

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

**APPLICATION OF PERMIAN
RESOURCES OPERATING, LLC FOR
COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case No. 23825 – 23827

**NOTICE OF INTERVENTION AND OBJECTION TO
CASES GOING FORWARD BY AFFIDAVIT**

COMES NOW, Abadie & Schill, PC, (Darin C. Savage, Andrew D. Schill, and William E. Zimsky), and hereby submits to the New Mexico Oil Conservation Division (“Division”) this Notice of Intervention in the above-referenced cases on behalf of V-F Petroleum Inc. (“V-F”).

In support of its intervention, V-F provides the following:

1. Intervenor’s Name:

V-F Petroleum Inc.

2. Address of Intervenor’s Attorney:

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3. The Nature of Intervenor’s Interest in the Application:

In Case Nos. 23825-23827, Permian Resources Operating, LLC (“PR”) has submitted to the

Division three applications seeking to pool all uncommitted interests in the Bone Spring formation underlying horizontal spacing units in the S/2 N/2, N/2 S/2, and S/2 S/2 of Sections 5 and 6, Township 19 South, Range 28 East, NMPM, Eddy County, New Mexico, in order to drill PR's Lone Eagle wells.

4. V-F has filed on September 29, 2023, overlapping competing applications for compulsory pooling of all uncommitted interests in the Bone Spring formation underlying horizontal spacing units in the S/2 N/2 and S/2 of Section 4 and 5, for the drilling of its Courtman and Cottle wells. In addition, V-F will be submitting pooling applications for the N/2 and S/2 of Section 6, and the NE/4 and SE/4 of Section 1, T19S, R27E, that also overlap and compete with PR's applications in Case Nos. 23825-23827.

5. Thus, V-F has standing to intervene in said cases, and V-F's participation will contribute substantially to the prevention of waste and the protection of correlative rights, thereby satisfying 19.15.4.11C NMAC. *See* V-F's Response to Motion to Strike V-F Petroleum's Entry of Appearance and Objection, at ¶¶ 8-12 (confirming both V-F's standing to intervene and its substantial contribution to the prevention of waste and protection of correlative rights), the pertinent pages attached hereto as Exhibit A.

6. V-F opposes the issuance of the order PR seeks, submitting that V-F has the better develop plan for the prevention of waste and protection of correlative rights. Therefore, V-F objects to PR's cases going forward by affidavit and requests a status conference on October 5, 2023, in lieu of a hearing.

7. V-F respectfully requests that the Division approve its intervention in Case Nos. 23825, 23826, and 23827.

Respectfully Submitted,

ABADIE & SCHILL, PC

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Attorneys for V-F Petroleum 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 October 2, 2023:

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/s/ Darin C. Savage

Darin C. Savage

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Case No. 23825 - 23827

**RESPONSE TO MOTION TO STRIKE V-F PETROLEUM'S
ENTRY OF APPEARANCE AND OBJECTION**

V-F Petroleum Inc. ("V-F") through its undersigned attorneys, respectfully submits to the Oil Conservation Division ("Division" or "OCD") its Response ("V-F's Response") to Motion to Strike V-F Petroleum's Entry of Appearance and Objection ("PR's Motion"), filed by Permian Resources Operating, LLC ("PR"). In support thereof, V-F states the following:

1. Basic facts regarding lands involved in Cases 23825-23827: On or about September 5, 2023, PR submitted applications in said cases for the compulsory pooling of the S/2 N/2, the N/2 S/2, and the S/2 S/2, in Sections 5 and 6, Township 19 South, Range 28 East, NMPM, Eddy County ("PR's Lone Eagle Units"). *See* Case Nos. 23825-23827. On September 29, 2023, V-F filed competing applications for the S/2 N/2 and the S/2 of Sections 4 and 5, in the same township and range ("V-F's Courtman-Cottle Units), overlapping with PR's Lone Eagle Units is Section 5. *See* Exhibit 1, Affidavit of Sean Johnson, V-F Land Manager, attached hereto; *see also* Exhibit 2, OCD emails confirming submission. V-F also sent well proposals for its Screaming Eagle wells for Section 1, Township 19 South, Range 27 East, and Section 6, Township 19 South, Range 28 East, and V-F, who qualifies as an applicant, will be submitting competing applications for Sections 1 and 6 ("V-F's Screaming Eagle Units"), which overlap with PR's Lone Eagle Units in Section 6. *See id.*

