

**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. 15843
ORDER NO. R-14517**

**AMENDED APPLICATION OF XTO ENERGY, INC. FOR A NON-STANDARD
SPACING AND PRORATION UNIT AND COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on October 26, 2017, before Examiner Scott A. Dawson.

NOW, on this 13th day of December, 2017, 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) Cases No. 15836, 15837, 15838, 15839, 15840, 15841, 15842, and 15843 were consolidated at the hearing for the purpose of testimony; however, separate orders will be issued for each case.
- (3) XTO Energy, Inc. ("Applicant" or "XTO"), seeks an order pooling all uncommitted interests in the Bone Spring formation, Nash Draw; Delaware/BS (Avalon Sand) (Pool code: 47545), underlying the E/2 SE/4 of Section 25, and the E/2 E/2 of Section 36, all in Township 23 South, Range 29 East, NMPM, Eddy County, New Mexico, to form a non-standard 240-acre oil spacing and proration unit (the "Unit").
- (4) The Unit will be dedicated to the following wells (the "proposed wells");
 - (a) Applicant's Remuda South 25 State Well No. 707H (API No. 30-015-44224), a horizontal well to be drilled from a surface location

2310 feet from the North line and 690 feet from the East line (Unit H) of Section 25, to a bottom-hole location 200 feet from the South line and 990 feet from the East line (Unit P) of Section 36, both in Township 23 South, Range 29 East, NMPM;

- (b) Applicant's Remuda South 25 State Well No. 708H (API No. (API No. 30-015-44225), a horizontal well to be drilled from a surface location 2310 feet from the North line and 630 feet from the East line (Unit H) of Section 25, to a bottom-hole location 200 feet from the South line and 330 feet from the East line (Unit P) of Section 36, both in Township 23 South, Range 29 East, NMPM; and
- (c) Applicant's Remuda South 25 State Well No. 908H (API No. 30-015-44253), a horizontal well to be drilled from a surface location 2310 feet from the North line and 660 feet from the East line (Unit H) of Section 25, to a bottom-hole location 200 feet from the South line and 330 feet from the West line (Unit P) of Section 36, both in Township 23 South, Range 29 East, NMPM.

(5) The proposed wells are within the Nash Draw; Delaware/BS (Avalon Sand) (Pool code 47545), which is governed by special pool rules as established by Order No. R-12507 which provide for 40-acre oil spacing and proration units with a vertical limit from the Lamar Limestone to the Base of the Avalon Sand. The proposed Unit and project area consists of six adjacent quarter sections oriented north to south.

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

- (a) The Bone Spring formation in this area is suitable for development by horizontal drilling;
- (b) Applicant attempted to reach voluntary agreement with the affected parties on a method for election for each of the proposed wells;
- (c) the proposed orientation of the horizontal well from North to South or South to North is appropriate for the proposed Unit;
- (d) Applicant has proposed multiple 1-1/2-mile horizontal wells in Section 24, Section 25, and Section 36, all in Township 23 South, Range 29 East, in the Bone Spring formation;
- (e) Applicant requested a two-year time frame and 120 days thereafter to drill and commence completion of the proposed wells. Most compulsory pooling orders stipulate that a well must be drilled

within a one-year time frame and 120 days thereafter to commence completion from issuance of the Order. This extra time is needed because of the sequential drilling and batch completion of the proposed wells. The Applicant will drill and complete the wells in the west half of the three sections, before drilling and completing in the east half of the sections. It could take up to one year to drill and complete in the west half of the sections, before the Applicant starts to drill in the East half of the sections;

- (f) drilling multiple wells from a single pad allows for substantial cost savings for drilling, completing and equipment utilization for the proposed wells. Further, completing the proposed wells simultaneously prevents pressure drawdown on portions of the reservoir which were completed previously. This pressure drawdown changes the stimulation effectiveness and creates waste because oil and gas reserves in the reservoir are not efficiently developed;
- (g) the target interval within the Bone Spring formation for the Remuda South 25 State Well No. 707H and Remuda South 25 State Well No. 708H is the 2nd Bone Spring Sand. The target interval within the Bone Spring formation for the Remuda South 25 State Well No. 908H is the 3rd Bone Spring Sand; and
- (h) notice by certified mail was provided to all uncommitted interest owners in the proposed Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant when the Application was filed, and to heirs known to Applicant of deceased persons who appear as owners in such instruments, and whose whereabouts could be ascertained by exercise of reasonable diligence.

(7) Devon Energy Production Company, L.P. appeared at the hearing through counsel, and did not object to granting of this application. No other party appeared at the hearing, or otherwise opposed the granting of this application.

The Division concludes that:

(8) The proposed non-standard unit should be approved to enable Applicant to drill horizontal wells that will efficiently produce the reserves underlying the Unit, thereby preventing waste and protecting correlative rights.

(9) 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.

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

(11) The request for additional time to drill and complete the proposed wells should not be approved. The standard practice of commencing drilling the wells within a one-year time frame and 120 days thereafter to commence completion after approval of the Order ensures protection of correlative rights because the operator is compelled to complete the proposed wells within the Unit in a reasonable time. Further, the one-year time frame also prevents the operator from holding the acreage, and not adequately developing it. However, if the Applicant has drilled the initial well subject to Order R-14510, Order R-14511, Order R-14512, Order R-14513, Order R-14514, Order R-14515, Order R-14516, or Order R-14517, the Division should at that time consider it for subsequent wells. The request for extension should include the proposed drilling program, with estimated spud dates and completion dates of the remaining wells.

