

**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. 15805 Reopened
ORDER NO. R-14477-A**

**APPLICATION OF XTO ENERGY, INC TO RE-OPEN CASE NO. 15805 TO
REVISE THE WELL NAME AND TO DEDICATE AN ADDITIONAL WELL TO
THE NON-STANDARD SPACING AND PRORATION UNIT UNDER THE
TERMS OF ORDER NO. R-14477, EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 30, 2017, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 7th day of March, 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) By Order No. R-14477, issued on October 5, 2017, the Division granted the application of XTO Energy, Inc., creating a non-standard 239.62-acre (more or less) oil spacing and proration unit and project area (the "Unit") for oil and gas production from the Bone Spring formation, Willow Lake; Bone Spring, Southeast Pool (Pool code 96217) comprising the W/2 E/2 of Section 6, Township 25 South, Range 29 East, and the W/2 SE/4 of Section 31, Township 24 South, Range 29 East, NMPM, Eddy County, New Mexico, and pooling all uncommitted interests in the Unit.

(3) The Unit was dedicated to the following "Proposed Well" to be completed at a standard well location:

Cattle Baron State Well No. 2H, API No. 30-015-44281

SHL: 180 feet from the South line and 2010 feet from the East line,
(Unit O) of Section 6, Township 25 South, Range 29 East, NMPM.

BHL: 2440 feet from the South line and 2010 feet from the East line
(Unit J) of Section 31, Township 24 South, Range 29 East, NMPM.

(4) XTO Energy, Inc. (the "Applicant") now seeks to re-open this case to revise the name of the proposed well, reflecting the correct mix of land ownership, and to include an additional dedicated proposed well. All other aspects of Order No. R-14477, including the Unit, the pool, and the interests of the parties to be pooled remain the same.

(5) Applicant asks that the Unit be dedicated to the following "Proposed Wells" both to be completed at standard locations:

Cattle Baron Federal Com Well No. 2H, API No. 30-015-44281

SHL: 180 feet from the South line and 2010 feet from the East line,
(Unit O) of Section 6, Township 25 South, Range 29 East, NMPM.

BHL: 2440 feet from the South line and 2010 feet from the East line
(Unit J) of Section 31, Township 24 South, Range 29 East, NMPM.

Golden Corral Federal Com Well No. 2H, API No. 30-015-44277

SHL: 180 feet from the South line and 1980 feet from the East line,
(Unit O) of Section 6, Township 25 South, Range 29 East, NMPM.

BHL: 2440 feet from the South line and 1980 feet from the East line
(Unit J) of Section 31, Township 24 South, Range 29 East, NMPM.

(6) The Proposed Wells are within the Willow Lake; Bone Spring, Southeast Pool, and therefore subject to 330-foot setbacks from the unit boundaries of standard 40-acre units each comprising a governmental quarter-quarter section. The proposed Unit and project area consists of six adjacent quarter-quarter sections oriented south to north.

(7) Applicant appeared through counsel and presented the following evidence by affidavit:

- (a) the Bone Spring formation in this area is suitable for development by horizontal drilling;
- (b) the proposed orientation of the horizontal wells from south to north is appropriate for the Unit;
- (c) both Proposed Wells will be pad drilled and completed simultaneously and therefore both wells should be included in the requested order.
- (d) all quarter-quarter sections to be included in the Unit are expected to produce more or less equally from the Bone Spring formation, so that the Unit as requested will not impair correlative rights;

- (e) 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
 - (f) those potentially affected parties whose whereabouts could not be ascertained were noticed by publication as provided in Rule 19.15.4.12.B NMAC.
- (8) No other party appeared or otherwise opposed this application.

The Division concludes as follows:

- (9) 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.
- (10) 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.
- (11) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the Proposed Wells to a common source of supply within the Unit at the described locations.
- (12) There are interest owners in the Unit that have not agreed to pool their interests.
- (13) 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 Unit.
- (14) XTO Energy, Inc (OGRID 5380) should be designated the operator of the Proposed Wells and the Unit.
- (15) To ensure protection of correlative rights, any pooled working interest owner whose address is known should be notified and have an opportunity to protest before the Division grants any extension of the time provided herein for commencing drilling.
- (16) Infill wells within the Unit should be subject to Division Rules 19.15.13.9 NMAC through 19.15.13.10 NMAC and to the terms and conditions of this order.
- (17) Any pooled working interest owner who does not pay its share of estimated

well costs of any well should have withheld from production from such well its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the Proposed Wells.

(18) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month, per well, while drilling and \$750 per month, per well, while producing, provided that these rates should be adjusted annually pursuant to the overhead adjustment provision of the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) The ordering paragraphs of Order No. R-14477, issued on October 5, 2017, are hereby placed in abeyance and replaced by the following.

