

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

**APPLICATIONS OF READ & STEVENS, INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NOS. 24941-24942

**APPLICATIONS OF READ & STEVENS, INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NOS. 25145-25148

**APPLICATIONS OF V-F PETROLEUM INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NOS. 24994-24995 & 25116

**APPLICATIONS OF V-F PETROLEUM INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NOS. 25115 & 25117

**CARLOYN BEALL'S JOINDER WITH V-F PETROLEUM INC.'S MOTION TO
DISMISS CASE NOS. 25145-25148 AND
AMENDED MOTION FOR WRITTEN ORDER WITH
FINDINGS AND CONCLUSIONS OF LAW OF DIVISION'S DECISION TO DENY
V-F PETROLEUM INC.'S MOTION TO DISMISS CASE NOS. 25145-25148**

Carloyn Beall, by and through undersigned counsel, hereby requests the Oil Conservation Division ("Division" or "OCD"), to issue a written order providing the legal basis for denying the *Motion to Dismiss Read & Stevens' Cases Nos. 25145-25148 and Requests in the Alternative* ("V-F's Motion"), filed by V-F Petroleum Inc. ("V-F") on January 22, 2025, a denial that resulted in the acceleration of the contested hearing date for Case Nos. 25145-24148 which was held on January 28, 2025, pursuant to a Special Hearings docket. *Concurrence from counsel for Read & Stevens, Inc. ("Permian") was requested, and Permian is opposed to the Motion.* In support of this Motion for a Written Division Order, Beall states, as follows:

1. Permian filed the pooling applications in Case Nos. 25145-25148 (the "Cases") with the Division on January 14, 2025.

2. Upon filing the Applications for Pooling, Permian was required to provide notice to all parties pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Section 70-2-1, *et seq.*

3. Specifically, NMSA 1978, Section 70-2-23 requires notice, and the opportunity to be heard, prior to the issuance of any order:

Except as provided for herein, before any rule, regulation or order, including revocation, change, renewal or extension thereof, shall be made under the provisions of this act, a public hearing shall be held at such time, place and manner as may be prescribed by the division. *The division shall first give reasonable notice of such hearing (in no case less than ten days, except in an emergency) and at any such hearing any person having an interest in the subject matter of the hearing shall be entitled to be heard.*

NMSA 1978, §70-2-23.

4. Moreover, Division Rules require that an applicant, such as Permian, comply with the Division Rules for pooling prior to the issuance of a force pooling order. *See* 19.15.4.9 NMAC; *see also* NMSA 1978, § 70-2-17. Importantly, Division Rules 19.15.4.8 and 19.15.4.9 NMAC require certain information in a pooling application, in notice of a pooling hearing, and in an uncontested pooling hearing. OCD Rule 19.15.4.12 NMAC specifically requires:

A. Applications for the following adjudicatory hearings before the division or commission, in addition to that 19.15.14.9 NMAC requires, as follows:

(1) Compulsory pooling and statutory unitization.

(a) The applicant shall give notice to each owner of an interest in the mineral estate of any portion of the lands the applicant proposes to be pooled or unitized whose interest is evidenced by a written conveyance document either of record or known to the applicant at the time the applicant filed the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized (other than a royalty interest subject to a pooling or unitization clause).

5. On January 22, 2025, V-F filed the Motion the Cases because of constitutional defects in notice and violation of OCD rules and statutes.

6. Beall, as noted in her *Notice of Ownership Interest in Case Nos. 25145 and 25146*, filed on February 6, 2025, owns an interest in the Third Bone Spring portion of the Bone Spring formation proposed to be pooled by Permian in the spacing units in the Subject Cases, and she did not receive proper notice as required by Division Rules prior to the hearing on January 28, 2025.

7. For these reasons, Beall joins with V-F's Motion because she did not receive proper nor sufficient notice for the Subject Cases prior to the expedited consolidated hearing on January 28, 2025 ("January 28 Hearing").

8. Beall did not receive Permian's January 24, 2025, notice letter until January 27, 2028, the day before the January 28 Hearing.

9. As a result, Beall did not have sufficient time to review or prepare for January 28 Hearing and is currently reviewing her interests and the status of her correlative rights and interests under Permian's proposed development plan.

10. At the January 28 Hearing, Beall made an entry of appearance and objection to the case going forward because of material defects in notice.

