

**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. 15912  
ORDER NO. R-14652**

**APPLICATION OF KAISER-FRANCIS OIL COMPANY FOR A NON-  
STANDARD OIL 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 December 21, 2017, before Examiner Scott A. Dawson, and again on January 11, 2018 before Examiner Michael A. McMillan.

NOW, on this 20<sup>th</sup> day of April, 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 of the subject matter.

(2) Kaiser Francis Oil Company ("Applicant" or "KF") seeks approval of a 240-acre, more or less, non-standard oil spacing and proration unit and project area (the "Unit") for oil and gas production from the Brushy Canyon formation, Loving, Brushy Canyon, East Pool (Pool code: 40350), comprising the E/2 W/2 of Section 24, and the E/2 NW/4 of Section 25, all in Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Brushy Canyon formation.

(3) The Unit will be dedicated to the Applicant's Williams Fee 2524 LBC Well No. 1H (the "proposed well"; API No. 30-015-43743), a horizontal well to be drilled from a surface location 2290 feet from the North line and 2205 feet from the West line (Unit F) of Section 25, to a terminus or bottom hole location 330 feet from the North line and 1980 feet from the West line (Unit C) of Section 24, all in Township 23 South,

Range 28 East. The location of the completed interval of the proposed well will be orthodox within the Unit.

(4) The proposed well is within the Loving, Brushy Canyon, East Pool (Pool code: 40350), which is governed by special pool rules as established by Division Order No. R-9501 which allow an 8000:1 limiting gas-oil ratio but provide for 40-acre oil and gas spacing units with wells to be located no closer than 330 feet from a unit outer boundary. The proposed Unit and project area consists of six adjacent quarter sections oriented south to north.

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

- (a) The Brushy Canyon formation in this area is suitable for development by horizontal drilling;
- (b) the proposed orientation of the horizontal well from South to North is appropriate for the proposed Unit;
- (c) Each quarter-quarter section in the proposed unit can be expected to contribute more or less equally to production from the Brushy Canyon formation;
- (d) notice was provided to all affected parties in surrounding quarter-quarters;
- (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 whose whereabouts could be ascertained by exercise of reasonable diligence; 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.

(6) MRC Permian LKE Company, LLC and Matador Production Company entered appearances and were represented by counsel at the hearing.

(7) Roy G. Barton Jr. and Claudia R. Barton as owner of a mineral interest submitted a letter dated December 14, 2017 stating its interest was committed voluntarily.

The Division concludes that:

(8) The proposed non-standard unit should be approved to enable Applicant to drill a horizontal well 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 proposed well to a common source of supply within the Unit at the proposed location.

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

(12) There are unlocatable interest owners in the Unit.

(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 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.

(14) Kaiser-Francis Oil Company should be designated the operator of the proposed well 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) 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 Kaiser-Francis Oil Company, a 240-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 Brushy Canyon formation, Loving, Brushy Canyon, East Pool (Pool code: 40350), comprising the E/2 W/2 of Section 24,

and the E/2 NW/4 of Section 25, all in Township 23 South, Range 28 East, NMPPM, Eddy County, New Mexico.

(2) All uncommitted interests, whatever they may be, in the oil and gas in the Brushy Canyon formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to the Applicant's Williams Fee 2524 LBC Well No. 1H (the "proposed well"; API No. 30-015-43743), a horizontal well to be drilled from a surface location 2290 feet from the North line and 2205 feet from the West line (Unit F) of Section 25, to a terminus or bottom hole location 330 feet from the North line and 1980 feet from the West line (Unit C) of Section 24, all in Township 23 South, Range 28 East. The location of the completed interval of the proposed well will be orthodox within the Unit.

(4) The operator of the Unit shall commence drilling the proposed well on or before April 30, 2019 and shall thereafter continue drilling the proposed well with due diligence to test the Wolfcamp formation.

(5) In the event the operator does not commence drilling the proposed well on or before April 30, 2019 Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(6) Should the proposed well not be drilled and completed within 120 days after commencement thereof, 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 operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not 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 the well is completed.

(7) Upon final plugging and abandonment of the proposed well and any other well drilled on that 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) Infill wells within the Unit shall be subject to the terms and conditions of this order.

(9) Kaiser-Francis Oil Company (OGRID 12361) is hereby designated the operator of the well and the Unit.

(10) 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 an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(11) Within 30 days from the date the schedule of estimated well costs is furnished, 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 shall remain liable for operating costs but shall not be liable for risk charges. 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."

(12) 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 within 90 days following completion of the proposed well. 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.

(13) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs 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.

(14) The operator is hereby authorized to withhold the following costs and charges from production from each well:

- (a) the proportionate share of reasonable well costs attributable to each such 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 the well are hereby fixed at \$7,500 per month while drilling and \$750 per month while producing, provided that these rates may be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations." The operator is authorized

to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(17) 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 the Subject 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 as detailed herein, 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.

(18) Except as provided above, all proceeds from production from the proposed well 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).

(19) Any unleased mineral interests 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.

(20) 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.

(21) The operator of the well 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.

(22) 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**

A handwritten signature in cursive script that reads "Heather Riley".

**HEATHER RILEY**  
**Director**