Exhibit A

5, a fact currently not established of record, then based on the land records, DL Co. is the actual WI owner, and PR at best would own only an equitable interest in the mineral estate.¹

8. Furthermore, if the OCD finds that V-F's contractual interest does not sustain its entry of appearance, then in the alternative, V-F submitted on October 2, 2023, a request for intervention in the present cases. V-F currently has a right to request from the Division permission to intervene in Case Nos. 23825-23827. *See* 19.15.4.11B (the division examiner may, at his discretion, allow late intervenors upon written notice or by oral appearance on the record at the hearing). In addition, Rule 19.15.4.11C encourages the examiner to look favorably upon a party's request to intervene if (1) the party can show "standing;" or (2) the party can show its participation will "contribute substantially to the prevention of waste" and the "protection of correlative rights." V-F's request to intervene satisfies both requirements.

9. Pursuant to its well proposals for V-F's Courtman-Cottle Unit, V-F submitted to the OCD on September 29, 2023, pooling applications that overlap and compete with PR's applications. *See* Exhibit 2, attached hereto. V-F has also sent out well proposals for Sections 6-19S-28E and 1-19S-27E, Sections in which it owns WI, and is currently qualified to be an applicant for a compulsory pooling of said Sections. Thus, V-F will be filing additional pooling applications that also overlap and compete with PR's applications for its Lone Eagle Units. *See* Exhibit 1, attached hereto.

10. Therefore, V-F respectfully requests that the Division approve its request for intervention in order for the OCD to determine which competing development plan, V-F's plan, or PR's plan, best prevents waste and protects correlative rights.

¹ Because of the Statute of Frauds, PR would own an equitable interest in its proposed units only if it has in place a written agreement with DL Co. that PR will receive from DL Co. an assignment of Lease No. VC-1149-0. If there is no written agreement in place, then PR would have neither WI nor equitable interest in the units, and the assertion that PR is a WI owner made in its pooling applications would not be valid.

11. In New Mexico, a party has standing if it can show (1) injury in fact, (2) a causal relationship between the injury and the challenged conduct, and (3) a likelihood that the injury will be redressed by a favorable decision. *See ACLU of New Mexico v. City of Albuquerque*, 2008-NMSC-045, ¶ 1. PR has filed a Motion that attempts to deny V-F its right to exercise its correlative rights and therefore injures V-F's vested rights. There is a direct causal relationship between PR's Motion and V-F being able to exercise its correlative rights through the hearing of its competing applications; and a decision by the OCD to deny PR's Motion would redress the injury. Also, the Division can "confer" standing to a party in a case regardless of whether the party meets the traditional standing requirements, based on a conclusion that the questions raised involve matters of great public importance. *See ACLU*, 2008-NMSC-045, ¶33 (citations omitted). In New Mexico, preventing waste and protecting correlative rights are matters of great public importance. *See Cont'l Oil Co. v. OCC*, 1962-NMSC-062, ¶28 (showing that OCC/OCD hearings protect the public). In the present matter, the OCD is not able to ensure the prevention of waste and protection of correlative right without hearing the competing development plans, one of which prevents waste and protects correlative rights better than the other. Thus, V-F satisfies standing on all accounts under 19.15.4.11 NMAC, and its intervention should be approved.

12. Furthermore, V-F's intervention should be approved because V-F's participation, by presenting its competing development plan, would "contribute substantially to the prevention of waste" and the "protection of correlative rights." 19.15.4.11C NMAC.

13. Finally, it is established Division precedent and policy that all competing pooling applications, filed by parties who qualify as applicants, should be heard by the Division, whether or not the party made an entry of appearance or intervention in a particular case prior to the hearing date, or whether the party was even present at the hearing itself. *See Order on Motion to Reopen*,