11. At the January 28 Hearing, the Hearing Examiner of the Division verbally denied the Motion prior to the hearing and proceeded with the special hearing despite lack of proper notice.

12. At the January 28, 2025 Contested Hearing, the Division allowed Permian to proceed with the contested hearing even though proper notice was not provided to Beall, pursuant to the Division rules, New Mexico statutes, and case law.

13. Given the substantive nature of the legal issues involved and the necessity of preserving the notice issues for appeal, Beall requests that the OCD provide the reasoning and rationale for its denial of the Motion, pursuant to the case law cited therein.¹

14. Beall owns a severed mineral interest in the upper part of the Third Bone Spring, from the top of the Third Bone Spring, at approximately 9,140', to a depth of 9,290' within the Third Bone Spring. See *Exhibit A* to

15. Permian is pooling only the lower part of the Third Bone Spring, an interval from approximately 9,397' to the base of the Third Bone Spring and is proposing to drill and produce only this lower interval. See Permian's Compulsory Pooling Checklist for Case No. 25145 (filed Jan. 27, 2025); Permian's Exhibit C, Self-Affirmed Statement of Travis Macha, ¶ 7.

16. Due to the fact that Beall only owns in the upper part of the Third Bone Spring, she is not listed as an owner in the interval of the Third Bone Spring that Permian is pooling and drilling.

17. At the January 28 Hearing in Case Nos. 25145-25148, the geologist for Permian stated that there were no geological barriers between the severed intervals in the Third Bone Spring. As such, Permian's well in the lower Third Bone Spring appears to be producing from

¹ “[A]n agency’s action is arbitrary and capricious if it provides no rational connections between facts found and choices made, or entirely omits consideration of relevant factors or important aspects of the problem at hand.” *Atlixco Coalition v. Maggiore*, 1998-NMCA-134, 125 N.M. 786, 965 P.2d 370, 377 (citing *Motor Vehicle Mfrs. Ass’n.*, 463 U.S. 29, 43) (stating that “one of the purposes of requiring a statement of reasons is to allow for meaningful judicial review...”). See *Fasken v. Oil Conservation Comm’n*, 1975-NMSC-009, 87 N.M. 292, 532 P.2d 588, 590 (citing *Continental Oil Co. v. Oil Conservation Comm’n*, 1962-NMSC-062, 70 N.M. 310, 373 P.2d 809); See also *Gila Resources Information Project v. N.M. Water Control Com’n*, 2005-NMCA-139, 138 N.M. 625, 124 P.3d 1164, 1172; *Akel v. N.M. Human Servs. Dep’t*, 1987-NMCA-154, 106 N.M. 741, 749 P.2d 1120, 1122, stating that for adequate appellate review “the hearing officer’s decision [must] adequately reflect the basis for [the] determination and the reasoning used in arriving at such determination”). See also *Viking Petroleum, Inc. v. Oil Conservation Comm’n*, 1983-NMSC-091, 100 N.M. 451, 672 P.2d 280, 282 (findings by expert administrative commission must disclose the reasoning on which its order is based).

the upper interval of the Third Spring, impacting Beall's correlative rights. *See* NMSA 1978, § 70-2-17.

18. Permian's ownership exhibit fails to include Beall's ownership in the Third Bone Spring, and impacts Beall's correlative rights, taking production from her without allocating her just and equitable share. *See* NMSA 1978, Section 70-2-17; *see also* Section 70-2-33(H) (correlative rights means the opportunity for an owner to produce its just and equitable share of oil and gas).

19. The denial of V-F's Motion was issued as a final verbal order on January 28, 2025, and a party of record has thirty (30) days to exercise its right to appeal a final order.

20. For these reasons, Beall respectfully requests, as follows:

- a. that the Division enter a written order into the record that provides the justification and basis for bypassing the requirement to have notice provided twenty (20) days prior to the pooling proceedings;
- b. that the Division either timely deny Beall's request herein or provide a written order in a timely manner that would allow a party to exercise its right of appeal within the prescribed 30 days, which right would expire in the present matter on February 27, 2025, 30 days from January 28, 2025.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on this 6th of February 2025, the foregoing pleading was electronically filed by email with the New Mexico Oil Conservation Division Clerk and served on all parties of record through counsel, as follows:

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