

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

**IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:**

**CASE NO. 14841  
ORDER NO. R-13617**

**APPLICATION OF NADEL AND GUSSMAN HEYCO, LLC FOR APPROVAL  
OF A NON-STANDARD OIL SPACING AND PRORATION UNIT AND  
COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on June 7, 2012 at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 16<sup>th</sup> day of August, 2012, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) Nadel and Gussman Heyco, LLC ("Applicant" or "NGH") is proposing to drill the Iron Duke Well No. 2H (API No. 30-015-39761) ("the proposed well"). This well will be first drilled vertically for evaluation into the Yeso formation to approximately 3000 feet at a standard surface location, 2310 feet from the South line and 330 feet from the East line (Unit I) of Section 9, Township 18 South, Range 26 East, NMPM, in Eddy County, New Mexico. If prospective, the well will be kicked off uphole and drilled horizontally within the Yeso formation to a standard terminus, or bottomhole location, 2310 feet from the South line and 330 feet from the West line (Unit L) of Section 9. The completed interval of the proposed horizontal well will be entirely within the producing area.

(3) NGH seeks approval from the Division to dedicate:

(a) the NE/4 SE/4 of Section 9 to the well to form a standard 40-acre oil spacing and proration unit (the "Vertical Unit"); and

(b) the N/2 of the S/2 of Section 9 to the well to form a non-standard 160-acre oil spacing and proration unit and project area (the "Horizontal Unit") for a horizontal completion in the Yeso formation, Undesignated Atoka-Glorieta-Yeso Pool (3250).

(4) NGH further seeks to pool all uncommitted interests:

(a) in the Vertical Unit from the surface to the base of the Yeso formation for all formations and/or pools spaced on 40 acres within that vertical extent including, but not limited to, the Undesignated Atoka-Glorieta-Yeso Pool (3250) and the Undesignated Atoka-San Andres Pool (3610); and

(b) in the Horizontal Unit.

(5) The Atoka-San Andres Pool and the Atoka-Glorieta-Yeso Pool have no Special Rules; therefore, well spacing in those two pools is governed by statewide Rule 19.15.15.9.A NMAC, which provides for standard 40-acre units, each comprising a governmental quarter-quarter section. The Horizontal Unit consists of four adjacent quarter-quarter sections.

(6) Applicant appeared at the hearing and presented land and geologic evidence to the effect that:

(a) the proposed Horizontal Unit area is totally fee owned and therefore more difficult than normal in obtaining joinder of parties;

(b) the estimated well costs (Applicant's Exhibit No. 4) are those costs as if the well is first drilled as a pilot hole, then completed horizontally in the Yeso formation;

(c) this area within the Yeso formation is suitable for development by horizontal drilling; and

(d) all quarter sections to be included in the Horizontal Unit are expected to be productive in the Yeso formation, so that formation of the Horizontal Unit as requested will not impair correlative rights.

(7) There were no appearances other than the Applicant in this case.

The Division concludes that:

(8) Approval of the proposed 160-acre non-standard spacing and proration unit will enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights. Applicant's proposed Horizontal Unit should be approved.

(9) NGH indicated at the hearing that it intends for the owners of the initial completion to pay for the actual well costs. The initial completion could be a horizontal Yeso well or a completion in the vertical wellbore – in the Yeso formation or in a shallower formation.

(10) Two or more separately owned tracts are embraced within the Horizontal Unit and the Vertical Unit(s), and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts that are separately owned.

(11) Applicant is an owner of an oil and gas working interest within these units. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply at the proposed location.

(12) There are interest owners in these units that have not agreed to pool their interests. There are also interest owners in these units that have not been located. Accordingly, a provision should be made to escrow funds for the account of such owners.

(13) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in these units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within these units.

(14) Nadel and Gussman Heyco, LLC (OGRID 258462) should be designated the operator of the proposed well and of these units.

