

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**APPLICATIONS OF V-F PETROLEUM INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Case Nos. 24994- 24995
& 25115-25117**

**APPLICATIONS OF READ & STEVENS, INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Case Nos. 24941-24942
& 25145-25148**

V-F PETROLEUM INC.'S CLOSING STATEMENT

V-F Petroleum Inc. ("V-F"), through its undersigned attorneys, submits to the Oil Conservation Division ("Division" or "OCD") its Closing Statement in support of V-F's applications in Case Nos. 24994-24995 and 25115-25117 and in opposition to the applications filed by Read & Stevens, Inc. and Permian Resources Operating, LLC (collectively "Permian") in Case Nos. 24941-24942 and 25145-25148.

I. Introduction and Background.

1. V-F first began devising its plan to develop Sections 15 and 16, Township 18 South, Range 31 East, NMPM, Eddy County, New Mexico, 1 year and 9 months ago, at which time it began evaluating title. On September 6, 2023, after making substantial progress toward acquiring mineral interests in the subject lands, V-F sent well proposals to working interest ("WI") owners for the Rainier 16-15 Fed Com wells. *See* V-F's Exhibits A-5, Consolidated Hearing Packet.

2. Mewbourne Oil Company ("Mewbourne") was a WI owner in Section 15 which received V-F Petroleum's well proposal.

3. When Mewbourne received V-F's proposal, Permian, which eventually acquired Mewbourne's WI in Section 15, owned no interest in Section 15; it owned WI only in Section 14. Thus, at the time that V-F sent its well proposal for Sections 15 and 16, Permian could just as easily

have pursued the acquisition of mineral interest in Section 13 to develop a two-mile plan eastward covering Sections 14 and 13, which would have allowed both V-F and Permian to develop two-mile plans, thereby optimizing production and preventing waste across four sections. Developing Sections 15 and 16, as one plan, and Sections 13 and 14, as another plan, would have been consistent with the pattern of development plans in this area that consists of a series of two-mile units moving eastward. *See* V-F's Rebuttal Exhibit 15, Consolidated Hearing Packet. Instead, a year and nine months after V-F began acquiring interest and after sending its well proposal to Mewbourne, Permian chose to acquire WI in Section 15 by acquiring Mewbourne's interests, thereby encroaching on V-F's plans. The OCD's approval of Permian's plans for Sections 14 and 15 would restrict V-F to the development of Section 16 only. Because developing a single section is less economical than a two-section plan, Section 16, which is 100% State minerals, would likely not be developed in the near future resulting in waste; whereas the development of Sections 16 and 15 as a plan along with the development of Section 13 and 14 as a plan would be economical for both V-F and Permian and would not risk stranding the State's minerals in Section 16 for an extended period of time.

4. On June 4, 2024, some ten months after V-F sent its September 6, 2023, well proposal to Mewbourne, Permian acquired Mewbourne's WI in Section 15, which provided Permian with its first ownership position that consisted of a sizable number of acres in Section 15. *See* Transcript ("Tr.") dtd 2-27-25, 127: 19-25.

5. As a result, on August 6, 2024, Permian sent well proposals for Sections 14 and 15 but only for wells in the Second Bone Spring formation, not the First Bone Spring or the Third Bone Spring.¹ *See* Permian's first set of pooling applications, filed October 8, 2024 (Applications in Case No. 24941 and 24942, Permian's Exhibit B, Revised Hearing Packet). In its original pooling

¹ Permian included in its exhibits only its most recent well proposal dated January 9, 2025. It did not include its original well proposal dated August 6, 2024. The January 9th proposal does reference the earlier well proposal.

applications, Permian proposed to pool only from the top of the Bone Spring to the base of the Second Bone Spring with the expressed intent to exclude the Third Bone Spring so that Permian could avoid the problems associated with a depth severance. *See id.* (Permian acknowledging in its applications that a depth severance exists in the Bone Spring formation within the proposed horizontal well spacing unit, and as a result, “Permian seeks to pool only a portion of the Bone Spring formation,” from the top of the Bone Spring formation to the base of the Second Bone Spring for the purpose of avoiding the depth severance).

