

5/18/99

## 1207 NOTICE REQUIREMENTS FOR SPECIFIC ADJUDICATIONS

1207.A. Applicants for the following adjudicatory hearings before the Division or Commission shall give notice in addition to that required by Rule 1204 as set forth below:

### (1) Compulsory Pooling and Statutory Unitization

(a) Notice shall be given to any owner of an interest in the mineral estate whose interest is evidenced by a written document of conveyance either of record or known to the applicant at the time of filing the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized. [1-1-86...2-1-96]

(b) When an applicant is unable to locate all the owners of interests to be pooled and the application is unopposed by those located, the applicant may file under the following alternate procedure if notice is given as required in (a) above. The application shall include the following:

- (i) a statement that no opposition for hearing is expected and why;
- (ii) a map outlining the spacing unit(s) to be pooled showing the nature and percentage of the ownership interests and location of the proposed well;
- (iii) the names and last known addresses of the interest owners to be pooled and the nature and percent of their interests and an attestation that a diligent search has been conducted of all public records in the county where the well is located and of phone directories, including computer searches;
- (iv) the names of the formations and pools to be pooled (Note: The Division cannot pool a spacing unit larger in size than provided in these rules or applicable special pool orders);
- (v) a statement as to whether the pooled unit is for gas and/or oil production (see note under iv, above);
- (vi) written evidence of attempts made to gain voluntary agreement including but not limited to copies of relevant correspondence;
- (vii) geological map(s) of the formation(s) to be tested and a

BEFORE THE  
OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico

Case No. 12177 Exhibit No. 1  
Submitted by OCD  
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geological and engineering assessment of the risk involved in the drilling of the well and a proposed risk penalty to be assessed against any working interest owner who does not pay its share of estimated well costs;

- (viii) proposed overhead charges (combined fixed rates) to be applied during drilling and production operations along with the basis for such charges;
- (ix) the location and proposed depth of the well to be drilled on the pooled units, and
- (x) a copy of the Authorization for Expenditure (AFE) to be submitted to the interest owners in the well. [1-1-87...2-1-96]

(c) All submittals required shall be accompanied by sworn and notarized statements by those persons who prepared the submittals attesting that the information is correct and complete to the best of their knowledge and belief. [1-1-87...2-1-96]

(d) All unopposed pooling applications will be set for hearing. If the Division finds the application complete, the information submitted with the application will constitute the record in the case and an order will be issued based on the record.

(e) At the request of any interested person or upon the Division's own initiative, any pooling application submitted shall be set for full hearing with oral testimony by the applicant. [1-1-87...2-1-96]

**(2) Unorthodox well locations:**

(a) Definition: "Affected persons" are the following persons owning interests in the adjoining spacing units:

1. the Division-designated operator;
2. in the absence of an operator, any lessee whose interest is evidenced by a written document of conveyance either of record or known to the applicant as of the date the application is filed; and
3. in the absence of an operator or lessee, any mineral interest owner whose interest is evidenced by a written document of conveyance either of record or known to the applicant as of the date the application was filed.

4. in the event the operator of the proposed unorthodox well is also the operator of an existing adjoining spacing unit and ownership is not common between the adjoining spacing unit and the spacing unit containing the proposed unorthodox well, then “affected persons” include all working interest owners in that spacing unit.

(b) If the proposed location is unorthodox by being located closer to the outer boundary of the spacing unit than permitted by rule, notice shall be given to the affected persons in the adjoining spacing units towards which the unorthodox location encroaches. [1-1-86...2-1-96]

(c) If the proposed location is unorthodox by being located in a different quarter-quarter section or quarter section than provided in special pool orders, notice shall be given to all affected persons . [1-1-86...2-1-96]

(3) **Non-standard proration unit:**

Notice shall be given to all owners of interests in the mineral estate to be excluded from the proration unit in the quarter-quarter section (for 40-acre pools or formations), the one-half quarter section (for 80-acre pools or formations; the quarter section (for 160-acre pools or formations), the half section (for 320-acre pools or formations), or in the section (for 640-acre pools or formations) in which the non-standard unit is located and to such other persons as required by the Division. [1-1-86...2-1-96]

