

**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. 13504
ORDER NO. R-12395**

**APPLICATION OF APACHE CORPORATION FOR STATUTORY UNITIZATION,
LEA COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on June 16, 2005, at Santa Fe, New Mexico before Examiner David R. Catanach.

NOW, on this 22nd day of July, 2005, 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 its subject matter.

(2) Division Cases No. 13503 and 13504 were consolidated at the hearing for the purpose of testimony.

(3) The applicant, Apache Corporation ("Apache" or "applicant"), seeks: (i) the statutory unitization, pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978, of 2,080 acres, more or less, of all mineral interests in the Blinebry, Tubb and Drinkard formations, Lea County, New Mexico, and to be known as the East Blinebry-Drinkard Unit Area, hereinafter referred to as the "Unit Area"; and (ii) approval of the Unit Agreement and the Unit Operating Agreement, which were submitted in evidence as applicant's Exhibits No. 3 and 5, respectively, in this case.

(4) BP America Production Company, a working interest owner in the proposed East Blinebry-Drinkard Unit, appeared at the hearing through legal counsel but offered no evidence or testimony in this proceeding.

(5) The proposed East Blinebry-Drinkard Unit consists of all or portions of five (5) federal and eight (8) fee oil and gas leases located in Lea County, New Mexico, and comprises 2,080 acres, more or less, described as follows:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM

Section 1:	Lots 11 through 15, SW/4, W/2 SE/4
Section 11:	E/2, NW/4
Section 12:	W/2, W/2 E/2
Section 13:	W/2, W/2 NE/4, NW/4 SE/4
Section 14:	NE/4, E/2 SE/4

(6) The proposed Unitized Interval is that interval underlying the Unit Area, the vertical limits of which extend from an upper limit 75 feet above the stratigraphic Blinebry marker to a lower limit at the top of the Abo formation as seen on the Type Log from the Apache Lockhart B-11 Well No. 17 (API No. 30-025-06536) located 1980 feet from the North and East lines (Unit G) of Section 11, Township 21 South, Range 37 East, NMPM, and is that interval that is correlative to the interval from 5,615 feet to 6,795 feet below the surface measured from the derrick floor. (Note: The Blinebry marker has been defined by the Oil Conservation Division to occur at a depth of 5,457 feet in the ExxonMobil Corporation New Mexico "S" State Well No. 20 (API No. 30-025-09969) located 2100 feet from the North line and 500 feet from the West line (Unit E) of Section 2, Township 22 South, Range 37 East, NMPM).

(7) Apache proposes to institute a waterflood project for the secondary recovery of oil and gas from the Unitized Interval within the Unit Area. The proposed waterflood project is the subject of companion Case No. 13503.

(8) Both the Drinkard and the Blinebry Oil & Gas Pool are present throughout the proposed Unit Area. The Tubb Oil & Gas Pool is present only in portions of Sections 13 and 14.

(9) The Drinkard and Blinebry Oil & Gas Pool within the Unit Area have been reasonably defined by development. The Tubb Oil & Gas Pool is predominantly gas productive within Sections 13 and 14, and, according to testimony by Apache, the Tubb formation will not be subject to waterflood operations within the Unit Area.

(10) Apache presented testimony to the effect that the Blinebry and Drinkard formations are currently being successfully waterflooded within the Northeast Drinkard Unit. The Northeast Drinkard Unit, which is adjacent to the proposed East Blinebry-Drinkard Unit, was statutorily unitized and approved for secondary recovery operations by Division Orders No. R-8540 and R-8541, respectively, both dated November 9, 1987. Apache is the current operator of the Northeast Drinkard Unit.

(11) The proposed Unit Area contains eighteen (18) separate tracts of land owned by fourteen (14) different working interest owners, ten (10) unleased mineral owners, one hundred sixteen (116) royalty interest owners, and seven (7) overriding royalty interest owners.

(12) As of the hearing date, 82.078% of the working interest owners and approximately 97.866% of the royalty and overriding royalty interest owners have ratified the Unit Agreement.

(13) The United States Bureau of Land Management ("BLM") has approved Apache's plan for unit operations by letter dated March 22, 2005.

(14) The applicant has made a good faith effort to secure the voluntary participation of all interest owners in the Unit Area.

(15) The applicant was unable to locate at least two (2) unleased mineral interest owners within the Unit Area.

(16) Notice of this application was provided to all affected locatable interest owners in the Unit Area. In addition, pursuant to Division rules, the applicant published notice of this application in a newspaper of general circulation in Lea County, New Mexico on May 18, 2005.

(17) No interest owner or affected party appeared at the hearing in opposition to the application.

(18) The unitized management, operation and further development of the Unitized Interval within the Unit Area is reasonably necessary in order to effectively carry on secondary recovery operations and should result in the recovery of an additional 3.465 million barrels of secondary oil reserves that would otherwise not be recovered, thereby preventing waste.

(19) The statutory unitization of the Unitized Interval within the Unit Area in accordance with the plan embodied in the Unit Agreement and Unit Operating Agreement will prevent waste and protect correlative rights and is upon terms and conditions that are fair, reasonable, equitable and in accordance with the Statutory Unitization Act, including all of the elements necessary for the entry of an order.

(20) The proposed unitized method of secondary recovery operations within the Unit Area is feasible and will result with reasonable probability in the recovery of substantially more oil and gas from the unitized portion of the pool than would otherwise be recovered.

(21) The estimated additional costs of such operations will not exceed the estimated value of the additional oil recovered plus a reasonable profit.

(22) Statutory unitization and adoption of applicant's proposed unitized method of operation will benefit the working interest and royalty interest owners within the proposed secondary recovery project area.

(23) The Unit Agreement and the Unit Operating Agreement, applicant's Exhibits No. 3 and 5 in this case, should be incorporated by reference into this order.

