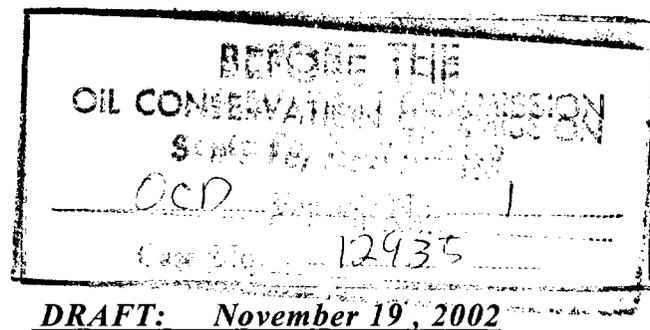


EXHIBIT A to Application

Case No. 12935



NEW MEXICO OIL CONSERVATION DIVISION
SURFACE COMMINGLING
PROPOSED NEW RULE

REPEAL CURRENT RULES 303.B, 309.B AND 309.C AND ADOPT AMENDMENTS TO RULES 303 AND 309 TO READ AS FOLLOWS:

19.15.5.303 SEGREGATION OF PRODUCTION FROM DIFFERENT POOLS OR LEASES

A. In General.

- (1) Pool Segregation Required – Each pool shall be produced as a single common source of supply, and wells therein shall be completed, cased, maintained and operated so as to prevent communication within the wellbore with any other pool or horizon. Oil, gas or oil and gas produced from each pool shall at all times be segregated, and the combination or commingling of production, before marketing, with production from any other pool without division approval is prohibited.
- (2) Lease Segregation Required – Oil, gas, or oil and gas, shall not be transported from a lease until it has been accurately measured or determined by other methods acceptable to the division. The production from each lease shall at all times be segregated, and the combination or commingling of production, before marketing, with production from any other lease or leases without division approval is prohibited.
- (3) Exceptions -- Exceptions to paragraphs (1) and (2) of this subsection may be permitted for surface commingling, down-hole commingling and off-lease storage and/or measurement pursuant to subsections ~~B, C and D~~, respectively, of this section. Exceptions granted by previous orders of the division remain in effect in accordance with their terms and conditions.

B. Surface Commingling – Oil, Gas, or Oil and Gas.

- (1) Introduction. To prevent waste, to promote conservation and to protect correlative rights, the division shall have the authority to grant exceptions to permit the surface commingling of oil, gas, or oil and gas, in

before effective date of this section

common facilities from two or more pools, two or more leases or combinations of pools and leases provided that:

- (a) the method used to allocate the production to the various leases and/or pools to be commingled is approved by the division,
 - (b) if federal, indian or state lands are involved, the United States bureau of land management or the commissioner of public lands for the State of New Mexico (as applicable) has been notified of the proposed commingling, and
 - (c) all other applicable requirements set out in this subsection are met.
- (2) Definitions - For purposes of this section only, the following definitions shall apply:
- (a) Lease. "Lease" means a contiguous geographical area of identical ownership overlying a pool or portion of a pool. If there is any diversity of ownership between different pools, or between different zones or strata, then each such pool, zone or stratum having such diverse ownership shall be considered a separate lease.
 - (b) Diverse Ownership. "Diverse Ownership" exists if leases or pools have any different working, royalty or overriding royalty interest owners or any different ownership percentages of the same working, royalty or overriding royalty interest owners.
 - (c) Identical Ownership. "Identical Ownership" exists if leases or pools have all the same working, royalty and overriding royalty owners in exactly the same percentages.
- (3) Specific Requirements and Provisions for Commingling of Leases or Pools and/or Leases/Pools with Identical Ownership.
- (a) Measurement and Allocation Methods.
 - (i) Well Test Method.

If all wells or units to be commingled are marginal and are physically incapable of producing top unit allowable for their respective pools, or if all affected

pools are unprorated, commingling shall be permitted without separately measuring the production from each pool or lease. Instead, the production from each well and from each pool or lease may be determined from well tests conducted periodically, but no less than annually. This shall not include those cases where wells can produce an amount of oil equal to top allowable for the pool but are restricted because of high gas oil ratios.

The operator of any such marginal commingling installation shall notify the division at any time any well or unit so commingled under this subsection becomes capable of producing top allowable for its pool, at which time the division shall require separate measurement.

If any well or unit in a prorated pool to be commingled can physically be produced at top allowable rates (even if restricted because of high gas-oil ratio) commingling will be permitted only if the production from such pool is metered prior to commingling, or determined by the subtraction method.

