

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

**APPLICATION OF AVANT OPERATING, LLC FOR
COMPULSORY POOLING AND APPROVAL OF
NON-STANDARD SPACING UNIT, LEA COUNTY,
NEW MEXICO**

CASE NO. 24544

**AVANT OPERATING, LLC'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS
OF LAW**

In accordance with the Hearing Examiner's request at the August 20-21, 2024 hearing in Case No. 24544, Avant Operating, LLC ("Avant") submits the following Proposed Findings of Fact and Conclusions of Law for inclusion in the New Mexico Oil Conservation Division's ("Division") order in this matter.

Findings of Fact

1. In this Case No. 24544, Avant seeks an order to approve non-standard 1,280-acre, more or less, horizontal spacing unit ("HSU") composed of all of Sections 25 and 36, Township 18 South, Range 33 East, N.M.P.M., Lea County, New Mexico (the "Application Lands"), and to pool all uncommitted mineral interests in the Bone Spring formation, designated as oil pools, underlying said HSU. Avant seeks to dedicate the HSU to the following proposed wells:

a. **Royal Oak 25 Fed Com #501H**, which is an oil well that will be horizontally drilled from a surface location in the NW/4NW/4 (Unit D) of Section 25 to a bottom hole location in the Bone Spring Formation in the SW/4SW/4 (Unit M) of Section 36;

b. **Royal Oak 25 Fed Com #502H**, which is an oil well that will be horizontally drilled from a surface location in the NW/4NW/4 (Unit D) of Section 25 to a bottom hole location in the Bone Spring Formation in the SE/4SW/4 (Unit N) of Section 36;

c. **Royal Oak 25 Fed Com #301H and Royal Oak 25 Fed Com #601H**, which are oil wells that will be horizontally drilled from a surface location in the NE/4NW/4 (Unit C) of Section 25 to a bottom hole location in the Bone Spring Formation in the SW/4SW/4 (Unit M) of Section 36;

d. **Royal Oak 25 Fed Com #302 and Royal Oak 25 Fed Com #602H**, which are oil wells that will be horizontally drilled from a surface location in the NE/4NW/4 (Unit

Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 2

C) of Section 25 to a bottom hole location in the Bone Spring Formation in the SE/4SW/4 (Unit N) of Section 36;

e. **Royal Oak 25 Fed Com #303H, Royal Oak 25 Fed Com #503H, and Royal Oak 25 Fed Com #603H**, which are oil wells that will be horizontally drilled from a surface location in in the NW/4NE/4 (Unit B) of Section 25 to a bottom hole location in the Bone Spring Formation in the SE/4SW/4 (Unit O) of Section 36; and

f. **Royal Oak 25 Fed Com #304H, Royal Oak 25 Fed Com #504H, and Royal Oak 25 Fed Com #604H**, which are oil wells that will be horizontally drilled from a surface location in in the NW/4NE/4 (Unit B) of Section 25 to a bottom hole location in the Bone Spring Formation in the SE/4SE/4 (Unit P) of Section 36.

2. On June 24, 2024, Prima Exploration, Inc. (“Prima”) filed an entry of appearance and objection to hearing by affidavit, and on July 19, 2024, Prima filed a Motion to Dismiss Pooling Application on the Basis that More Initial Wells Have Been Proposed Than Can Be Drilled by the Pooling Order Deadline (“Motion”). Although the Division denied Prima’s Motion, Prima maintained its objection of the case on the grounds that Avant’s four-well-per-section per bench development plan will overdevelop the proposed unit and instead requested the Division modify Avant’s development plan to accommodate a three-well-per-section per bench development plan.

3. This case was heard at a special OCD hearing docket on August 20 and 21, 2024, where both Avant and Prima presented witnesses and exhibits. *See, e.g.*, Tr. at 1, 5.

4. In support of its application, Avant presented the testimony and exhibits of Sophia Guerra (Landman); Josh Payne (Senior Geologist); and Shane Kelly (Vice President of Engineering). *See, e.g.*, Tr. at 5.

5. In support of its position, Prima presented the testimony and exhibits of David Rhodes. *See, e.g.*, Tr. at 5.

Ownership

6. Avant and its affiliates have a 41.80% working interest of record. *See* Avant’s Exhibit C-4.

Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 3

7. Avant has obtained the commitment of 74.87% of the working interest owners to its development plan. *See* Avant's Exhibit C-4.

8. Prima owns a 2.75% working interest of record. *See* Avant's Exhibit C-4.

Avant's Proposed Development Plan

9. Avant seeks approval of an initial development plan that will result in the drilling and completion of 12 wells in three benches of the Bone Spring formation over the next year. *See* Avant's Exhibit B and Exhibit G, G-1.

