

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

**APPLICATION OF APACHE CORPORATION  
FOR APPROVAL OF A NON-STANDARD  
HORIZONTAL WELL SPACING UNIT AND  
COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO**

**Case No. 24141**

**APPLICATION OF AVANT OPERATING, LLC  
FOR COMPULSORY POOLING AND APPROVAL  
OF NON-STANDARD SPACING UNIT,  
LEA COUNTY, NEW MEXICO**

**Case No. 24254**

**CONSOLIDATED PRE-HEARING STATEMENT**

Avant Operating, LLC (“Avant”) submits its Consolidated Pre-Hearing Statement in accordance with the Amended Pre-Hearing Order issued by the New Mexico Oil Conservation Division (“Division”) on March 27, 2024.

**APPLICANT**

Avant Operating, LLC

**ATTORNEYS**

Dana S. Hardy  
Jaclyn McLean  
Hinkle Shanor LLP  
P.O. Box 2068  
Santa Fe, NM 87504-2068  
Phone: (505) 982-4554  
dhardy@hinklelawfirm.com  
jmclean@hinklelawfirm.com

**OPPONENT**

Apache Corporation

**ATTORNEYS**

Michael H. Feldewert  
Adam G. Rankin  
Paula M. Vance  
Holland & Hart LLP  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208  
(505) 988-4421  
(505) 983-6043 Facsimile  
mfeldewert@hollandhart.com

agrarkin@hollandhart.com  
pmvance@hollandhart.com

**INTERESTED PARTY**

Northern Oil & Gas, Inc.

**ATTORNEYS**

Blake C. Jones  
Steptoe & Johnson PLLC  
1780 Hughes Landing Blvd., Suite 750  
The Woodlands, TX 77380  
TEL: (281) 203-5700  
FAX: (281) 203-5701  
Blake.jones@steptoe-johnson.com

**STATEMENT OF THE CASES**

These matters involve competing pooling applications filed by Avant and Apache Corporation (“Apache”) to develop the Bone Spring formation underlying Sections 11 and 14, Township 19 South, Range 32 East, Lea County, New Mexico.

In **Case No. 24254**, Avant seeks an order: (1) establishing a 1,280-acre, more or less, non-standard horizontal spacing unit comprised of Sections 11 and 14, Township 19 South, Range 32 East, Lea County, New Mexico (“Grayling Unit”); and (2) pooling all uncommitted interests in the Bone Spring formation underlying the unit. The unit will be dedicated to the following initial wells (“Grayling Wells”):

- **Grayling 14 Fed Com #305H, Grayling 14 Fed Com #306H, Grayling 14 Fed Com #505H, Grayling 14 Fed Com #506H, Grayling 14 Fed Com #605H, and Grayling 14 Fed Com #606H**, which will be drilled from surface hole locations in the SW/4 SE/4 (Unit O) of Section 14 to bottom hole locations in the NE/4 NE/4 (Unit A) of Section 11;
- **Grayling 14 Fed Com # 304H, Grayling 14 Fed Com #504H, and Grayling 14 Fed Com #604H**, which will be drilled from surface hole locations in the SW/4 SE/4 (Unit O) of Section 14 to bottom hole locations in the NW/4 NE/4 (Unit B) of Section 11;
- **Grayling 14 Fed Com #301H, Grayling 14 Fed Com #501H, Grayling 14 Fed Com #601H**, which will be drilled from surface hole locations in the SW/4 SW/4 (Unit M) of Section 14 to bottom hole locations in the NW/4 NW/4 (Unit D) of Section 11;
- **Grayling 14 Fed Com # 302H, Grayling 14 Fed Com #502H, and Grayling 14 Fed Com #602H**, which will be drilled from surface hole locations in the SE/4 SW/4 (Unit

N) of Section 14 to bottom hole locations in the NW/4 NW/4 (Unit D) of Section 11; and

- **Grayling 14 Fed Com # 303H, Grayling 14 Fed Com #503H, and Grayling 14 Fed Com #603H**, which will be drilled from surface hole locations in the SE/4 SW/4 (Unit N) of Section 14 to bottom hole locations in the NE/4 NW/4 (Unit C) of Section 11.

Thus, Avant proposes to fully develop the Bone Spring formation underlying the unit by drilling and completing six wells each in the First, Second, and Third Bone Spring intervals. Avant's production results in this area demonstrate that drilling six wells per section in each interval will more efficiently and effectively produce the underlying reserves than a development plan that includes four wells per section, as proposed by Apache.

Avant's proposed Wells will be completed from South to North, and the completed intervals of the Wells will be orthodox. Avant requests approval of a non-standard spacing unit to reduce surface facilities, which prevents surface, environmental, and economic waste. Also to be considered will be the cost of drilling and completing the Wells and the allocation of the costs, the designation of Avant as the operator of the Wells, and a 200% charge for the risk involved in drilling and completing the Wells.