(24) The East Blinebry-Drinkard Unit Agreement and the East Blinebry-Drinkard Unit Operating Agreement provide for unitization and unit operation upon terms and conditions that are fair, reasonable and equitable, and include:

- (a) an allocation to the separately owned tracts in the Unit Area of all oil and gas that is produced from the Unit Area and that is saved, being the production that is not used in the conduct of unit operations or not unavoidably lost;
- (b) a provision for the credits and charges to be made in the adjustment among the owners in the Unit Area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations;

- (c) a provision governing how the costs of unit operations including capital investments shall be determined and charged to the separately owned tracts and how such costs shall be paid, including a provision specifying when, how and by whom such costs shall be charged to the owners, or the interests of such owners, and how their interests may be sold and the proceeds applied to the payment of their costs;
- (d) a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon terms and conditions that are just and reasonable and that allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Division to be just and reasonable;
- (e) a provision designating a Unit Operator and providing for supervision and conduct of unit operations, including the selection, removal and substitution of an operator from among the working interest owners to conduct unit operations;
- (f) a voting procedure for matters to be decided by the working interest owners under which each working interest owner shall have a voting interest equal to its participation; and
- (g) a provision specifying the time when the unit operation shall commence and the manner in which, and the circumstances under which, the operations shall terminate and provision for the settlement of accounts upon such termination.

(25) Section 70-7-7.F., NMSA 1978 of the Statutory Unitization Act provides that the unit plan of operation shall include a provision for carrying any working interest owner subject to limitations set forth in the statute, and that any non-consenting working interest owner so carried shall be deemed to have relinquished to the unit operator all of its operating rights and working interest in and to the unit until its share of the costs has been repaid plus an amount not to exceed 200 percent thereof as a non-consent penalty.

(26) The applicant's Exhibit No. (5), East Blinebry-Drinkard Unit Operating Agreement contains a provision whereby any working interest owner who elects not to pay its share of unit expense shall be liable for its share of such unit expense plus an additional 200 percent thereof as a non-consent penalty, and that such costs and non-consent penalty may be recovered from each non-consenting working interest owner's share of unit production.

(27) A non-consent penalty of 200 percent should be adopted in this case. The applicant should be authorized to recover from unit production each non-consenting working interest owner's share of unit expense plus 200 percent thereof.

(28) The statutory unitization of the East Blinebry-Drinkard Unit Area is in conformity with the above findings, and will prevent waste and protect correlative rights of all interest owners within the proposed Unit Area, and should be approved.

IT IS THEREFORE ORDERED THAT:

(1) The application of Apache Corporation for the statutory unitization of 2,080 acres, more or less, being a portion of the Drinkard, Blinebry Oil & Gas and Tubb Oil & Gas Pools, Lea County, New Mexico, to be known as the East Blinebry-Drinkard Unit, is hereby approved pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978.

(2) The East Blinebry-Drinkard Unit shall comprise the following-described 2,080 acres, more or less, of federal and fee lands in Lea County, New Mexico:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM

Section 1:	Lots 11 through 15, SW/4, W/2 SE/4
Section 11:	E/2, NW/4
Section 12:	W/2, W/2 E/2
Section 13:	W/2, W/2 NE/4, NW/4 SE/4
Section 14:	NE/4, E/2 SE/4

(3) The Unitized Interval shall comprise that interval underlying the Unit Area, the vertical limits of which extend from an upper limit 75 feet above the stratigraphic Blinebry marker to a lower limit at the top of the Abo formation as seen on the Type Log from the Apache Lockhart B-11 Well No. 17 (API No. 30-025-06536) located 1980 feet from the North and East lines (Unit G) of Section 11, Township 21 South, Range 37 East, NMPM, and is that interval that is correlative to the interval from 5,615 feet to 6,795 feet below the

surface measured from the derrick floor. (Note: The Blinebry marker has been defined by the Oil Conservation Division to occur at a depth of 5,457 feet in the ExxonMobil Corporation New Mexico "S" State Well No. 20 (API No. 30-025-09969) located 2100 feet from the North line and 500 feet from the West line (Unit E) of Section 2, Township 22 South, Range 37 East, NMPM).

(4) The East Blinebry-Drinkard Unit Agreement and the East Blinebry-Drinkard Unit Operating Agreement, which were submitted to the Division at the time of the hearing as Exhibits No. 3 and 5, respectively, are hereby incorporated by reference into this order.

(5) The applicant shall institute a waterflood project for the secondary recovery of oil and gas within the Unit Area, such operations being the subject of companion Case No. 13503.

(6) Since the persons owning the required statutory minimum percentage of interest in the Unit Area have approved or ratified the Unit Agreement and the Unit Operating Agreement, the interests of all persons within the Unit Area are hereby unitized whether or not such persons have approved the Unit Agreement or the Unit Operating Agreement.

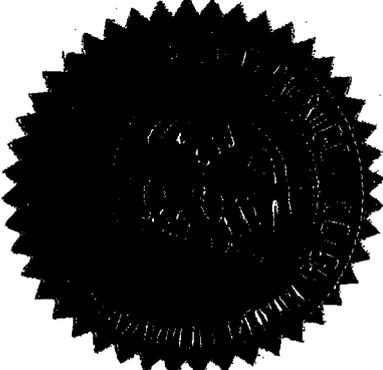
(7) A non-consent penalty of 200 percent is hereby adopted in this case. The applicant shall be authorized to recover from unit production each non-consenting working interest owner's share of unit expense plus 200 percent thereof.

(8) The applicant shall notify the Division Director in writing of any removal or substitution of the applicant as unit operator by any other working interest owner within the Unit Area.

(9) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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DONE in Santa Fe, New Mexico, on the day and year hereinabove designated.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.
Director