(15) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(16) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,500 per month while drilling and \$550 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Nadel and Gussman Heyco, LLC ("Applicant"), a non-standard 160-acre oil spacing and proration unit (the "Horizontal Unit") is hereby established in the Yeso formation, Atoka-Glorieta-Yeso Pool (Pool Code

3250), consisting of the N/2 of the S/2 of Section 9, Township 18 South, Range 26 East, NMPM, in Eddy County, New Mexico.

(2) All uncommitted interests, whatever they may be, are hereby pooled in the oil and gas within the Horizontal Unit.

(3) All uncommitted interests, whatever they may be, are hereby pooled in the oil and gas from the surface to the base of the Yeso formation for all formations and/or pools spaced on 40 acres within that vertical extent including, but not limited to, the Undesignated Atoka-Glorieta-Yeso Pool (3250) and the Undesignated Atoka-San Andres Pool (3610).

(4) The units shall be dedicated to Applicant's proposed Iron Duke Well No. 2H (API No. 30-015-39761, "the proposed well"). This well shall be first drilled vertically for evaluation into the Yeso formation to approximately 3000 feet at a standard surface location, 2310 feet from the South line and 330 feet from the East line (Unit I) of Section 9, Township 18 South, Range 26 East, NMPM, in Eddy County, New Mexico. If prospective, the well shall be kicked off uphole and drilled horizontally within the Yeso formation to a standard terminus, or bottomhole location, 2310 feet from the South line and 330 feet from the West line (Unit L) of Section 9. The completed interval of the proposed horizontal well shall be entirely within the producing area.

(5) If the proposed well is first completed in the horizontal portion of the wellbore, then one hundred (100%) percent of the initial cost of drilling and completing shall be charged to the working interest owners in the non-standard spacing and proration unit. In that event, and if the well is subsequently completed up-hole in the vertical portion of the wellbore, the working interest owners in the NE/4 SE/4 of Section 9 shall be responsible for the re-completion costs.

(6) The operator of these units shall commence drilling the proposed well on or before September 1, 2013, and shall thereafter continue drilling the well with due diligence to test the Yeso formation.

(7) In the event the operator does not commence drilling the proposed well on or before the date specified in the preceding paragraph, Ordering Paragraphs (1), (2), and (3) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(8) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the units and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is drilled horizontally but is not completed in all of the quarter-quarter sections included in the Horizontal Unit within 120 days after commencement of drilling, then the operator

shall apply to the Division for an amendment to this Order to contract the unit so that it includes only those quarter-quarter sections in which the well is completed.

(9) Upon final plugging and abandonment of the proposed well and any other well drilled on these units pursuant to Division Rule 13.9, the pooled units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(10) Nadel and Gussman Heyco, LLC (OGRID 258462) is hereby designated the operator of the well and of the units.

(11) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the units, including unleased mineral interests, who are not parties to an operating agreement governing the units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the units an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs"). Estimated well costs shall be allocated among pooled working interest owners based on their respective interests in the Horizontal Unit.

(12) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(13) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. Actual well costs shall be allocated among pooled working interest owners based on their respective interests in the Horizontal Unit, except that costs of any completion in the vertical portion of the wellbore, and any subsequently incurred costs, shall be allocated among pooled working interest owners based on their respective interests in the Vertical Unit. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(14) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(15) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(16) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(17) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,500 per month while drilling and \$550 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(18) Except as provided in Paragraphs (15) and (17) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division (Attention: Records Clerk) of the name and address of the escrow agent not later than one year from the date of issuance of this Order.

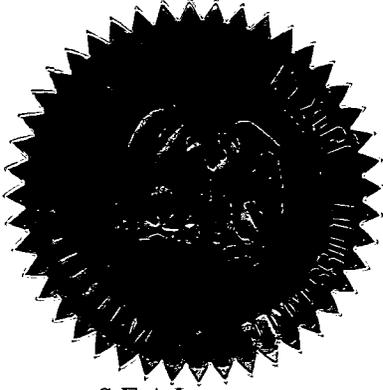
(19) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(20) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(21) The operator of the well and the units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(22) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



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STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in cursive script, appearing to read "Jami Bailey".

JAMI BAILEY  
Director