe, New Mexico, before examiner, William V. Jones

NOW, on this 31st day of October 2018, 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 the subject matter.

(2) Cases No. 16095, 16096, 16097 and 16098 were consolidated for hearing. However, a separate order is being issued for each case.

(3) In Case No. 16098, Advance Energy Partners Hat Mesa, LLC ("Applicant") seeks approval of a 240-acre non-standard oil spacing and proration unit and project area ("the Unit") for oil and gas production from the Bone Spring formation (Wildcat; Bone Spring Oil Pool), comprising the E/2 E/2 of Section 20 and the E/2 SE/4 of Section 17, both in Township 21 South, Range 33 East, NMPM, Lea County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit.

(4) The Unit will be dedicated to the following "proposed well" which will be completed at a standard location within the unit:

Wool Head Well No. 504H, API No. 30-025-Pending

SHL: 100 feet from the South line and 330 feet from the East line (Unit P) of Section 20, Township 21 South, Range 33 East, NMPM

BHL: 2540 feet from the South line and 330 feet from the East line (Unit I) of Section 17, Township 21 South, Range 33 East, NMPM

(5) The proposed horizontal well is considered wildcat for oil and gas production and is subject to 19.15.15.9(A) NMAC, which provides for 40-acre spacing units (for vertical wells), each comprising a governmental quarter-quarter section, with wells to be completed no closer than 330 feet to a spacing unit boundary.

(6) COG Operating LLC ("COG") entered an appearance. No other party appeared at the hearing or otherwise opposed this application.

(7) Applicant, through counsel, presented the following land and technical evidence:

- (a) The Bone Spring formation in this area is suitable for development by horizontal drilling.
- (b) The proposed orientation of the well from south to north is appropriate for the Unit.
- (c) The Unit consists of three separately owned tracts, all State Trust minerals.
- (d) Ownership of the Unit within the Bone Spring formation is divided vertically between those interests above the top of the Third Bone Spring sand, and those interests below that level, respectively. The proposed well will be drilled and completed above the Third Bone Spring, and the proposed pooling does not include interests in the lower depths.
- (e) COG operates the Crockett State Well No. 2H (API No. 30-025-41080), horizontal well which is completed in, and actively producing from, the Third Bone Spring sand in the S/2 N/2 of Section 20.
- (f) The proposed well will not drain pressure from, produce oil or gas from, or otherwise affect, or be affected by, producing from the Third Bone Spring interval.

- (g) Notice was provided to all owners of interests in the Third Bone Spring interval that Applicant proposes to exclude from participation in the proposed well.
- (h) Notice by certified mail was provided to all owners of uncommitted interests in the proposed Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant at the time the Application was filed, and to heirs known to Applicant of deceased persons who appear as owners in such instruments, including those owners whose interests are limited to depths Applicant proposes to exclude from the Unit.
- (i) All the foregoing affected parties were successfully contacted and provided with notice.

The Division Finds and Concludes that:

(8) The proposed non-standard unit should be approved retroactively to the date the Application was filed.

(9) The Division is specifically authorized to pool “all *or any portion of* [the] lands or interests in a spacing unit.” Section 70-2-17(C) NMSA 1978 [emphasis added].

(10) Since the proposed well will affect only that portion of the Unit extending vertically from the top of the Bone Spring formation to the top of the Third Bone Spring sand, only the lands and interests within that depth interval (“the pooled interval”) should be pooled. The term “Unit” as used herein, unless the context requires a different construction, applies only to the pooled interval.

(11) All lands and interests within the pooled interval should be pooled to enable Applicant to drill a horizontal well that will efficiently produce the reserves therein.

(12) 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.

(13) Applicant is owner of an oil and gas working interest within the pooled interval of the Unit. Applicant has the right to drill and proposes to drill the well to a common source of supply within the pooled interval at the above-described location.

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

(15) 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 a 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 pooled interval.

(16) Advance Energy Partners Hat Mesa, LLC (OGRID 372417) should be designated the operator of the well and the Unit.

(17) Infill wells proposed for completion within the pooled interval only should be subject to 19.15.13.9 and 19.15.13.10 NMAC and to the terms of this order.