10. Avant has met its burden to demonstrate that (i) its Application and notice were proper; and (ii) approval of its Application will prevent waste or protect correlative rights. NMAC 19.15.16.15. *See* Avant's Exhibits A, B, E, and F.

11. Avant presented convincing evidence that its application will prevent waste and protect correlative rights by testifying and presenting evidence that

a. Avant has imminent development plans and is ready to begin development of the proposed unit. Tr. at 82:18-23;

b. Avant has a multi-phase pipeline capacity, which will enable Avant to efficiently and economically bring oil and natural gas production to market and to recycle produced water. Tr. at 83:5-84:8;

c. proximate wells drilled and completed using modern completion designs on four-wells-per-section per bench spacing perform well and are "highly economic to the operator as well as the operating partners." Tr. at 246:14-17, Avant Ex. G-19; and

d. less dense well spacing can result in lost value to the company and stranded acreage that would be impossible to develop. Tr. at 247:10-16;

12. Avant's proposed development plan has sufficient gas takeaway capacity and Avant has committed significant capital investment infrastructure for water, gas and oil so as to prevent waste and reduce surface impacts. *See* Avant's Exhibits G-3 and G-4.

13. There is sufficient barrier between the first, second, and third bench of the Bone Spring intervals to allow independent development of these intervals. *See* Avant's Exhibit D-5.

Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 4

14. Prima provided no evidence that the ultimate recovery from Avant's development plan will be less than or equal to the three-well-per-section per bench plan proposed by Prima. *See, e.g.*, Tr. at 157:3-6; 155:13-19.

15. Avant presented evidence that its proposed four-well-per-section per bench development plan

- a. is consistent with the spacing pattern used by a vast majority of operators in the general area. *See* Avant's Exhibit G-10; Tr. at 249:20-24;
- b. is justified by the reservoir quality of the first, second, and third bench of the Bone Spring formation underlying the subject acreage. *See* Avant's Exhibits D-2, D-4, and D-5;
- c. will yield enhanced economic efficiency for the initial wells. *See* Tr. at 246:14-17, Avant Ex. G-19; and
- d. will yield a higher total recovery than Prima's suggested three-well-per-section per bench development plan. *See, e.g.*, Tr. at 249:20-24.

16. Avant presented evidence that proximate units developed with density equal to or greater than Avant's development plan have resulted in economic wells, and that Avant's plan development plan will result in economic wells. *See* Avant's Exhibit G-10; *see also* Tr. at 249:20-24.

Prima's Requested Development Plan

17. Prima presented evidence of proximate development in which development is limited to three-wells-per-section per bench, contrary to the four-well-per-section per bench development plan proposed by Avant. *See* Prima's Exhibit A-1. Prima did not rebut Avant's evidence that the most recent proximate development is utilizing four-well-per-section per bench development patterns. *See* Avant's Exhibit G-10.

18. Prima's witness testified that anything greater than three-wells-per-section per bench will cause economic waste, and result in the drilling of more wells than necessary to prevent waste. Tr. at 170:9-25–171:1-3. However, Prima conceded that a four-well-per-section per bench

Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 5

development plan can yield a higher total recovery than a three-well-per-section per bench development plan. Tr. at 157:3-6; 155:13-19.

19. Prima presented evidence that Avant's four-well-per-section per bench development plan will result in well interference. Prima's Exhibit A-1. However, Prima's witness failed to establish a connection between well interference and waste. Additionally, Prima conceded that Prima's three-well-per-section per bench proposal will also result in some interference and Prima's witness acknowledged that a higher total recovery of oil could occur even with well interference. Tr. at 170:18-19; 157:3-6.

20. Prima's analysis of nearby development plans is not reliable because:

- a. Prima's witness admitted he and Prima have no experience drilling or completing wells in the Permian Basin or New Mexico. Tr. at 115:13-118:3;
- b. Prima's witness did not explain the factors analyzed to develop his decline curve analysis and are inherently biased. Tr. at 144:9-25; 148: 6-18;
- c. Prima's witness acknowledged that other facts could result in step changes in production. Tr. at 150:3-5;
- d. Prima relied on data from legacy wells that were drilled and completed with outdated technology no longer relevant to modern drilling and completion design techniques. Tr. at 148:18-25 – 149:1-2; 151: 11-13; 152: 14-20;
- e. Prima's analysis relied only on public data, rather than on data obtained from operating the wells or participating in the drilling and completion of the wells. Tr. at 144:19-25; and
- f. Prima excluded data on proximate peripheral wells, failing to portray the entire parent-child well relationship. *See* Prima's Exhibit A-1.