(2) Pursuant to the application of XTO Energy, Inc, a 239.62-acre (more or less) non-standard oil spacing and proration unit and project area (the "Unit") is hereby established for oil and gas production from the Bone Spring formation, Willow Lake; Bone Spring, Southeast Pool (Pool code 96217), comprising the W/2 E/2 of Section 6, Township 25 South, Range 29 East and the W/2 SE/4 of Section 31, Township 24 South, Range 29 East, NMPM, Eddy County, New Mexico.

(3) All uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation underlying the Unit, are hereby pooled.

(4) The Unit shall be dedicated to Applicant's following "Proposed Wells" to be completed at standard well locations;

Cattle Baron Federal Com Well No. 2H, API No. 30-015-44281

SHL: 180 feet from the South line and 2010 feet from the East line,
(Unit O) of Section 6, Township 25 South, Range 29 East, NMPM.
BHL: 2440 feet from the South line and 2010 feet from the East line,
(Unit J) of Section 31, Township 24 South, Range 29 East, NMPM.

Golden Corral Federal Com Well No. 2H, API No. 30-015-44277

SHL: 180 feet from the South line and 1980 feet from the East line,
(Unit O) of Section 6, Township 25 South, Range 29 East, NMPM.
BHL: 2440 feet from the South line and 1980 feet from the East line,
(Unit J) of Section 31, Township 24 South, Range 29 East, NMPM.

(5) The operator of the Unit shall commence drilling the first Proposed Well on or before March 31, 2019, and shall thereafter continue drilling the Proposed Wells with due diligence to test the Bone Spring formation.

(6) In the event the operator does not commence drilling at least one of the Proposed Wells on or before March 31, 2019, Ordering Paragraphs (2) and (3) shall be of

no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(7) The operator shall notify each pooled working interest owner for whom it has a valid address before it files with the Division any request for extension of the time to commence drilling and shall certify its compliance with this requirement in its request for extension. The Division may grant an extension at its discretion after 20 days from receipt of the request if no objection is received. Otherwise, the Division shall not grant the extension without a hearing.

(8) Unless at least one of the Proposed Wells is drilled and completed within 120 days after commencement of the first such well, then Ordering Paragraphs (2) and (3) shall be of no further effect, and the Unit and project area created by this order shall terminate, unless operator requests in writing an extension of the time for completion of one of the Proposed Wells for good cause shown by satisfactory evidence and the Division issues written approval. If neither of the Proposed Wells is completed in all of the standard spacing units included in the proposed project area (or Unit) then the operator shall apply to the Division for an amendment to this order to contract the Unit so that it includes only those standard spacing units in which at least one of the wells is completed.

(9) 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 pooled Unit shall terminate, unless this Order has been amended to authorize further operations.

(10) Infill wells within the Unit shall be subject to the terms and conditions of this order.

(11) XTO Energy, Inc (OGRID 5380) is hereby designated the operator of the Proposed Wells and the Unit.

(12) 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").

(13) Within 30 days from its receipt of the schedule of estimated well costs for any well, any pooled working interest owner shall have the right to pay its share of estimated 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 estimated well costs as provided above for any well shall remain liable for operating costs but shall not be liable for risk charges for such well. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(14) 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 of each well within 90 days following completion of the Proposed Wells. 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.

(15) 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 or wells 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.

(16) 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 such interest; and
- (b) As a charge for the risk involved in drilling the well, 200% of the above costs.

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

(18) Reasonable charges for supervision (combined fixed rates) 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, at the election of the operator, be adjusted annually pursuant to the overhead adjustment 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 the proportionate share of both the supervision charges and the actual expenditures required for operating such well, not more than what are reasonable.

(19) 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 attributable to each Proposed Well, and all charges for supervision and operating costs charged against such revenues. Operating costs shall include all reasonable costs actually incurred for the maintenance and operation of the well, except for "well costs" reported pursuant to Ordering Paragraph (13), that are properly chargeable to the joint account pursuant to COPAS procedures. If no objection to the operating costs is received by the Division, and

the Division has not objected, within 45 days following receipt of any schedule, the costs shall be deemed to be the reasonable operating costs. If there is an objection to the accuracy or reasonableness of operating costs reported within the 45-day period, the Division will determine reasonable operating costs after public notice and hearing.

(20) Except as provided above, all proceeds of production from the Proposed 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).

(21) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for allocating costs and charges under this Order. Any costs that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs shall be withheld from production attributable to royalty interests.

(22) Should all the parties to this compulsory pooling order reach voluntary agreement after entry of this order, this order shall thereafter be of no further effect.

(23) The operator of the wells and the Unit shall notify the Division in writing of the subsequent voluntary agreement of any party subject to the compulsory pooling provisions of 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.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

HEATHER RILEY
Director