

**STATE OF NEW MEXICO  
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES  
OIL CONSERVATION DIVISION**

**APPLICATION OF NOVO OIL & GAS NORTHERN  
DELAWARE, LLC FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case No. 20916**

**APPLICATION OF NOVO OIL & GAS NORTHERN  
DELAWARE, LLC FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case No. 20917**

**BTA OIL PRODUCERS, LLC'S AMENDED PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

BTA Oil Producers, LLC ("BTA") requests that the New Mexico Oil Conservation Division ("Division") enter an order adopting the following findings of fact and conclusions of law.<sup>1</sup>

**I. Findings of Fact**

1. These matters, Case Nos. 20916 and 20917, came on for hearing on November 15, 2019, at Santa Fe, New Mexico, before Examiners Leonard Lowe, Kathleen Murphy, Phillip Goetze, Dylan Coss, and Legal Examiner Eric Ames.
2. In Case No. 20916, Novo Oil & Gas Northern Delaware, LLC ("Novo") requests an order pooling all uncommitted mineral interests in the Wolfcamp formation underlying a (proximity tract) horizontal spacing unit comprised of the N/2 of Section 8 and the N/2 of Section 9, Township 23 South, Range 29 East in Eddy County. Novo proposes to drill the Astrodog Fed Com 0809 Well Nos. 211H, 212H, 215H, 221H, 222H, 225H, 231H, 232H, and 235H and dedicate the N/2 of Section 8 and the N/2 of Section 9 to the wells.
3. In Case No. 20917, Novo requests an order pooling all uncommitted mineral interests in the Bone Spring formation (from 8,773 feet subsurface as found in the Road Lizard 5 Fed Com Well No. 2H [API No. 30-015-39283] to the base of the Bone Spring formation) underlying a (proximity tract) horizontal spacing unit comprised of the N/2 of Section 8 and the N/2 of Section 9, Township 23 South, Range 29 East in Eddy County. Novo proposes to drill the Astrodog Fed Com 0809 Well Nos. 111H, 112H, 131H, 132H and 135H and dedicate the N/2 of Section 8 and the N/2 of Section 9 to the wells.

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<sup>1</sup> Transcript references have been added to BTA's proposed findings of fact to facilitate the Division's review. The proposed findings of fact and conclusions of law are otherwise unchanged from BTA's initial submission.

4. Novo's proposed wells are located in the Potash Area designated by the United States Secretary of the Interior. *See* [11-15-19 Tr. 12:21-13:3]
5. Pursuant to a Joint Operating Agreement ("the JOA"), BTA is the operator of approximately 480 acres comprising the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East ("Ochoa Acreage"). *See* [11-15-19 Tr. 90:1-17].
6. BTA acquired the JOA in approximately November 2018. *See* [11-15-19 Tr. 14:21-22].
7. Novo first acquired its interest in the lands it seeks to pool in July 2019, subsequent to BTA's acquisition of the Ochoa Acreage. *See* [11-15-19 Tr. 102:8-19].
8. Novo was aware of the JOA at the time it acquired the acreage it seeks to pool. *See* [11-15-19 Tr. 63:13-64:24].
9. 100 percent of the working interests in the lands covered by the JOA are committed to the JOA. Because 100 percent of the working interest is committed to the JOA, BTA does not need to seek a compulsory pooling order to develop the acreage covered by the JOA. *See* [11-15-19 Tr. 96:15-19].
10. BTA owns 73 percent of the working interest in the lands covered by the JOA, namely the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East, and Oxy Y-1 Company ("Oxy") owns the remaining 27 percent of the working interest. *Id.*
11. The JOA covers all intervals underlying the N/2 of Section 7 and all intervals underlying the NW/4 of Section 8, Township 23 South, Range 29 East. *Id.*
12. One producing well has been drilled on the lands covered by the JOA: Culebra BLV Federal #1H, a one and one-half mile lateral well in the Delaware formation that is currently operated by BTA. *See* [11-15-19 Tr. 90:18-91:6].
13. BTA presently has plans to develop the Ochoa Acreage and entered into a trade with EOG Resources, Inc. in order to fully develop the Bone Spring and Wolfcamp formations underlying the lands covered by the JOA. *Id.*
14. BTA has proposed four one and one-half mile lateral wells to be drilled in the Wolfcamp formation in the lands covered by the JOA. The proposed wells would be completed in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East. *Id.*
15. BTA and Oxy are parties to a letter agreement that allows Oxy to make an election under the JOA 30 days from BTA's receipt of an approved application of a permit to drill. *See* [11-15-19 Tr. 91:11-16].
16. Under the terms of the JOA, Oxy cannot voluntarily join in the wells proposed by Novo in Case No. 20916 nor the wells proposed in Case No. 20917. *See* [11-15-19 Tr. 91:17-20].