- (ii) Metering Method. Production from each well and each pool or lease may be determined by separately metering before commingling.
- (iii) Subtraction Method. If production from all except one of the pools or leases to be commingled is separately measured, the production from the remaining pool or lease may be determined by the subtraction method as follows:

For oil, the net production from the unmetered pool or lease shall be the difference between the net pipeline runs with the beginning and ending stock adjustments, and the sum of the net production of all metered pools or leases.

For gas, the net production from the unmetered pool or lease shall be the difference between the volume recorded at the sales meter and the sum of the volumes recorded at the individual pool or lease meters.

- (iv) Alternative Methods. Production from each well and each pool or lease to be commingled may also be determined by

any other method specifically approved by the division prior to commingling. The division shall determine what evidence is necessary to support any request to use an alternative method.

(b) Approval Process. Prior to commingling, the applicant shall notify the division by filing form C-103 (sundry notices and reports on wells) in the Santa Fe office with the following information set forth therein or attached thereto:

- (i) Identification of each of the leases, pools and/or leases and pools to be commingled,
- (ii) The method of allocation to be used. If well test method is proposed, the notification to the division shall be accompanied by a tabulation of production showing that the average daily production of any affected proration unit over a 60-day period has been below top unit allowable for the subject pool (or for any newly drilled well without a 60-day production history, a tabulation of the available production) or other evidence acceptable to the division to establish that the well or wells on such unit are not capable of producing top unit allowable. If the proposed method of allocation is other than an approved method provided in this section, the operator shall submit evidence of the reliability of such method.
- (iii) A certification by a licensed attorney or qualified petroleum landman that the ownership in all pools and leases to be commingled is identical as defined in this section, and
- (iv) Evidence of notice to the state land office and/or the United States bureau of land management, if required.]

Commingling may be commenced upon approval of form C-103 by the division, subject to compliance with any conditions of such approval noted by the division.

(4) Specific Requirements and Provisions for Commingling of Leases or Pools and/or Leases/Pools with Diverse Ownership.

(a) Measurement and Allocation Methods. Where there is diversity of ownership between two or more leases, two or more pools, or between different pools and leases, the surface commingling of production therefrom shall be permitted only if production from each of such pools or leases is accurately metered, or determined

by other methods specifically approved by the division, prior to such commingling.

(b) Meter Proving Frequencies.

(i) Oil. Each meter used in oil production accounting shall be proved for accuracy as follows:

monthly, if more than 100,000 barrels of oil per month are measured through the meter;

quarterly, if between 10,000 and 100,000 barrels of oil per month are measured through the meter; and

semi-annually, if less than 10,000 barrels of oil per month are measured through the meter.

(ii) Gas. For each gas sales and allocation meter, the accuracy of the metering equipment at the point of delivery or allocation shall be tested following the initial installation or following repair and, if proven adequate, retested:

quarterly, if 100 mcfcpd or more are measured through the meter; and

semi-annually, if less than 100 mcfcpd are measured through the meter.

(iii) Correction and Adjustment. If the meter proving and calibration tests reveal inaccuracy in the measuring equipment of more than two percent (2%), the volume measured since the last calibration shall be corrected in addition to adjusting the meter to zero error. The operator shall submit a corrected report adjusting the volume of oil or gas measured and showing all calculations made in correcting the volumes. The volumes shall be corrected back to the time the inaccuracy occurred, if known. If the time is unknown, volumes shall be corrected for the last half of the period elapsed since the date of the last calibration.

(c) Low Production Gas Wells. For gas wells producing less than 15 mcfcpd, estimation of production is an acceptable alternative to individual well measurement provided that commingling of

production from different pools or leases does not take place unless otherwise authorized pursuant to this section.

(d) Approval Process.

- (i) In General. Where there is diversity of ownership, the division may grant exceptions to the requirements of subsection 303.A to permit surface commingling of production from different leases, pools and/or leases/pools only after notice and an opportunity for hearing as provided in this subparagraph.
- (ii) Application. Applications for administrative approval shall be submitted to the division's Santa Fe office on form C-107-B and shall contain a list of all parties owning any interest in any of the production to be commingled (including owners of royalty and overriding royalty interests whether or not they have a right or option to take their interest in kind) and a method of allocating production to ensure the protection of correlative rights.
- (iii) Notice. Notice shall be given to all such interest owners in accordance with 19.15.N.1207.A NMAC. The applicant shall submit a statement attesting that applicant, on or before the date the application was submitted to the division, sent notification to each of the interest owners by submitting a copy of the application and all attachments thereto, by certified mail, return receipt requested, advising them that any objection must be filed in writing with the Santa Fe office of the division within 20 days from the date the division received the application. The division may approve the application administratively, without hearing, upon receipt of written waivers from all parties owning any interest in the production to be commingled, or if no such owner had filed an objection within the 20-day period. If any objection is received, the application shall be set for hearing. Notice of the hearing shall be given to the applicant, to any party who has filed an objection, and to such other parties as the division shall direct.
- (iv) Hearing Ordered by the Division. The division may set for hearing any application for administrative approval of surface commingling, and, in such case,

notice of such hearing shall be given in such manner as the division shall direct.

