

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

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

Case No. 24544

**MOTION TO DISMISS POOLING APPLICATION ON THE BASIS THAT MORE
INITIAL WELLS HAVE BEEN PROPOSED THAN CAN BE DRILLED
BY THE POOLING ORDER DEADLINE**

Prima Exploration, Inc. (“Prima”) submits to the Oil Conservation Division (“Division” or “OCD”) this Motion to Dismiss Pooling Application on the Basis that More Initial Wells Have Been Proposed Than can be Drilled by the Pooling Order Deadline (“Motion”). In support of this Motion, Prima states the following:

1. An applicant in a pooling application is provided the privilege and opportunity to expand the number of initial wells proposed in a pooling application in order provide for batch and simultaneous drilling plans in which multiple initial wells need to be spud and drilled simultaneously before their completion. A conventional interpretation of the statewide rules, commonly applied in the past, provided for a single initial well, as the defining well, and required it to be drilled and completed, before any additional or subsequent wells (referred to as infill wells) could be drilled and completed in the unit. *See* NMAC 19.15.13.9 (stating that “the operator or an owner of a pooled working interest may, *at any time after completion of the initial well provided in the pooling order*, propose drilling of an infill well) (emphasis added). However, as practices of the industry evolved, there became the need to spud and drill more than one initial well within the one-year term for commencing wells, a need which the Division has generously

accommodated under its interpretation of the rules.

2. Thus, the Division has implemented a reasonable interpretation of the meaning of “initial well” to allow for the proposal and drilling of multiple initial wells in an application when necessary but with certain restrictions in place such that the initial wells proposed must be drilled within a year from the date of the Pooling Order, pursuant to the Order’s Paragraph 20, to promote the “timely utilization of pooled minerals.” *See* Notice: OCD Clarification of Compulsory Pooling Processes Update, issued July 12, 2024. The restrictions are in place to prevent abuse of the application process, such as proposing more wells than could possibly be drilled within the prescribed timelines, which if allowed, would undermine the status, certitude and perfection of rights granted and established under a pooling order.

3. In Case No. 24544, Avant has proposed to drill 12 initial wells in its Bone Spring unit underlying Sections 25 and 36, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico (“Subject Lands”), plus in Case No. 24543, it will drill an additional 4 initial wells in the Wolfcamp underlying the Subject Lands, for a total of 16 wells to be drilled in the Subject Lands within the one-year deadline under the pooling order.

4. Prima’s petroleum engineer has reviewed and evaluated the number of wells that Avant has proposed for the Bone Spring unit in relation to Avant’s current commitments to drill wells in New Mexico (currently Avant has 110 active drilling permits representing 110 wells) and has concluded that Avant has proposed more wells for the Subject Lands than it can drill within a the one-year deadline required by the Pooling Order. *See* Self-Affirmed Statement of David Rhodes, attached hereto as Exhibit 1. Not being able to meet the drilling deadline under the Pooling Order risks the likely termination of the pooling order and jeopardizes the status of operations and development not only for the operator but also for the working interest (“WI”)

owners as they decide whether to participate in the wells and make payments for their share of costs.

5. It is uncertain, and probably unlikely, whether an applicant who “knowingly” proposes more initial wells than the applicant can drill and complete within the deadlines of the pooling order would have standing to request an extension of time to commence drilling. Such a request requires good cause, and “good cause” refers to the burden placed on the applicant “to show why a request should be granted or an action excused.” *See* Black Law’s Dictionary, 7th Ed., p. 213. If an applicant is aware at the time it files an application that it cannot drill and complete by the deadlines in the pooling order the number of initial wells it has proposed, then the applicant would not be able to provide a valid excuse or justification that overcomes the burden imposed by good cause (*i.e.*, under such circumstances, there is nothing unforeseen, unanticipated or out of the control of the applicant at the time the application is submitted) thus placing in jeopardy the continuation and completion of the development plan and investments made.

6. Based on his evaluation of the number of initial wells Avant has proposed for the Subject Lands and the number of commitments to drill that Avant has currently undertaken in New Mexico, Prima’s Petroleum Engineer has concluded that a feasible number of wells to drill and complete as initial wells for the Bone Spring unit underlying the Subject Lands would be 9 wells, not 12, that there needs to be a 25 percent reduction in the number of wells to be drilled in the Bone Spring to make the plan feasible under the drilling deadlines of a pooling order. *See* Exhibit 1, ¶10.