In **Case No. 24141**, Apache seeks an order: (1) approving a non-standard 1280-acre, more or less, horizontal well spacing unit in the Bone Spring formation underlying Sections 11 and 14, Township 19 South, Range 32 East, NMPM, Lea County, New Mexico; and (2) pooling all uncommitted interests in this acreage. Apache proposes to dedicate the unit to the following wells:

- **Dustbowl 11-14 Fed Com 101H and Dustbowl 11-14 Fed Com 201H** wells, with first take points in the SW4SW4 (Unit M) of Section 14 and last take points in the NW4NW4 (Unit D) of Section 11;
- **Dustbowl 11-14 Fed Com 102H and Dustbowl 11-14 Fed Com 202H** wells, with first take points in the SE4SW4 (Unit N) of Section 14 and last take points in the NE4NW4 (Unit C) of Section 11;
- **Dustbowl 11-14 Fed Com 103H and Dustbowl 11-14 Fed Com 203H** wells, with first take points in the SW4SE4 (Unit O) of Section 14 and last take points in the NW4NE4 (Unit B) of Section 11; and

- **Dustbowl 11-14 Fed Com 104H and Dustbowl 11-14 Fed Com 204H** wells, with first take points in the SE4SE4 (Unit P) of Section 14 and last take point in the NE4NE4 (Unit A) of Section 11.

Thus, Avant and Apache request approval of non-standard spacing units to develop the Bone Spring Formation underlying the same acreage. However, in contrast to Avant's 18 well development, Apache proposes to develop the acreage with four wells per section in the First and Second Bone Spring and does not propose any wells in the Third Bone Spring. As a result, Apache's plan will result in waste by failing to effectively and efficiently produce the underlying reserves.

In evaluating competing development plans, the Division considers the following factors:

1. A comparison of geologic evidence presented by each party as it relates to the proposed well location and the potential of each proposed prospect to efficiently recover the oil and gas reserves underlying the property.
2. A comparison of the risk associated with the parties' respective proposal for the exploration and development of the property.
3. A review of the negotiations between the competing parties prior to the applications to force pool to determine if there was a "good faith" effort.
4. A comparison of the ability of each party to prudently operate the property and, thereby, prevent waste.
5. A comparison of the differences in well cost estimates (AFEs) and other operational costs presented by each party for their respective proposals.
6. An evaluation of the mineral interest ownership held by each party at the time the application is heard.
7. A comparison of the ability of the applicants to timely locate well sites and to operate on the surface (the "surface factor").<sup>1</sup>

These factors weigh in Avant's favor here.

- **Geologic Evidence**: The Third Bone Spring is a proven productive formation in this area as demonstrated by Avant's Cutbow unit to the South. Avant proposes to fully develop the Bone Spring formation by drilling six wells each in the First, Second, and Third Bone Spring. Apache does not propose any wells in the Third Bone Spring and only proposes to drill four wells each in the First and Second Bone Spring. Apache's proposal leaves reserves behind and will result in waste.

---

<sup>1</sup> See, e.g., Order No. R-20223.

- Risk: Avant has recently and successfully developed the First, Second, and Bone Spring two miles to the South at its Cutbow Unit. Apache has not drilled a well within a 10-mile radius of the acreage at issue.
- Good Faith Negotiations: Avant made multiple attempts to engage in trade discussions with Apache and proposed splitting the acreage. Apache would not consider Avant's proposal and countered with inequitable trades.
- Prudent Operator and Prevention of Waste: Avant has successful First and Third Bone Spring wells based on six wells per section spacing in its Cutbow Unit, and its proposal will capture 126% more reserves than Apache's proposal. Avant's management team has extensive experience drilling and operating wells in this area of southeastern New Mexico and Avant is an active driller in this area. Apache has not drilled wells in New Mexico since 2023 and does not have any active wells within 10 miles.
- Cost Estimates: Avant has a dedicated two-rig program in the area, creating capital efficiencies and reducing costs, as well as a nearby water recycling for frac water. Avant has infrastructure for gas, oil, and water takeaway, reducing operational costs.
- Ownership Interest: Approximately 50% of the working interest is committed to or supports the Grayling Unit, while Apache controls approximately 49% of the working interest in the Dustbowl Unit.
- Surface Factor: Avant has significant development within a 5-mile radius of the Grayling Unit, while Apache does not. Avant has existing gas, oil, and water takeaway, demonstrating development readiness. Avant has had its on-site with the Bureau of Land Management, which has approved the locations of Avant's well pads. Apache does not have existing infrastructure in this area.

Because these factors weigh in favor of Avant, Avant's proposal will best prevent waste and protect correlative rights and should be approved.