17. The four Wolfcamp wells proposed by BTA have surface locations outside the Potash Area; the completed lateral wells would enter the Potash Area. *See* [11-15-19 Tr. 91:24-92:6].
18. Because BTA's proposed wells will extend into the Potash Area, BTA was required to notify Mosaic Potash of its development plan. BTA provided the required notice and received no negative feedback from Mosaic. *See* [11-15-19 Tr. 92:7-16].
19. BTA has submitted applications for permits to drill ("APDs") its proposed Wolfcamp wells and an associated development plan to the Federal Bureau of Land Management ("BLM"). *See* [11-15-19 Tr. 92:16-93:8].
20. BLM informed BTA that it would approve BTA's development plan pending resolution of an objection filed by Novo. *See* [11-15-19 Tr. 95:14-21].
21. BTA has completed its on-site evaluation with the BLM for the proposed wells.<sup>2</sup>
22. Novo objected to BTA's development plan. No other party objected to BTA's development plan. *See* [11-15-19 Tr. 92:22-24].
23. When Novo acquired the acreage it seeks to pool, it was aware of potential restrictions on its ability to develop the acreage, including: (1) the wells may only be drilled from BLM-approved drilling islands because they are located in the Potash Area; and (2) United Salt Carlsbad is the surface lessee in Section 8 and has salt-harvesting facilities in the area. Novo acquired its acreage despite these risks. *See* [11-15-19 Tr. 63:13-64:25].
24. Novo was aware in April of 2019, before closing on the acreage it seeks to pool, that it would likely be limited to a surface location in the NW/4 of Section 8 and that it would have to pool acreage in the NW/4 of Section 8 in order to proceed with its development plan. Novo was aware that BTA controlled the acreage in the NW/4 of Section 8 under the JOA. *Id.*
25. Prior to acquiring interests in the acreage it seeks to pool in this matter on July 1, 2019, Novo did not contact BTA to investigate BTA's interests under the JOA. The first communication from Novo to BTA regarding Novo's proposed Astrodog Wells was the well proposal. Novo was aware, however, at the time it acquired its interests in the acreage it seeks to pool, that development would likely require lateral wells to be drilled through lands subject to the JOA. *See* [11-15-19 Tr. 93:9-11].
26. After receiving the well proposal, representatives of BTA and of Novo met in Oklahoma City, Oklahoma. BTA proposed to Novo that BTA drill one and one-half mile lateral wells in the lands covered by the JOA and that Novo drill one and one-half mile lateral wells in

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<sup>2</sup> BTA witness Willis D. Price discussed BTA's interaction with the BLM at 11-15-19 Tr. 92:16-21. Mr. Price testified regarding BTA's on-site evaluation with the BLM in Case Nos. 20865 and 20866 at 11-15-19 Tr. 63:22-25.

- the lands it seeks to pool in this matter so that both Novo and BTA could fully develop their respective interests without the need for compulsory pooling. *See* [11-15-19 Tr. 94:1-10].
27. Subsequently, Willis D. Price, land manager for BTA, contacted Jim Rutley at BLM to ascertain BLM's position regarding BTA's proposal for both BTA and Novo to develop their respective acreage via one and one-half mile lateral wells. *See* [11-15-19 Tr. 94:11-25].
  28. In the course of negotiations, Novo proposed a trade to BTA that would have involved an exchange of BTA's operating interest in the Ochoa Acreage for non-operating interests in another area. *See* [11-15-19 Tr. 96:7-22].
  29. Novo's proposed trade was rejected by BTA based on BTA's preference for serving as an operator and because BTA's intention in acquiring its interests in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East was to develop the acreage as an operator pursuant to the JOA. *Id.*
  30. After the initial trade offer was rejected by BTA, Novo made no subsequent offers to BTA. BTA continued to express its preference for both parties to develop their respective acreage using one and one-half mile lateral wells. *Id.*
  31. The granting of Novo's application would preclude BTA from developing the Ochoa Acreage as an operator, which was the reason BTA acquired the JOA. *See* [11-15-19 Tr. 97:16-21].
  32. If Novo's applications for compulsory pooling are granted in this matter, BTA would become a non-operating revenue recipient and would lose the ability to serve as an operator in the lands subject to compulsory pooling. *Id.*
  33. BTA acquired its interest in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East prior to Novo's acquisition of its interest in the lands it seeks to pool; BTA also acquired its interest in the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East prior to Marathon Oil, Inc.'s acquisition of adjacent lands that are the subject of a separate compulsory pooling proceeding before the division. *See* [11-15-19 Tr. 14:21-22].
  34. BTA intends to develop its interests in accord with the JOA; BTA intends to fully develop its interests over and beyond the four Wolfcamp wells that it has already proposed. *See* [11-15-19 Tr. 107:24-108:7].
  35. In the Loving area of Eddy County, New Mexico, where the lands Novo seeks to pool are located, BTA has completed multiple lateral wells. *See* [11-15-19 Tr. 105:5-15]
  36. BTA's interest in the acreage subject to the JOA is encumbered by a 1/8 royalty interest, while Novo's interest in the lands it seeks to pool is not subject to any royalty. Thus, if

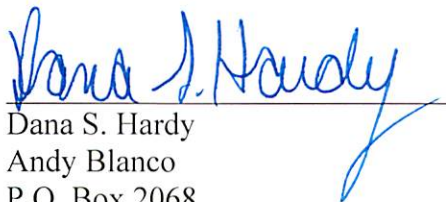
BTA's interests are pooled as requested by Novo, there is a risk that Novo, as the operator, will pursue development that is financially beneficial to Novo but financially harmful to BTA. *See* [11-15-19 Tr. 106:11-107:16].

## **II. Conclusions of Law**

1. Due public notice has been given, and the Division has jurisdiction over these cases and over the subject matter.
2. Granting Novo's applications for compulsory pooling in these matters would impair BTA's correlative rights.
3. Novo did not engage in a good-faith attempt to secure BTA's voluntary participation in Novo's proposed wells prior to filing its compulsory pooling applications.
4. Novo's request that the Division authorize compulsory pooling in these cases is not just or reasonable.
5. Novo's applications are denied.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

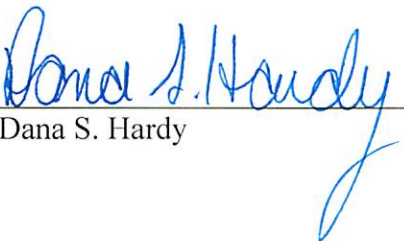
I hereby certify that on this 22<sup>nd</sup> day of January, 2020 I served a true and correct copy of the foregoing ***Amended Proposed Findings of Fact and Conclusions of Law*** on the following counsel of record by electronic mail.

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