

**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 TO CONSIDER:**

**CASE NO. 16281
ORDER NO. R-20247**

**APPLICATION OF NOVO OIL & GAS, LLC FOR A NON-STANDARD 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. July 12, 2018 at Santa Fe, New Mexico, before Examiner Michael A. McMillan, and again on August 9, 2018 before Examiner Scott A. Dawson.

NOW, on this 27th day of November 2018, the Division Director, having considered the testimony, the record and the recommendations of Examiner McMillan,

FINDS THAT:

- (1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.
- (2) Cases Nos. 16281, 16282, 16283, 16285, and 16286 were consolidated at the hearing for testimony; however, separate orders will be issued for each case.
- (3) Novo Oil & Gas, LLC ("Novo Oil & Gas" or "Applicant"), seeks approval of a 279.21-acre (more or less) non-standard oil spacing and proration unit and project area ("the Unit") in the Bone Spring formation, Culebra Bluff; Bone Spring, South (Pool Code 15011) underlying Lots 2, 3, and 4 (the NW/4 NE/4 and N/2 NW/4 equivalent) of Section 5, and Lots 1, 2, 3, and 4 (the N/2 N/2 equivalent) of Section 6, all in Township 23 South, Range 29 East, NMPM, Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests within the Unit in the Bone Spring formation.
- (4) The Unit will be dedicated to the Rana Salada Federal Com 1 5 23S 29E 2B Well No. 1H ("Proposed Well": API No. 30-015-Pending), a horizontal well to be drilled from a surface location, 1127 feet from the North line and 335 feet from the East line (Lot

1/ Unit A) of Section 1, Township 23 South, Range 28 East, to a terminus 330 feet from the North line and 1650 feet from the East line (Lot 2/ Unit B) of Section 5, Township 23 South, Range 29 East. Per the application, the completed interval of the Proposed Well will be at an unorthodox location.

(5) The Proposed Well is within the Culebra Bluff; Bone Spring, South (Pool Code 15011), and is subject to Division Rule 19.15.15.9(A) NMAC, which provides for 330-foot setbacks from the unit boundaries and standard 40-acre units each comprising a governmental quarter-quarter section. The proposed Unit and project area consist of seven adjacent quarter-quarter sections oriented west to east.

(6) EOG Resources, Inc., TDY Industries, LLC, Marathon Oil Permian LLC (Marathon), and BTA Oil Producers, LLC made a pre-hearing statement. All these entities, except for BTA Oil Producers, LLC made an appearance at hearing. After the hearing, Marathon withdrew its objection to granting this application. No other party appeared at the hearing, or otherwise opposed the granting of this application.

(7) Applicant appeared at the hearing through counsel and presented evidence to the effect that:

- (a) The Bone Spring in this area is suitable for development by horizontal drilling.
- (b) The proposed orientation of the horizontal wells from west to east is appropriate for the Unit.
- (c) All quarter-quarter sections to be included in the Unit are expected to be productive in the Bone Spring formation, so that the Unit as requested will not impair correlative rights.
- (d) All wells subject to Hearing Cases 16281, 12682, 12684, 12685, and 12686 are in the Potash Area, and the Applicant coordinated with the Bureau of Land Management to get approved drill islands for the wells.
- (e) The subject area also has archeological concerns.
- (f) Applicant's target interval is the 2nd Bone Spring member.
- (g) The NE/4 NE/4 of Section 5 is being left out of the proposal Unit. The applicant is the lessee of record in those lands and those lands are the subject of proposed drilling in companion Case No. 16284.
- (h) At the August 9, 2018 Hearing, Applicant stated that Novo Oil & Gas Northern Delaware, LLC is a wholly owned subsidiary of Novo Oil & Gas, LLC.

- (i) At the request of the BLM, Applicant has renamed the Proposed Well to the Rana Salada Fed Com 0605 Well No. 121H and submitted a revised form C-102 as an exhibit in this case.
- (j) Applicant requested 180 days commencement of drilling and completion of the Proposed Well, versus the Division standard of 120 days between drilling and completion. Further, the Applicant requested 240 days for wells dedicated to gas pools. Applicant is proposing to drill the wells back to back and complete simultaneously. However, after discussion Applicant agreed that there should be a one-year limit after commencing drilling and completion with the requirement that the Applicant provide to the Engineering Bureau and District Office a Sundry Notice that each of the quarter-quarter sections has been penetrated and capable of producing oil and gas.
- (k) Notice by certified mail was provided to all uncommitted interest owners in the proposed Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant when the Application was filed, and to heirs known to Applicant of deceased persons who appear as owners in such instruments.
- (l) Out of abundance of caution, those potentially affected parties whose whereabouts could not be ascertained were noticed by publication as provided in Rule 19.15.4.12.B NMAC.

The Division concludes that:

(8) The application in this case was filed prior to the June 26, 2018 date in which the horizontal rule amendments became effective (see Order No. R-14689). In addition, the proposed well is being permitted for drilling after June 26, 2018.

(9) The acreage dedicated to a horizontal well must consist of a "horizontal spacing unit" as defined in Subsection F of 19.15.16.7 NMAC. Pursuant to Subsection B of 19.15.16.15 NMAC effective June 26, 2018, the proposed horizontal oil well will be dedicated to a standard Horizontal Spacing Unit (the "Unit") with acreage described above. This Horizontal Spacing Unit will comprise seven (7) adjacent governmental quarter-quarter sections oriented from west to east.

