

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

**APPLICATION OF NOVO OIL & GAS NORTHERN DELAWARE, LLC
FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.**

CASE NO. 22957

**NOVO OIL & GAS NORTHERN DELAWARE, LLC'S
RESPONSE TO MR. SAMANIEGO'S PROPOSED FINDINGS**

Novo Oil & Gas Northern Delaware, LLC (“Novo”) (OGRID No. 372920) submits this response in opposition to Jonathan Samaniego’s proposed findings pursuant to the Hearing Examiner’s Amended Post Hearing Order, dated October 21, 2022. Mr. Samaniego’s proposed post-hearing findings are not based on competent record evidence and should be ignored. In many instances, the submission goes beyond simply offering proposed findings to moving the Division for specific relief. The requested relief goes beyond the scope of the Amended Post Hearing Order and, in many instances, beyond the scope of the Division’s jurisdiction. Setting aside procedural and legal formalities, however, the proposed “findings” to the extent they are factual are also demonstrably false. But even if taken as true, they are not legally relevant and do not justify denying Novo’s application or instituting a stay. For the reasons stated, the Division should issue an order pooling all uncommitted interests without further delay.

1. Mr. Samaniego raises a host of factual allegations in his submitted “findings” as justification for denying Novo’s application or staying an order pooling all uncommitted interests. Every factual allegation raised is outside the evidentiary record of this case, does not constitute competent evidence, and should be ignored.

2. Moreover, to provide evidence and testimony, Mr. Samaniego was required to file a prehearing statement. 19.15.4.13.B(1) NMAC. Having failed to do so, Mr. Samaniego is

precluded from providing evidence and testimony. His “findings” should not be considered evidence or testimony in this case. Putting aside the procedural and legal infirmities, Mr. Samaniego’s allegations are nevertheless baseless and false.

3. Mr. Samaniego alleges that Novo is not in compliance with the Division’s financial assurance requirements for the wells it operates and is out of compliance with the Division’s inactive well rule. Neither claim is correct. Novo confirmed with the Division’s Compliance Officer, Robert Jackson, that it has the correct financial assurance required for the number of wells it operates. Novo also has only one well on the inactive well list. It is in compliance with all provisions and requirements under 19.15.8 and 19.15.5 NMAC.

4. Mr. Samaniego asserts that because Novo is purportedly out of compliance with its financial assurance obligations, the Division must deny its APD. Because it is in compliance with 19.15.5.9 NMAC, however, there is no basis under the rules for the Division to deny or revoke Novo’s APDs.

5. Mr. Samaniego claims Novo should be barred from re-filing a new compulsory pooling application in this case after it voluntarily dismissed without prejudice its cases in Case Nos. 22615 and 22874. Mr. Samaniego claims there is a “1-year” rule that precludes Novo from filing its application in this case. No such rule exists and Mr. Samaniego cites nothing in support of this assertion. Novo voluntarily dismissed its earlier cases without prejudice and was free to file a new compulsory pooling application for a different, more preferred, drilling development as it has done.

6. Mr. Samaniego alleges that Novo is “violating the clean air act,” “contributes to pollution and air contamination,” and is “causing an imminent danger to public health or safety.” In support, he cites purported volumes of Novo’s “gas leaks.” A review of Novo’s gas reporting

on the Division's web site confirms that Mr. Samaniego's alleged volumes are not only wrong, but Novo is thus far meeting the Division's 98% gas capture requirement in 2022. Mr. Samaniego's allegations are false.

7. Mr. Samaniego incorrectly alleges that Novo failed to obtain an APD prior to drilling its well. Novo did obtain a Division-approved APD and it is available for review on the Division's web site.

8. Mr. Samaniego claims Novo has violated Division requirements under 19.15.16.15 NMAC by drilling its well before obtaining a compulsory pooling order. However, the Division's rules allow operators to file an APD and commence drilling horizontal wells when it has "received the consent of at least one working interest owner or unleased mineral interest owner of each tract (in the target pool or formation) in which any part of the horizontal oil or gas well's completed interval will be located." *See* 19.15.16.15.A(1)(a) NMAC. With more than 92% of the mineral interests committed to Novo's plan of development, either through voluntary agreement or direct ownership by Novo, Novo has complied with this requirement enabling it to file for an APD and commence drilling its well.

9. In his proposed findings, Mr. Samaniego makes a series of allegations regarding title and ownership within Novo's spacing unit. Mr. Samaniego is not a landman and is not an expert in calculating mineral interests or in researching title. Mr. Samaniego's assumptions about the nature of Novo's interests and the ownership calculations are incorrect. But whether his assumptions are correct or not has no bearing on the outcome of this proceeding and are outside the jurisdiction and purview of the Division under the Oil and Gas Act. His proposed findings, while incorrect, are legally irrelevant for purposes of the Division's analysis and entry of an

order force pooling into the proposed spacing unit all uncommitted ownership interests, including Mr. Samaniego's interests, whatever they may be.

