

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

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

CASE NOS. 24543-24544

**AVANT OPERATING, LLC'S RESPONSE IN OPPOSITION TO PRIMA'S MOTION
FOR CONTINUANCE AND OBJECTION TO PRESENTATION BY AFFIDAVIT AT
THE JUNE 27, 2024 HEARING**

Avant Operating, LLC, ("Avant"), submits this response in opposition to Prima's Motion for Continuance and Objection to Avant's presentation by affidavit at the June 27, 2024 hearing, pursuant to the rules of the Oil Conservation Division.

***PRIMA HAS NO LEGAL GROUNDS FOR CONTINUANCE OR OBJECTION TO
PRESENTATION OF CASE NO. 24543 AND CASE NO. 24544 BY AFFIDAVIT***

In these consolidated cases, Avant seeks orders to approve non-standard 1,280-acre, more or less, horizontal spacing units ("HSUs"), comprised of all of Sections 25 and 36, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico (the "Application Lands"), and to pool all uncommitted mineral interests in the Bone Spring and Wolfcamp formations, designated as oil pools, underlying said HSUs. Prior to filing this application for a non-standard spacing unit and compulsory pooling, Avant complied with Division Rules, precedent, and procedure for timely proposing the wells and unit, and for providing the required opportunity for non-operators to discuss development plans and attempt to reach amicable solutions outside of compulsory pooling. Avant is prepared to move forward with its development plan as swiftly as possible. Avant has approved permits to drill the proposed wells and has a drill schedule in place.

Prima's motion to continue and objection to presentation by affidavit is untimely and misplaced because Prima does not have an ownership interest in the Wolfcamp formation and has absolutely no standing to object to Case No. 24543, and (2) the Motion was filed in bad faith because there have been negotiations and other communications regarding the development of the Bone Spring formation as proposed in Case No. 24544. (3) Avant's witnesses will be in attendance at the June 27, 2024 hearing, for cross-examination and consideration of any additional testimony by the hearing examiner in determining if Avant's proposed nonstandard unit and compulsory pooling is appropriate.

Pursuant to Order No. R-20368, the Division requires consideration of several factors with respect to competing compulsory pooling development plans, which include (a) the ability of each proposal to efficiently recover hydrocarbons and risks associated with each proposal; (b) evaluation of the mineral interest ownership controlled by each party at the time the application is heard; and other factors. Prima has neither a competing development plan, nor a majority working interest in the proposed units. In fact, Prima owns less than 3% of the working interest ownership in the proposed Bone Spring unit and owns no interest in the proposed Wolfcamp unit. Prima has provided no information to Avant to verify or support its now alleged objections to the development plan of these proposed nonstandard units. It is neither necessary nor proper to continue these cases solely for the purposes of allowing Prima to potentially resolve its issues related to either Avant's development of the nonstandard units or Prima's purported working interest, because Prima failed to propose any type of alternative development plan in the units..

Now, Prima seeks a continuance solely for the purpose of challenging Avant's development plan—that is insufficient and does not meet the standard under Division Rules for a compulsory pooling proceeding. Additionally, Prima Exploration is not seeking to become

operator of these lands as they own a minimal working interest in the unit, whereas Avant Operating owns or has committed majority of the ownership in the lands to the proposed unit. Further diminishing Prima's position, Prima has been marketing and accepting bids for their minor interest in this unit among other interests in nearby lands. Even if Prima disagrees with the development of these units, it will soon be relinquishing its very minor stake in the Bone Spring unit. Lastly, Prima and Avant have had ongoing communication since March, and at no point did Prima raise concerns of Avant's development plan prior to Avant's filing the applications or exhibits in preparation for the June 27, 2024 hearing.

Additionally, Prima failed to file a pre-hearing statement reflecting any stated grounds for objection, it failed to indicate that it intended to put on evidence or witnesses at the hearing in these consolidated cases. There are absolutely no grounds for the requested continuance by Prima. Prima failed to discuss with Avant, in response to the well proposal letter, or the hearing notices, its stated grounds for objecting to these cases proceeding by affidavit on June 27, 2024. By failing to file a pre-hearing statement with any proposed testimony or evidence, Prima waived its opportunity to "present technical evidence at the hearing." See 19.15.4.10.C NMAC.

For these reasons, Avant seeks to present its cases by affidavit, with supporting witnesses at the June 27, 2024 hearing, and requests that Prima's motion to continue and objection to presentation by affidavit be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing was served to counsel of record by electronic mail this 26th day of June 2024, as follows:

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