(10) The result of dedication of a standard horizontal spacing unit to the proposed well in this order is exactly the same as if the order provided for establishment of a non-standard spacing unit for each proposed well under rules in force prior to June 26, 2018, which would then each become a standard horizontal spacing unit on the effective date of new Rule 19.15.16.15 E(4) NMAC [Transitional provisions].

(11) The portion of this case asking for approval of a non-standard spacing and proration unit is no longer needed and should be dismissed.

(12) The well was reported to be at an unorthodox well location under rules existing at the time it was proposed. If the well remains at an unorthodox location under the new rules and as proposed, the operator should provide notice and apply for a location exception prior to producing the well.

(13) Novo Oil & Gas Northern Delaware, LLC should be designated the operator of the proposed well and of the Unit.

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

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

(16) There are interest owners in the Unit that have not agreed to pool their interests.

(17) Applicant should be allowed a one-year period after commencing drilling and completion of the Proposed Well. With the provision that an engineer who is affiliated with the Applicant provide a Sundry notice no later than 10 days after the Proposed Well has been drilled that each quarter-quarter-section has been penetrated and capable of producing oil and gas. If the Applicant does not meet this requirement, then the Division Order should be null and void. Further, it would be difficult for the Oil Conservation Division to accurately determine which well would be subject to the 180 days versus 240 days since the well names are similar, and the spacing units are in the same subject Sections.

(18) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit 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 in the Bone Spring formation within the Unit.

(19) To ensure protection of correlative rights, any pooled working interest owner whose address is known should be notified and have an opportunity to protest before the Division grants any extension of the time provided herein for commencing drilling.

(20) Infill wells within the Unit should be subject to Division Rules 19.15.13.9 NMAC through 19.15.13.10 NMAC and to the terms and conditions of this order.

(21) Any pooled working interest owner who does not pay its share of estimated

well costs for any well in advance should have withheld from production its share of reasonable well costs of such well plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(22) Reasonable charges for supervision (combined fixed rates) should be fixed at \$8,000 per month, per well, while drilling and \$800 per month, per well, while producing, provided that these rates should be adjusted annually pursuant to the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) All uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation underlying a 279.21-acre (more or less) standard Horizontal Spacing Unit (the "Unit") in the Culebra Bluff; Bone Spring, South (Pool Code 15011) comprised of Lots 2, 3, and 4 (the NW/4 NE/4 and N/2 NW/4 equivalent) of Section 5, and Lots 1, 2, 3, and 4 (the N/2 N/2 equivalent) of Section 6, all in Township 23 South, Range 29 East, NMPM, in Eddy County, New Mexico, are hereby pooled.

(2) The portion of the case asking for approval of a non-standard spacing and proration unit is dismissed.

(3) The Unit shall be dedicated to Rana Salada Fed Com 0605 Well No. 121H (API No. 30-015-Pending), a horizontal well to be drilled from a surface location, 1127 feet from the North line and 335 feet from the East line (Lot 1/ Unit A) of Section 1, Township 23 South, Range 28 East, to a terminus 330 feet from the North line and 1650 feet from the East line (Lot 3/ Unit C) of Section 5, all in Township 23 South, Range 29 East.

(4) Novo Oil & Gas Northern Delaware, LLC (OGRID 372920) is hereby designated the operator of the well and of the Unit.

(5) If the well remains at an unorthodox location under the latest rules and as proposed, the operator shall provide notice and apply administratively for a location exception prior to producing the well.

(6) The operator of the Unit shall commence drilling the proposed well on or before November 30, 2019 and shall thereafter continue drilling the wells with due diligence to test the Bone Spring formation at the proposed true vertical and measured depths.

(7) In the event the operator does not commence drilling the proposed well on or before November 30, 2019, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(8) Unless the proposed well is drilled and completed within one-year commencement of drilling such well, then Ordering Paragraph (1) shall be of no further effect, and the Unit shall terminate unless operator requests in writing an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence and the Division issues written approval.

(9) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled unit created by this order shall terminate unless this order has been amended to authorize further operations.

(10) Infill wells within the Unit shall be subject to Division Rule 19.15.13.9 NMAC and to the terms and conditions of this order.

(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 Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit separate itemized schedules of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(12) Within 30 days from the date the schedule of estimated well costs for any well 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 for any well shall remain liable for operating costs but shall not be liable for risk charges to the extent computed based on costs of such well. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph for 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 of each well within 90 days following completion of the proposed well. If no objection to the actual well costs for any well is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule for such well, 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 for such well after public notice and hearing.

(14) Within 60 days following determination of reasonable well costs for any well, any pooled working interest owner who has paid its share of estimated costs of such well 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 for such well exceed its share of reasonable well costs.

(15) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of production from each well:

- (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 for such well.

(17) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$8,000 per month, per well, while drilling and \$800 per month, per well, while producing, provided that these rates shall be adjusted annually pursuant to the COPAS form titled "Accounting Procedure-Joint Operations." The operator is authorized to withhold from production from each well the proportionate share of both the supervision charges and the actual expenditures required for operating of such well, not more than what are reasonable, attributable to pooled working interest owners.

(18) Except as provided in the foregoing paragraphs, all proceeds from production from the well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A-31, as amended).

(19) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for allocating costs and charges under this order. Any costs 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 after entry of this order, this order shall thereafter be of no further effect.

(21) The operator of the wells and Unit shall notify the Division in writing of the subsequent voluntary agreement of any party 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 that reads "Heather Riley".

HEATHER RILEY
Director