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

(13) If an infill well is drilled at a time later than the initial well, pressure sinks may occur. These pressure sinks cause the stimulation fluids to flow toward the lower pressure area, leaving portions of the reservoir not properly stimulated, resulting in lost oil and gas reserves.

(14) 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.

(15) XTO should be designated the operator of the proposed wells and the Unit.

(16) Based on testimony at hearing, the designated pool has been reassigned by the Division from the Nash Draw; Delaware/BS (Avalon Sand) Pool to the Forty Niner Ridge Bone Spring, West Pool (Pool code 96526). The Forty Niner Ridge Bone Spring, West Pool is subject to Division Rule 19.15.15.9(A) NMAC, which provides for 330-foot setbacks from the unit boundaries and standard 40-acre units each comprising a governmental quarter-quarter section. The target intervals of the proposed wells are below the vertical limit of the Nash Draw; Delaware/BS (Avalon Sand) Pool.

(17) 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 subject wells.

(18) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month while drilling and \$750 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) Pursuant to the application of XTO Energy, Inc. a non-standard 240-acre oil spacing and proration unit and project area ("the Unit") is hereby established for oil and gas production from the Bone Spring formation, Forty Niner Ridge Bone Spring, West Pool (Pool code 96526), comprising the E/2 SE/4 of Section 25, and the E/2 E/2 of Section 36, both in Township 23 South, Range 29 East, NMPM, Eddy County, New Mexico.

(2) Pursuant to the application of XTO Energy, Inc. 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 the Applicant's following wells (collectively "proposed wells"):

- (a) Remuda South 25 State Well No. 707H (the "707H proposed well"; API No. 30-015-44224), a horizontal well to be drilled from a surface location 2310 feet from the North line and 690 feet from the East line, (Unit H) of Section 25, to a bottom hole location 200 feet from the South line and 990 feet from the East line (Unit P) of Section 36, all in Township 23 South, Range 29 East. The completed interval of the proposed 707H well within the Unit is orthodox.
- (b) Remuda South 25 State Well No. 708H (the "708H proposed well"; API No. 30-015-44225), a horizontal well to be drilled from a surface location 2310 feet from the North line and 630 feet from the East line, (Unit H) of Section 25, to a bottom hole location 200 feet from the South line and 330 feet from the East line (Unit P) of Section 36, all in Township 23 South, Range 29 East. The completed interval of the 708H proposed well within the Unit is orthodox.
- (c) Remuda South 25 State Well No. 908H (the "908H proposed well"; API No. 30-015-44253), a horizontal well to be drilled from a surface location 2310 feet from the North line and 660 feet from the East line, (Unit H) of Section 25, to a bottom hole location 200 feet from the South line and 330 feet from the East line (Unit P) of Section 36, all in Township 23 South, Range 29 East. The

completed interval of the 908H proposed well within the Unit is orthodox.

(4) The operator of the Unit shall commence drilling the proposed wells on or before December 31, 2018, and shall thereafter continue drilling the wells with due diligence to test the Bone Spring formation. However, an extension may be granted, if Applicant meets the requirements of finding paragraph 11.

(5) Should one of the proposed wells not be completed within 120 days after commencement of the initial well, 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 the operator appears before the Division Director and obtains an extension of the time for completion of one of the proposed wells for good cause shown by satisfactory evidence. If the first well is drilled, the Applicant may request an extension based on findings paragraph 11.

(6) If none of the proposed wells are completed in all quarter sections included in the 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 quarter sections in which at least one well is completed.

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

(8) XTO Energy, Inc. (OGRID 5380) is hereby designated the operator of the proposed wells 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 a separate itemized schedule of estimated costs of drilling, completing and equipping each of the proposed wells ("well costs").

(10) Within 30 days from the date the schedule of estimated well costs for each well is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs for such well 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 for either well as provided above shall remain liable for operating costs but shall not be liable for risk charges to the extent computed based on costs of such well. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph for each well shall thereafter be

referred to as "non-consenting working interest owners" with respect to any well for which they so elect.

(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 for each subject well within 90 days following completion of such well. If no objection to the actual well costs for any well 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 for any well, any pooled working interest owner who has paid its share of estimated costs of such well 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) Production from the proposed wells shall be separately metered before commingling unless the division grants an exception for surface commingling providing for an allocation method suitable for leases with diverse ownership, pursuant to Rule 19.15.12.10.B(2) NMAC.

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

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

(16) Reasonable charges for supervision (combined fixed rates) for each well are hereby fixed at \$7,500 per month, per well, while drilling and \$750 per month, per well, while producing, provided that these rates may be adjusted annually pursuant to the overhead provisions of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from each pooled working interest owner's share of production from each well, such owner's proportionate share of both the supervision charges and the actual expenditures required for operating such well, not in excess of what are reasonable.

(17) Except as provided above, all proceeds from production from the subject wells 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).

(18) 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.

(19) 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.

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

(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