- (v) Notice by Publication. When an applicant has been unable to locate all owners of interests in production to be commingled, notice shall be provided by publication, and proof of publication shall be submitted with the application. Such proof shall consist of a copy of the legal advertisement which was published in a newspaper of general circulation in the county or counties in which the commingled production is located. The contents of such advertisement shall include (a) the name, address, telephone number, and contact party for the applicant, (b) the location by section, township and range of the leases from which production will be commingled and the location of the commingling facility; (c) the source of all commingled production by formation and pool name, and (d) a notation that interested parties must file objections or requests for hearing in writing with the oil conservation division's Santa Fe office, within 20 days, or the application may be approved.

David will address, a revised draft - "does not apply @ Comm'n level"

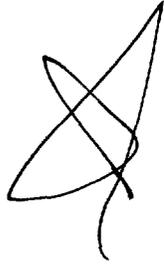
- (vi) Effect of Protest. All protests and requests for hearing received by the division shall be included in the case file; provided however, the protest will not be considered by the division as evidence. If the protesting party does not appear at the hearing and present evidence in support of its objection the application may be granted without the division receiving additional evidence in support thereof.

★ ?

- (vii) Additions. A surface commingling order may authorize, prospectively, the inclusion therein of additional pools and/or leases within defined parameters set forth in the order, provided that (a) the notice to the interest owners has included a statement that authorization for subsequent additions is being sought and of the parameters for such additions proposed by the applicant, and (b) the division finds that subsequent additions within defined parameters will not, in reasonable probability, reduce the value of the commingled production or otherwise adversely affect the interest owners. A subsequent application to amend an order to add to the commingled

Comm'n level? Substantive evidence rule?? ★ legal residuum??

?



production other leases, pools or leases/pools that are within the defined parameters shall require notice only to the owners of the production to be added, unless the division otherwise directs.



What if owners did object? what would we want?

C. Down-Hole Commingling. [No change]

D. Off-Lease Storage and/or Off-Lease Measurement. The division may grant exceptions to the requirements of subsection A of this section, administratively, without hearing, to permit production from one lease to be transported prior to measurement to another lease for storage thereon when:

Why is this necessary?

- (1) an application for off-lease storage and/or off-lease measurement has been filed on division form C-107-B with the Santa Fe office of the division with one copy to the appropriate district office of the division,
- (2) all such production is from the same common source of supply,
- (3) commingling of production from different leases will not result,
- (4) there will be no intercommunication of the handling, separating, treating or storage facilities designated to each lease,
- (5) all parties owning working interests in any of the production to be transported off lease have been notified of the application in accordance with the provisions of 19.15.N.1207.A NMAC and have consented in writing to the off-lease storage and/or measurement,
- (6) in lieu of paragraph (5) of this subsection B, the applicant furnishes proof that said parties were notified by registered or certified mail of its intent to transport the production from one lease to another lease for storage prior to measurement, and after a period of twenty (20) days following receipt of the application, no party has filed objection to the application, and
- (7) if state, federal or indian lands are involved, the commissioner of public lands for the State of New Mexico or the United States bureau of land management (as applicable) has been notified.

to hearing? If it gets left out of order, owners of common production would get no notice even though they objected

The division may set for hearing any application for approval of off-lease storage or off-lease measurement, in which event notice of hearing shall be given, pursuant to 19.15.N.1207.A NMAC, to all owners of working

interests in the affected lease or leases, and to such other owners as the division may direct.

~~Common Tank Be Healed,~~

19.15.5.309 AUTOMATIC CUSTODY TRANSFER EQUIPMENT

A. Oil shall be received and measured in a facility of an approved design. Such facilities shall permit the testing of each well at reasonable intervals and may be comprised of manually gauged, closed stock tanks for which proper strapping tables have been prepared, or of automatic custody transfer (ACT) equipment. The use of such automatic custody transfer equipment shall be permitted only after compliance with the following: The operator shall file with the Division Form C-106, Notice of Intention to Utilize Automatic Custody Transfer Equipment, and shall receive approval thereof prior to transferring oil through the ACT system. The carrier shall not accept delivery of oil through the ACT system until Form C-106 has been approved.

*changes
??
..*

(2) and (3) unchanged.

309.B Repealed
309.C Repealed

Strikeout version?