6. In contrast, on November 19, 2024, and December 10, 2024, V-F filed competing applications that reflected its comprehensive plans for developing all of the Bone Spring (First, Second and Third Bone Spring formations). Because it targeted Sections 16 and 15, V-F’s plan, unlike Permian’s plan, does not have to contend with the open-communication problems inherent in producing across the depth severances in Section 14, problems that include violating correlative rights if the proper allocation formulas are not provided and accommodations are not made for the geology associated with the severance. V-F’s plan would develop its proposed units in a clean and efficient manner that fully protects correlative rights and prevents waste in all three zones of the Bone Spring. In comparison, Permian fails to properly allocate production across the severances.

7. In an impulsive rush to respond to V-F’s comprehensive plan for the entire Bone Spring, Permian sent a second well proposal on January 9, 2025. In this proposal, Permian stated that it had wanted to avoid the problems associated with developing the Third Bone Spring caused by the depth severance, but because V-F was developing the Third Bone Spring, Permian decided to develop the Third Bone Spring, thus proposing wells in the Third Bone Spring at the eleventh hour. *See Permian’s Exhibit C-4, Revised Hearing Packet.*

8. Accordingly, in its pooling applications filed on January 14, 2025, in Case Nos. 25145-25148, Permian stated, three times in each application, that it was seeking to pool a spacing

unit described as “from the top of the Third Bone Spring formation to the Base of the Bone Spring formation,” that being the entire Third Bone Spring. In its second description, Permian included a technical paragraph in each application (*see, e.g.*, Paragraph 5, Application in Case No. 25145) that described with stratigraphic precision, calibrated by reference to the Tamano 15 Fed Com #2 well, the entire vertical extent of the Third Bone Spring Permian sought to pool. Permian’s third description, located in the abstract it provided to the OCD for public notice, also described in detail the full vertical extent of its spacing unit, the entire Third Bone Spring, from top to base.

9. However, at the OCD hearing, Permian materially changed the original specifications of its spacing unit for Case Nos. 25145-25148. *See* Permian’s Landman Statement, Exhibit C, ¶ 7, Revised Hearing Packet. Whereas Permian’s applications had presented a vertical extent of the spacing unit that included all owners within, and all production from, the entire Third Bone Spring, Permian at the hearing did a bait and switch, in which it proposed a completely different spacing unit that covered only the lower one-third of the Third Bone Spring, thereby excluding all the owners in the upper two-thirds above the severance while still planning to take the owners’ production for its own profit without compensation or allocation. *See id.*; *see* Tr. dtd 1-28-25, 64: 10-11.

II. Legal Arguments:

A. Permian’s Development Plan is Fatally Flawed and Must be Denied on the Basis of its Inherent Defects and Deficiencies.

10. From its inception, V-F’s plan has consistently presented a clean and comprehensive development plan that proposes to develop all of the Bone Spring formation without any risk of violating correlative rights or creating waste. In contrast, Permian targeted only the Second Bone Spring in its original plan, and then on January 9, 2025, just nineteen days before the hearing,

Permian hastily and reluctantly² sent well proposals for the Third Bone Spring, followed by applications, that sought to pool the entire Third Bone Spring, from the top of the Third Bone Spring to its base, only to make material changes at the hearing to the vertical extent of spacing units that excludes owners in the upper two-thirds above the severance while taking their hydrocarbons without compensation.

