

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

**APPLICATION OF SILVERBACK, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NO. 24517

ORDER DENYING MOTION TO RE-OPEN

On September 19, 2024, the Oil Conservation Division (“Division”) entered Order No. R-23405 (“Order”) in the above listed Case No. 24517. The Order established the 320-acre Roche Horizontal Spacing Unit, comprised of the Yeso Formation underlying the S/2 S/2 of Section 2, and the N/2 N/2 Section 11, both in Township 19 South, Range 25E, Eddy County, New Mexico (“Roche HSU”), and appointed Silverback Operating II, LLC (“Silverback”), as operator.

On January 6, 2025, American Energy Resources, LLC, (“AER”) by and through its representative Jonathan Samaniego, requested that the Division re-open Case No. 24517, based on an ownership claim to an un-pooled interest in the Roche HSU, and that it had not been properly noticed under 19.15.4.12 NMAC. Both Silverback and AER were instructed to file written briefs with the Division and submit evidence in advance of a February 13, 2025 hearing date.

On February 13, 2025, following the written briefing, the Division received oral argument on the notice issue from both Silverback and AER.

Per 19.15.4.3 NMAC, the Division has “jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations...” The Division does not have subject matter jurisdiction to determine the ownership of real property. Per NMSA 1978 § 45-1-302, and § 38-3-1(D), the proper venue for such title disputes is District Court of the county in which the lands are located.

Per 19.15.4.8 NMAC, an applicant must satisfy the Division that it has a good faith claim to a mineral or leasehold interest sufficient to grant it standing to apply for a compulsory pooling order. 19.15.4.12(A)(1) NMAC (“Notice Rule”) further provides that “[t]he applicant shall give notice to each owner of an interest in the mineral estate of any portion of the lands the applicant proposes to be pooled or unitized whose interest is evidenced by a written conveyance document either of record or known to the applicant at the time the applicant filed the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized (other than a royalty interest subject to a pooling or unitization clause).”

Based on the original exhibits, the documentation provided in both parties’ supplemental briefing, and oral argument at hearing, the Division finds that AER lacks a good faith claim to either an un-pooled or uncommitted interest within the Roche HSU. Because AER, the movant in the motion to re-open, has not met its burden of establishing a good faith claim to an un-pooled or uncommitted interest within the Roche HSU, it has likewise failed to establish that it was entitled to notice under the Notice Rule. As such, good cause does not exist to re-open this case.

Having considered the request, and being fully advised in the premises, **IT IS HEREBY ORDERED THAT** motion to re-open is denied.
IT IS SO ORDERED.

GREGORY CHAKALIAN
HEARING EXAMINER