(4) **Special pool orders regulating or affecting a specific pool:**

(a) Except for non-standard proration unit applications, if the application involves changing the amount of acreage to be dedicated to a well, notice shall be given to:

- (i) all Division-designated operators in the pool; and
- (ii) all owners of interests in the mineral estate in existing spacing units with producing wells;

(b) If the application involves other matters, notice shall be given to:

- (i) all Division-designated operators in the pool; and
- (ii) all Division-designated operators of wells within the

same formation as the pool and within one (1) mile of the outer boundary of the pool which have not been assigned to another pool. [1-1-86...2-1-96]

(5) **Special orders regarding any Division-designated potash area:**

Notice shall be given to all potash lessees, oil and gas operators, oil and gas lessees and unleased mineral interest owners within the designated potash area. [1-1-86...2-1-96]]

(6) **Downhole commingling:**

Notice shall be given to all owners of interests in the mineral estate in the spacing unit if ownership is not common for all commingled zones within the spacing unit. [1-1-86...2-1-96]

(7) **Surface disposal of produced water or other fluids:**

Notice shall be given to any surface owner within one-half mile of the site. [1-1-86...2-1-96]

(8) **Adjudications not listed above:**

Notice shall be given as required by the Division.

1207.B. Type and Content of Notice. Any notice required by this rule shall be sent by certified mail, return receipt requested, to the last known address of the person to whom notice is to be given at least 20 days prior to the date of hearing of the application and shall include: a copy of the application; the date, time and place of the hearing; and the means by which protests may be made. [1-1-86...2-1-96]

1207.C. At the hearing, the applicant shall make a record, either by testimony or affidavit signed by the applicant or its authorized representative, that: (a) the notice provisions of this rule have been complied with; (b) the applicant has conducted a good-faith diligent effort to find the correct address of all persons entitled to notice; and (c) pursuant to this rule, notice has been given at that correct address as required by this rule. In addition, the record shall contain the name and address of each person to whom notice was sent and, where proof of receipt is available, a copy of the proof. [1-1-86...2-1-96]

1207.D. Evidence of failure to provide notice as required in this rule may, upon proper showing, be considered cause for reopening the case. [1-1-86...2-1-96]

1207. E. In the case of an administrative application where the required notice was sent

and a timely filed protest was made, the Division shall notify the applicant and the protesting party in writing that the case has been set for hearing and the date of the hearing. No further notice is required.

## **PROPOSED ADDITIONS TO DEFINITIONS IN 19 NMAC 15. A. 7**

**MINERAL ESTATE** is the most complete ownership of oil and gas recognized in law and includes all the mineral interests and all the royalty interests.

**MINERAL INTEREST OWNERS** are those persons holding an interest in the executive rights including oil and gas lessees (i.e., “working interest owner”) and mineral interest owners who have not signed an oil and gas lease.

**ROYALTY INTEREST OWNERS** are those persons holding an interest in the non-executive rights (the rights to explore and develop) including lessors, royalty interest owners and overriding royalty interest owners. Royalty interests are non-cost bearing.

**WORKING INTEREST OWNERS** means the owners of the operating interest under an oil and gas lease who have the exclusive right to exploit the oil & gas minerals. Working interests are cost bearing.

**PRORATION UNIT** means the area in a pool that can be effectively and efficiently drained by one well as determined by the Division or Commission (See NMSA 70-2-17.B) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool. A proration unit will be the same size and shape as a spacing unit. All proration units are spacing units but not all spacing units are proration units.

**SPACING UNIT** means the area allocated to a well under a well spacing order or rule. Under the Oil & Gas Act, § 70-2-12.B(10), the Commission has the power to fix spacing units without first creating proration units. See Rutter & Wilbanks, 87 NM 286 (1975). This is the area designated on Division form C-102.

**ADJOINING SPACING UNITS** means those existing or prospective spacing units in the same pool(s) that are touching at a point or line the spacing unit which is the subject of the application.

**EXISTING SPACING UNIT** means a spacing unit containing a producing well.

**PROSPECTIVE SPACING UNIT** means a hypothetical spacing unit which does not yet have a producing well.