(18) 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 well.

(19) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month, per well, while drilling, and \$700 per month, per well, while producing, provided these rates should be adjusted annually pursuant to the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Advanced Energy Partners Hat Mesa, LLC, a 240-acre non-standard oil spacing unit and project area (the "Unit") is hereby established for oil and gas production from the Bone Spring formation (Wildcat; Bone Spring Oil Pool), comprising the E/2 E/2 of Section 20 and the E/2 SE/4 of Section 17, both in Township 21 South, Range 33 East, NMPM, Lea County, New Mexico.

(2) All uncommitted interests, whatever they may be, in the oil and gas in the Unit from the top of the Bone Spring formation to the top of the Third Bone Spring interval are hereby pooled.

(3) This order shall apply to the pooled interval only. References herein to "the Unit" shall refer to the pooled interval only unless the context requires a different construction.

(4) The Unit shall be dedicated to the following proposed well.

Wool Head Well No. 504H, API No. 30-025-Pending

SHL: 100 feet from the South line and 330 feet from the East line (Unit P) of Section 20, Township 21 South, Range 33 East, NMPM

BHL: 2540 feet from the South line and 330 feet from the East line (Unit I) of Section 17, Township 21 South, Range 33 East, NMPM

(5) The operator of the Unit shall commence drilling the proposed well on or before October 31, 2019 and shall thereafter continue drilling the proposed well with due diligence to test the upper portion of the Bone Spring formation.

(6) In the event the operator does not commence drilling the proposed well on or before the date above specified, 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.

(7) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraph (1) 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 quarter-quarter sections included in the Unit, the operator shall apply to the Division for an amendment to this order to contract the Unit so that it includes only those quarter-quarter sections in which the well is completed.

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

(9) Infill wells proposed in the Unit within the pooled interval only shall be subject to 19.15.13.9 NMAC and to the terms of this order. Any well completed, in whole or in part, at a depth below the base of the pooled interval shall not be considered an infill well under this pooling order.

(10) Advance Energy Partners Hat Messa, LLC (OGRID 372417) is hereby designated the operator of the proposed well and the Unit.

(11) 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 actual costs of drilling, completing and equipping the proposed well ("well costs").

(12) Within 30 days from the date the schedule of well costs is furnished, any pooled working interest owner shall have the right to pay its share of actual 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 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 well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(13) 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 after 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.

(14) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of actual costs in advance as provided above shall pay to the operator its proportionate share of the amount that reasonable well costs exceed estimated well costs and receive from the operator the amount, if any, that the well costs it has paid exceed its share of reasonable well costs.

(15) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of 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.

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

(17) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,000 per month, per well, while drilling and \$700 per month, per well, while producing, provided that these rates shall be adjusted annually pursuant to 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 more than what are reasonable, attributable to pooled working interest owners.

(18) During the cost recovery period, the operator shall furnish to the division and to each known non-consenting pooled working interest owner, annually, and within 90 days after payout occurs, a schedule of all revenues attributed to each proposed well, and all charges for supervision and operating costs charged to against such revenues. Operating costs shall include all reasonable costs incurred for maintenance and operation of the well, except for "well costs," that are properly chargeable to the joint account pursuant to COPAS accounting procedures

(19) Except as provided in the foregoing paragraphs, all proceeds from production from the 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 70-8A-28, as amended). If no objection to the operating costs is received by the division, and the division has not objected, within 45 days following receipt of such schedule, the costs so reported shall be deemed reasonable operating costs. If there is an objection within the 45-day period, the division will determine reasonable operating costs after public notice and hearing.

(20) 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.

(21) 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.

(22) 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.

(23) The operator of the Crockett State Well No. 2H (API No. 30-025-41080, the "referenced well"), located 2310 feet from the North line and 190 feet from the East line, Unit H, Section 20, Township 21 South, Range 33 East, NMPM, or of any well subsequently completed in the same producing interval within the pool, may request a hearing before the Division for review of this order should it identify reservoir interference or other evidence of impacts to correlative rights as a result of production from the proposed well approved in this order.

(24) 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

A handwritten signature in black ink, reading "Heather Riley".

HEATHER RILEY
Director