11. Permian's material changes represent a fatal flaw in its development plan that violates the correlative rights of the owners in the upper part of the Third Bone Spring by allowing Permian to produce the upper two-thirds of the Third Bone Spring without compensating the owners for the taking of their hydrocarbons. *See* Tr. dtd 1-28-25, 62: 10-25; 63: 18-25; 64: 10-11 (Permian's geologist confirming that due to the absence of geological barriers, the wells that Permian proposes to drill below the depth severance in the Third Bone Spring will produce and drain resources belonging to the owners above the depth severance). Such taking without compensation is a textbook violation of the owners' correlative rights under the Oil and Gas Act [Ch. 70, Art. 2 1978] ("OGA"), and when state action facilitates such a taking, it is a violation of owners' constitutionally protected property rights. *See* NMSA 1978 §70-2-33(H); *see also Manning v. Energy, Minerals*, 2006-NMSC-027, ¶ 46, 144 P.3d 87 (showing that state action creating a taking requires adequate provision for obtaining compensation). If the Division approves Permian's development plan, it will be using its state police powers to create the conditions for a taking without compensation which is unconstitutional. *See id.* at ¶¶ 45-47. Thus, the Division must reject Permian's development plan.

12. During discussions over an objection, Permian's counsel, referring to 19.15.4.8A(3) NMAC, argued that Permian's applications only had to include a general description of the common source being sought to pool. *See* Tr. dtd 2-27-25, 157: 22-25. However, Permian did not provide a

² Permian's January 9, 2025 well proposal states that it had planned to pool only to the base of the Second Bone Spring in order to avoid a depth severance in the Third Bone Spring. Permian reluctantly targeted the Third Bone Spring as an afterthought in an attempt to remain competitive with V-F's plan.

general description of the common source but instead provided a very detailed description of the dimensions of the spacing unit and failed to acknowledge that by changing the vertical extent of the spacing unit actually being pooled and thereby excluding all the owners above the depth severance, Permian's applications misrepresented to the Division, the owners, and the public, what Permian is actually proposing to pool and produce. Permian did not just name the common source of supply in its applications for Case Nos. 24145-25148, but described multiple times per application, in precise stratigraphic terms the full vertical extent of the spacing unit it proposed to pool, which included the entire Third Bone Spring, from top to base. *See Paragraph 8, supra.*

13. Rule 19.15.4.8A(3) NMAC requires that the application shall include (1) "the name or general description of the common source or sources or supply;" or (2) "the area the order sought affects." Whether an applicant is required to provide (1) or (2) or both under the rule should depend on "the area the order sought affects." Permian correctly described in precise terms the vertical area of its spacing unit from the top to the base of the Third Bone Spring in its applications because this is the vertical area Permian would produce and thus needs to be pooled in its entirety since it includes all the affected owners. But even with the application describing the entire spacing unit that needed to be pooled, Permian's application still failed to provide the proper allocation of interests above and below the severance. Furthermore, at the hearing, once Permian revealed its true intention to pool only the lower third of the formation and exclude the owners above the severance, Permian's original description in its applications could be seen for what it is: a material misrepresentation to the Division and affected owners. Thus, it is clear that Permian's plan as presented violates the correlative rights of the excluded owners.

B. The Top Factors Used by the Division to Evaluate Competing Applications Favor Granting Operatorship to V-F.

14. Because these competing plans overlap in only one section (Section 15), the Division's seven factors for evaluating the competing plans should be applied to Sections 16 and 15

for V-F and to Sections 14 and 15 for Permian. The number one factor to consider is the comparison of the geologic evidence presented by each party as it relates to the proposed well location and the potential of each proposed prospect to efficiently receive the oil and gas reserves underlying the property. *See, e.g.*, Order No. R-21834, ¶ 14. Isopach maps show the productive potential of a formation by providing information on its porosity and net pay. *See* Tr. dtd 1-28-25, 56: 13-22 (Permian's geologist stating that Isopach maps show porosity and net pay). Based on the Isopach maps submitted by V-F, its geologist stated "that [Section 15] geologically it's the best-looking section around in the Second Bone Spring." Tr. dtd 1-28-25, 232: 10-12. In accordance with the geology and the history of development in this area for preventing waste, V-F proposes a plan to develop Sections 16 and 15 as two-mile units which extend the pattern of development seamlessly from west to east without creating unproductive or uneconomical gaps. *See* V-F's Rebuttal Exhibit 15, Consolidated Hearing Packet, pp. 599-600 (showing seamless, sequential two-mile laydown units, left to right, Sections 14 and 13, 18S-30E, Sections 18 and 17, 18S-31E, and how V-F's units proposed for Sections 16 and 15, 18S-31E fit in by seamlessly extending the productive, economical pattern of sequential two-mile units eastward; thus also creating the conditions for Permian to continue the pattern of seamless development across Sections 14 and 13 if it should choose to do so). If Permian is allowed to develop Sections 15 and 14, it would disrupt the pattern of contiguous, economical two-mile units by isolating Section 16 as a single, economically disfavored section.