21. Prima presented no evidence that its three-well-per-section per bench proposal will result in more ultimate recovery than Avant's four-well-per-section per bench development plan, and did not rebut Avant's evidence that Avant's plan will yield more ultimate recovery than Prima's proposal.

Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 6

22. Prima requested that, if the Division approves Avant's Application, that it add a special provision relating to the timing of a non-operator's election to participate, the timing of the operator's commencement of operations, and the payment of a non-operator's proportionate share of expenses for a well. Prima presented no evidence or testimony in favor of this provision.

23. Avant stated that it opposes the special provision proposed by Prima because: (i) the issues addressed in Prima's proposal are adequately addressed in the Division's standard pooling order template; (ii) Prima's proposal represents a significant departure from standard industry practice; and (iii) Avant proposed a joint operating agreement to Prima twice, which adequately addresses the issues contained in Prima's proposed special provision.

Conclusions of Law

24. The Division has jurisdiction to issue this Order pursuant to NMSA 1978, § 70-2-12, NMSA 1978, § 70-2-17, and NMAC 19.15.16.15.

25. Avant has the right to drill the Wells as owner of oil and gas working interest within the Unit.

26. Avant's Application satisfied the requirements of NMAC 19.15.16.15.

27. Proper public notice of the Application and the Commission's hearing were given.

28. The Division satisfied the notice requirements for the hearing as required by 19.15.4.9 NMAC.

29. The pooling of uncommitted interest in the Unit will prevent waste and protect correlative rights.

30. Avant established that its proposed development plan will best prevent waste and protect correlative rights, as those terms are defined in NMSA 1978, § 70-2-3 and NMAC 19.15.2.7.

31. Prevention of economic waste is not a prerequisite for approval of a non-standard horizontal spacing unit, and is not relevant to this hearing.

Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 7

32. Avant presented evidence that its development plan will result in wells that will have a positive economic return, although Prima took the position that its proposal would be more profitable. There appears to be a difference of opinion between the expert witnesses for Avant and Prima as to whether a three-wells-per-section per bench pattern would be more or less profitable than a four-wells-per-section per bench pattern. Although economic waste is not relevant to this hearing, the Division concludes that it should defer to the party who will bear the largest economic risk. In this case, Avant's 41.80% working interest is approximately 15 greater than Prima's 2.75% working interest. The nearly 75% total working interest committed to Avant's plan is approximately 27 times greater than Prima's 2.75% working interest. Accordingly, even if economic waste were a relevant consideration, the Division concludes that it should defer to Avant over Prima.

33. Avant's development plan will prevent waste and protect correlative rights because developing the entire Bone Spring Formation at four well spacing in each of the First, Second and Third Bone Spring intervals will fully develop the acreage and will maximum recovery of the underlying reserves.

34. Prima failed to establish that its proposal would prevent waste, as defined in NMSA 1978, § 70-2-3 and NMAC 19.15.2.7.

35. Prima failed to establish that its proposal would protect correlative rights, or that Avant's Application would harm correlative rights, as defined in NMAC 19.15.2.7.

36. Prima failed to establish that its proposal would prevent the drilling of unnecessary wells.

37. Avant's proposed development plan will prevent waste more effectively than Prima's requested modification to drill only nine of the twelve proposed wells.

38. Avant's proposal protects correlative rights by presenting the best opportunity for the development of the acreage at issue.

Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 8

39. Avant's interest in the acreage is significantly greater than Prima's interest in its proposed units.

40. The geologic and reservoir engineer evidence and testimony presented by Avant demonstrates that Avant's proposed number of wells will more efficiently and more fully recover the oil and gas reserves underlying the acreage at issue.

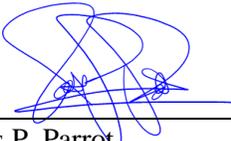
41. The evidence and testimony presented by Avant demonstrates that it is a prudent operator.

42. The Division declines to adopt the special provision requested by Prima because it conflicts with standard pooling orders, there was no compelling evidence offered in favor of its adoption, and Avant presented evidence that it attempted to negotiate a joint operating agreement with Prima, which would have allowed the parties to address the matters contained in the special provision without the Division's involvement.

For the foregoing reasons, Avant's Application is approved, and Prima's recommendation to reduce the number of wells to nine is denied.

Respectfully submitted,

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Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 9

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing was served to counsel of record by electronic mail this 16th day of September 2024, as follows:

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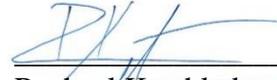
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Case No. 24544
Proposed Findings and Conclusions of Law of Avant Operating, LLC
Page 10

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