10. Mr. Samaniego alleges that Novo did not provide him proper notice of the hearing that was held in this case on August 4, 2022. After researching title and looking for correct and valid addresses using online databases and records, Novo's landman Brandon Patrick repeatedly asked Mr. Samaniego by email to confirm his correct mailing address—identifying three different potential addresses—but Mr. Samaniego refused to answer and instead directed Novo to coordinate through his attorney in Hobbs. *See* Email Correspondence between Mr. Patrick and Mr. Samaniego, attached as **Exhibit A**. Out of an abundance of caution, Novo sent its well proposals and notice of the hearing to every address of record it could identify for Mr. Samaniego, including the address of his attorneys, Melissa Sawyers and James W. Klipstine, Jr. with The Sawyers Law Group LLC at 1327 E. Bender Boulevard in Hobbs, New Mexico. *See* Case No. 22957, Novo Exhibit E. Mr. Samaniego has repeatedly stated that he is represented by counsel. *See* Case No. 22957, Hrg. Tr. 10:19-20 (stating that “my lawyer has already filed [a notice of lease termination]. [Novo] received it, along with Oxy USA.”); *see also* **Exhibit A** (requesting that Novo complete a proposed transaction “thru my attorney in hobbs, n.m.” rather than provide his mailing address to Mr. Patrick); notice of lease termination letter, dated July 5, 2022, from J. Klipstine to Occidental Petroleum Corp. and Novo Oil & Gas Northern Delaware LLC (stating that the subject lease held by Mr. Samaniego has been terminated and requesting any payments held in suspense owing to Mr. Samaniego be directed to The Sawyers Law Group LLC law firm). Despite his refusal to provide his mailing address to Novo, Mr. Samaniego did receive actual notice of the August 4, 2022 hearing. He entered an appearance at the hearing,

made statements on the record, submitted evidence that was accepted into the record, and filed proposed findings. Mr. Samaniego's claim that he did not receive notice is without basis.

11. Mr. Samaniego asks the Division to seize Novo's proceeds from its development in this case to a trustee for distribution. There is no factual justification or legal authority for the Division to seize Novo's proceeds. This request must be rejected.

12. Mr. Samaniego asks the Division to issue sanctions, a stay on issuing a pooling order, and numerous other sanctions, none of which are supported by the facts. Novo has undertaken significant effort and cost to pull together a substantial portion of the mineral interests in support of its drilling plan. One of its leases is also at risk of terminating. While Novo has been able to maintain the lease through its drilling operations, the lease remains at risk of terminating unless Novo is authorized to undertake further operations resulting in a well capable of producing in paying quantities within approximately one month. Novo has met every element necessary to obtain a compulsory pooling order under the Oil and Gas Act and the Division's regulations. Further delay is not supported by the law or the facts and will result in substantial prejudice to Novo and the mineral owners who have voluntarily committed their interests to the proposed development.

WHEREFORE, Novo respectfully requests that the Division proceed to issue an order force pooling all uncommitted interests in this case without further delay and reject Mr. Samaniego's request for a stay and imposition of the requested sanctions.

Respectfully submitted,

HOLLAND & HART LLP

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**ATTORNEYS FOR NOVO OIL & GAS NORTHERN
DELAWARE, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2022, I served a copy of the foregoing document via Electronic Mail to:

Jonathan Samaniego
energy.jrs@gmail.com

/s/ Adam G. Rankin
Adam G. Rankin

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EXHIBIT A

Adam Rankin

From: Brandon Patrick <bpatrick@novoog.com>
Sent: Thursday, May 5, 2022 2:05 PM
To: Jonathan Samaniego
Subject: Re: [EXTERNAL]Re: Mailing Address

John,

I was asking for your mailing address so we can send you a well proposal packet for Novo's "Caicos Fee" prospect, which will cover the E/2 of Section 18 and SE/4 of Section 7, Township 23 South, Range 28 East. The mailing addresses that I show for you are:

66 Stormy Lane
Carlsbad, NM 88220

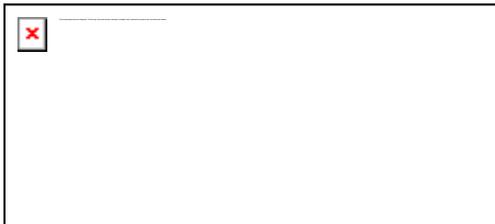
601 Juarez Street
Carlsbad, NM 88220

3103 National Parks Highway
Carlsbad, NM 88220

Are any of those your preferred mailing address? If not, please let me know where you'd like me to send the envelope.

Best,

Brandon Patrick
Novo Oil & Gas, LLC
1001 West Wilshire Boulevard, Suite 206
Oklahoma City, OK 73116
Office: 405-286-4197 Cell: 405-650-9081



From: Jonathan Samaniego <energy.jrs@gmail.com>
Sent: Thursday, May 5, 2022 3:00 PM
To: Brandon Patrick <bpatrick@novoog.com>
Subject: [EXTERNAL]Re: Mailing Address

THIS MESSAGE HAS ORIGINATED OUTSIDE OF THE ORGANIZATION. PLEASE CONFIRM THE SENDING ADDRESS. THIS EMAIL IS FROM AN EXTERNAL SENDER. USE CAUTION WITH LINKS AND ATTACHMENTS!

Mr. Patrick,

When we have an agreement ready to close, I will close thru my attorney in hobbs, n.m.

Would you be interested in the Henry lease? It is Not near the brine well and open for even bigger horizontals, Both West and East.

I also have the Saik lease with big future potential once the brine well is finished. I will discount the Saik lease for the brine well situation.

Respectfully,
John

On Thu, May 5, 2022 at 1:33 PM Brandon Patrick <bpatrick@novoog.com> wrote:

John,

What is a good mailing address for you?

Best,

Brandon Patrick
Novo Oil & Gas, LLC
1001 West Wilshire Boulevard, Suite 206
Oklahoma City, OK 73116
Office: 405-286-4197 Cell: 405-650-9081