Conclusion: Based on the foregoing, Prima respectfully requests that the Division grant this Motion and dismiss Avant’s pooling application in Case No. 24544 so that the application can be revised and resubmitted with a reduction in the number of proposed wells that would allow the

applicant to meet the drilling and completion deadlines under the terms and requirements of the Division's pooling order and thus avoid the premature termination of the order and disruption of the development plan.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

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Attorneys for Prima Exploration, 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 July 19, 2024:

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Counsel for BTA Oil Producers, LLC

/s/ Darin C. Savage

Darin C. Savage

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Case No. 24544

SELF-AFFIRMED STATEMENT OF DAVID RHODES

I, David Rhodes, state the following under penalty of perjury:

1. I am over the age of 18, and I have personal knowledge of the matters stated herein.
2. I am employed as the VP of Exploitation Prima Exploration, Inc. (“Prima”). I am familiar with the subject application and the geology involved.
3. This self-affirmed statement is submitted in connection with Prima’s Motion to Dismiss Case No. 24544 for purposes of having the pooling application revised or amended.
4. I have not testified previously before the Oil Conservation Division (“Division”). I have a Bachelor of Science Degree in Petroleum Engineering from The Colorado School of Mines. I have worked in Oil and Gas as an Engineer for 17 years and have 9 years of experience in New Mexico. Based on my credentials and experience, I ask that I be accepted of record as an expert witness in petroleum engineering matters. A copy of my resume is attached to this statement for the Division’s review.
5. Prima is an exploration and production company formed in 1981 with a management team with experience in developing and producing in the Permian Basin.
6. I have reviewed the pooling application filed by Avant Operating, LLC, (“Avant”) in Case No. 24544 and its proposed wells for Sections 25 and 36, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico (“Subject Lands”). Avant has proposed to drill 16 wells

EXHIBIT 1

in the Subject Lands (12 wells in the Bone Spring and 4 wells in the Wolfcamp). I have also reviewed the number of wells that Avant has currently committed to drilling by obtaining active permits and have found that Avant has committed to more than 110 drilling permits representing more than 110 wells.

7. I am concerned that Avant has proposed more initial wells in the Subject Lands than it can possibly drill within the one-year deadline provided by the pooling order. Given Avant's current commitments and workload, it is my opinion that Avant will not be able to satisfy the terms of the pooling order and therefore the pooling order will likely terminate under its own terms prior to the proposed units being developed.

8. Furthermore, it is my opinion, based on my experience in the Permian Basin, that drilling 12 wells in the Bone Spring is an overdevelopment of the unit and such over development would result in the drilling of unnecessary wells and burden the working interest owners with excessive costs.

9. Based on my review of the development plan, it is my belief that a total of 9 Bone Spring wells is the optimal number of wells for the Subject Lands to avoid the drilling of unnecessary wells, maximize the ultimate recovery of hydrocarbons, and provide the owners with their just and equitable share of production without excessive burdens and costs.

10. Therefore, based on my review, I find that the current pooling application in Case No. 24544 should be changed to propose 9 initial wells in the Bone Spring unit, which would be a feasible number to drill and operate within the requirements and deadlines of the pooling order. If after collecting data from drilling the initial wells pursuant to the pooling order, Avant later finds that one or two additional wells would be beneficial, then Avant can propose additional infill wells.

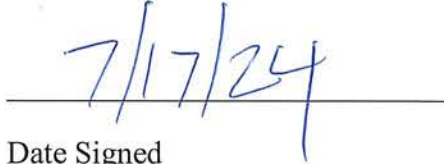
(Signature Page Follows)

Signature Page to David Rhodes' Self-Affirmed Statement:

I understand that this Self-Affirmed Statement will be used as an Exhibit to Prima's Motion to Dismiss Case No. 24544 and affirm that my testimony herein is true and correct, to the best of my knowledge and belief and made under penalty of perjury under the laws of the State of New Mexico.



David Rhodes



Date Signed

DAVID RHODES
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Denver, Colorado 80206

(303) 755-5681 extension 116

PROFESSIONAL EXPERIENCE

Prima Exploration, Inc.

Petroleum Engineer, 2009 – Present

- Provide engineering, operational, and geologic support for company properties
- Manage company reserve report of over 3,000 wells, including over 100 horizontal unconventional wells in numerous basins, including the Delaware Basin in New Mexico
- Perform company A&D evaluations and recommend valuations
- Formulate new venture ideas and proposals for company investments
- Evaluate well proposals for new drills on company acreage and engage operators for best practices for completion techniques and well density/drainage areas
- Managed 70 operated wells, including 21 operated Bakken/Three Forks horizontals, for two years until expansion of company brought in dedicated Operations Engineer
- Involved heavily in geology projects and perform low-mid level geologic functions
- Involved in the planning, drilling, geologic evaluation, and completion of multiple operated wells including horizontal Bone Springs wells in New Mexico
- Testified as expert Petroleum Engineer witness multiple times in front of the Wyoming Oil and Gas Conservation Commission staff, Montana Board of Oil and Gas Commission, North Dakota Industrial Commission, and the Colorado Oil and Gas Conservation Commission

EMPLOYMENT HISTORY

2009 – 2009	Quantum Resources Management	Petroleum Engineer, Denver, CO
2007 – 2009	Quantum Resources Management	Petroleum Intern, Denver, CO
2006 – 2007	Kestrel Energy/Samson Oil and Gas	Petroleum Intern, Lakewood, CO

EDUCATION

B.S. in Petroleum Engineering, Colorado School of Mines, May 2009
Minor in Economics and Business, Colorado School of Mines, May 2009