### **UNDISPUTED MATERIAL FACTS**

1. Avant seeks an order establishing a 1,280-acre, more or less, non-standard horizontal spacing unit comprised of Sections 11 and 14, Township 19 South, Range 32 East, Lea County, New Mexico and pooling all uncommitted interests in the Bone Spring formation underlying the unit.
2. Avant proposes to drill and complete 18 initial wells in the Grayling Unit, six wells each in the First, Second, and Third Bone Spring intervals.
3. Avant has developed its Cutbow Unit, located two miles to the South, using similar well spacing.
4. Apache seeks an order approving a non-standard 1280-acre, more or less, horizontal well spacing unit in the Bone Spring formation underlying Sections 11 and 14, Township 19 South, Range 32 East, Lea County and pooling uncommitted interests in the unit.

5. Apache proposes to drill and complete 8 initial wells in the Dustbowl Unit, four in the First Bone Spring and four in the Second Bone Spring.
6. Apache’s application does not include any wells in the Third Bone Spring.
7. Apache does not operate any wells within a 10-mile radius of the proposed units.
8. The parties agree that a 200% risk charge is appropriate.

**DISPUTED MATERIAL FACTS AND ISSUES**

The disputed facts and issues involve whether Avant’s or Apache’s proposed development plan will best prevent waste, protect correlative rights, and prevent the drilling of unnecessary wells based on the seven factors discussed above. Specifically, the parties dispute the following:

1. The number of wells necessary for maximum recovery of hydrocarbons in the proposed horizontal well spacing unit;
2. Which proposal will fully and efficiently develop the underlying reserves; and
3. Avant disputes that Apache has engaged in good faith negotiations.

**PROPOSED EVIDENCE**

In accordance with the Amended Pre-Hearing Order, Avant is filing its direct testimony and exhibits contemporaneously with this Pre-Hearing Statement.

<b><u>Witness</u></b>	<b><u>Occupation</u></b>	<b><u>Estimated Time</u></b>	<b><u>Exhibits</u></b>
Shelley Albrecht	Vice President of Land	60 minutes	Approx. 26
John Harper	Vice President of Geosciences	45 minutes	Approx. 17
Shane Kelly	Vice President of Engineering	45 minutes	Approx. 15

**PROCEDURAL MATTERS**

These cases have been consolidated for hearing. Avant reserves the right to present rebuttal testimony and exhibits at hearing.

Respectfully submitted,

HINKLE SHANOR LLP

/s/ Dana S. Hardy

Dana S. Hardy  
Jaclyn McLean  
P.O. Box 2068  
Santa Fe, NM 87504-2068  
Phone: (505) 982-4554  
Facsimile: (505) 982-8623  
dhardy@hinklelawfirm.com  
jmclean@hinklelawfirm.com  
*Counsel for Avant Operating, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Pre-Hearing Statement was sent to the following counsel of record on this 22nd day of May, 2024.

Michael H. Feldewert  
Adam G. Rankin  
Paula M. Vance  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208  
(505) 988-4421  
(505) 983-6043 Facsimile  
mfeldewert@hollandhart.com  
agrarkin@hollandhart.com  
pmvance@hollandhart.com  
*Attorneys for Apache Corporation*

Blake C. Jones  
1780 Hughes Landing Blvd., Suite 750  
The Woodlands, TX 77380  
TEL: (281) 203-5700  
FAX: (281) 203-5701  
Blake.jones@steptoe-johnson.com  
*Attorney for Northern Oil and Gas, Inc.*

/s/ Dana S. Hardy

**District I**  
 1625 N. French Dr., Hobbs, NM 88240  
 Phone:(575) 393-6161 Fax:(575) 393-0720

**District II**  
 811 S. First St., Artesia, NM 88210  
 Phone:(575) 748-1283 Fax:(575) 748-9720

**District III**  
 1000 Rio Brazos Rd., Aztec, NM 87410  
 Phone:(505) 334-6178 Fax:(505) 334-6170

**District IV**  
 1220 S. St Francis Dr., Santa Fe, NM 87505  
 Phone:(505) 476-3470 Fax:(505) 476-3462

**State of New Mexico**  
**Energy, Minerals and Natural Resources**  
**Oil Conservation Division**  
**1220 S. St Francis Dr.**  
**Santa Fe, NM 87505**

QUESTIONS

Action 346965

**QUESTIONS**

Operator: Avant Operating, LLC 1515 Wynkoop Street Denver, CO 80202	OGRID: 330396
	Action Number: 346965
	Action Type: [HEAR] Prehearing Statement (PREHEARING)

**QUESTIONS**

<b>Testimony</b>	
<i>Please assist us by provide the following information about your testimony.</i>	
Number of witnesses	<i>Not answered.</i>
Testimony time (in minutes)	<i>Not answered.</i>