15. When Permian was asked if it had provided isopach maps (the geological exhibits that show porosity and net pay and therefore potential for production) for its Sections 14 and 15, Permian admitted that it had not. *See* Tr. dtd 1-28-25, 57: 3-16. Consequently, Permian's geologist could not show the OCD whether its proposed units in Sections 14 and 15 would be as productive in terms of porosity and net pay as V-F's proposed units in Sections 16 and 15. *See Id.* at 58: 4-16. Even Permian's reservoir engineer admitted that the production data it presented could have been

distorted and skewed and therefore might not be an accurate description of production potential. *See* Tr. dtd 1-28-25, 75: 23-25; 76: 1-6; 80: 1-17. Given that V-F provided detailed isopach maps to show that Section 15 in conjunction with Section 16 would be highly productive and given that V-F's proposed plan would more efficiently develop the next sequential sections as two-mile units consistently with the area's pattern of development without creating an economically unfavorable gap, as would happen if Permian were allowed to develop Sections 15 and 14 thereby isolating Section 16, V-F's plan should prevail on the basis of its geology and its design to prevent waste.

16. V-F should also prevail on the OCD's second factor: comparison of risks associated with the parties' respective proposal for the exploration and development of the property. Permian's development plan more than risks violating correlative rights in the Third Bone Spring; the design of the plan actually creates a 100% risk that it will violate and harm the correlative rights of the owners in the upper two-thirds of the Third Bone Spring, above the depth severance, by taking their hydrocarbons without compensation for their interest. Permian represented to the OCD and the owners above the severance that it would be pooling the entire Third Bone Spring, specifically stating that it was seeking an order to pool from the top of the Third Bone Spring to its base which would have included owners of the upper two-thirds of the Bone Spring. However, at the hearing, it materially changed its plan by showing its actual intent to space and pool only the lower third of the Third Bone Spring thereby excluding the owners in the upper two-thirds of the formation while taking their hydrocarbons. The Division should deny and disqualify Permian's plan based on this fatal flaw alone and should not use its state powers to authorize Permian to take the hydrocarbons of the owners of the upper two-thirds of the Bone Spring formation without compensation or allocation.

17. V-F Petroleum conceived of and began working on its plan to develop Sections 15 and 16 and began acquiring ownership in these two sections as early as June 20, 2023, prior to sending its well proposals on September 6, 2023. Permian owned zero interest in Section 15 when

V-F Petroleum sent its proposals. After that date, Permian admittedly hired a key person from V-F during the time that V-F was acquiring its interest in Section 15 and pursuing its development plan. *See* Tr. 2-27-25, 128: 1-12. However, Permian claims it received no information from said person and claims it was unaware of V-F's well proposal for Section 15. *See id.* at 128: 13-25; 129: 1-11. Permian acquired its first interest in Section 15 from Mewbourne around June 4, 2024. *See id.* at 127: 19-25. V-F considers Permian's encroachment on its plans to be parasitic and in bad faith, taking advantage of V-F's early efforts to develop the subject lands, instead of developing its own units across Sections 14 and 13, which would have optimized production across four sections (16, 15, 14, and 13) consistently with the pattern of development for this area and would have avoided the uneconomical isolation of Section 16. Thus, V-F views Permian's aggressive encroachment upon its development plan to be a reflection of Permian's failure to negotiate in good faith. The Division may want to weigh whether Permian's opportunity to acquire all of Mewbourne's interest in Section 15 after Mewbourne received V-F's well proposal arose from mere uninformed coincidence and serendipity or whether it arose by targeted design.

18. Both parties have demonstrated their ability to prudently operate the property. Each party has a history of successfully drilling and operating horizontal wells. *See* Tr. dtd 1-28-25, 152: 23-25; 153: 1-2, 18-20. The estimated costs of the wells, as shown on the parties' respective AFE's, are reasonable and approximately on par with one another. Both V-F and Permian estimate their costs to be a little over 8 million per well. *See* V-F's Exhibits A-5 in each Case, Consolidated Hearing Packet; *see also* Permian's Exhibit C-4, Revised Hearing Packet.

19. The amount of WI each applicant controls in its proposed units is at the end of the priority list of factors to be considered, ranked as number six of seven factors. Each applicant, V-F and Permian, are proposing different units with different locations, overlapping at Section 15. V-F, proposing units in Sections 16 and 15, has controlling WI in Case Nos. 25116 (.444 v .387) and

25117 (.444 v .387); V-F has WI in an amount on par (almost equivalent) with Permian in Case Nos. 24994 (.328 v. 364), 24995 (.328 v .364); and there is only one V-F case in which Permian has a clear majority, that being Case No. 25115 (.125 v .424). *See* Tr. dtd 1-28-25 119: 22-15; 120: 1-151; *see also* V-F's Exhibit As (Updated Ownership), Consolidated Hearing Packet. Permian, which is proposing units in Sections 15 and 14, has controlling WI in its units in all of its cases (24941-24942 and 25145-25148). *See* Permian's Exhibit C-3, Revised Hearing Packet.

20. The final OCD factor is the ability of applicants to timely locate well sites and operate the surface. Permian sent a letter to all WI owners in which it falsely stated that it was ahead of the curve in this area because it had submitted APDs prior to December 5, 2024. *See* Permian's letter, Exhibit C-6, Revised Hearing Packet (letters sent to all WI owners stating that Permian had already filed APDs); Tr. dtd 2-27-25, 88: 1-4 (letters sent to all WI owners). However, this statement turned out to be false. Under examination, Permian admitted that it had not submitted APDs at the time of the letter but submitted APDs after the letter, sometime in late January, 2025. *See* Tr. dtd 2-27-25, 94: 14-25; 95: 1-8; 104: 20-25. However, BLM records show that Permian submitted APDs later than January, after the hearing; that Permian did not submit APDs for two wells until February 2, 2025, and submitted the remaining APDs on February 20, 2025. *See* Tr. dtd 2-27-25, 104: 1-25.

21. V-F has demonstrated its ability to timely locate well sites and operate the surface by having communicated with the BLM and state, surveyed its pad locations and tank battery locations and other infrastructure; furthermore, being on state land allows V-F to work directly with the state instead of the BLM, thus greatly accelerating the permitting process. *See* Tr. dtd 1-28-25, 144: 1-10; 145: 6-9; 196: 5-24. In sum, both parties are prepared to locate well sites and operate the surface, but V-F has demonstrated this without misrepresenting its efforts to the WI owners or to the OCD.

C. Conclusion: For the foregoing reasons, V-F respectfully requests that the Division approve its applications as representing the better plan and deny Permian's applications.

Respectfully submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

Darin C. Savage

William E. Zimsky
Andrew D. Schill
214 McKenzie Street
Santa Fe, New Mexico 87501
Telephone: 970.385.4401
Facsimile: 970.385.4901
darin@abadieschill.com
bill@abadieschill.com
andrew@abadieschill.com

Attorneys for V-F Petroleum Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record via electronic mail on March 21, 2025:

Michael H. Feldewert – mfeldewert@hollandhart.com

Adam G. Rankin – agrankin@hollandhart.com

Paula M. Vance – pmvance@hollandhart.com

***Attorneys for Read & Stevens, Inc. and
Permian Resources Operating, LLC***

Kaitlyn A. Luck - luck.kaitlyn@gmail.com

Attorney for Carolyn Beall

/s/ Darin C. Savage
Darin C. Savage