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

APPLICATION OF READ & STEVENS, INC.
FOR APPROVAL OF AN OVERLAPPING
HORIZONTAL WELL SPACING UNIT AND
COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

CASE NO. 25145

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

CASE NOS. 25146-25148

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

READ & STEVENS, INC.'S CLOSING BRIEF

Read & Stevens, Inc. and Permian Resources Operating, LLC (collectively "Permian" or "Applicant") (OGRID No. 372165), submits this pre-hearing statement pursuant to the instructions of the Hearing Officer in these consolidated matters.

Permian seeks to pool standard horizontal well spacing units in the Bone Spring formation underlying Sections 14 and 15, Township 18 South, Range 31 East, Eddy County, New Mexico. Permian Case Nos. 24941 and 24942 seek to pool portions of the Bone

Spring formation in the S/2 N/2 and S/2, respectively. Case No. 24942 involves a tract with a depth severance; therefore, Permian is seeking to pool from the top of the Bone Spring formation to 9,397 feet where an ownership severance exists in the SE/4 SW/4 of Section 14. Permian Case Nos. 25145-25148 also seek to pool portions of the Bone Spring formation but are comprised of four separate 320-acre laydown spacing units covering all of Sections 14 and 15, respectively. Case No. 25145 involves a tract with a depth severance; therefore, Permian is seeking to pool from 9,291 feet where an ownership severance exists in the NE/4 NW/4 of Section 14 to the base of the Bone Spring formation.

V-F Petroleum Inc. ("V-F") filed pooling applications under Case Nos. 24994-24995, and 25115-25117 that seek to pool portions of the Bone Spring formation in Sections 15 and 16, thereby overlapping Permian's pooling applications in Section 15. *See* Permian Rebuttal Ex. 1 (Control Locator Map).

Carolyn Beall ("Beall") filed an entry of appearance and objection in Case Nos. 25145-25148. Later, Ms. Beall filed a withdrawal of entry of appearance and objection in Case Nos. 25147 & 25148 and filed a notice of intervention in Case Nos. 25145 & 25146, which was granted by the Division Hearing Examiner. Ms. Beall's only existing interest in Permian's proposed development covering Sections 14 and 15 was pooled under Division Order R-23609. She was provided notice in Case No. 25145 only as a vertical offset to Permian's proposed pooling in that case.

ARGUMENT

A. Permian Controls 77% Of The Working Interest In Section 15, And Should Be Awarded Operatorship Because V-F Has Failed to Demonstrate A Compelling Reason To Deny Permian's Applications.

These cases fall squarely within Division precedent that, absent certain compelling factors, the working interest in the overlapping Section 15—where Permian controls 77% of the working interest—is the deciding factor. It is irrelevant that V-F sent out well proposals prior to Permian acquiring its interest in Section 15; trades are a standard industry practice, which experienced operators understand and pivot around.

The fact is, V-F owns a mere 57.8 net acres (9%) in Section 15 through a Term Assignment, derived from reversionary interest owners who signed a letter of support in favor of Permian. *See* Permian Ex. C-6 (Javalina Partners & Zorro Partners). This net acreage amounts to a marginal interest in the overlapping Section 15 and, because V-F has made no showing to overcome the working interest control threshold pertaining to this acreage, Permian should be allowed to develop its own acreage, especially given the high reservoir quality in Section 15.

1. It is undisputed that Permian controls a majority of the working interest in the disputed acreage.

It is undisputed that Permian owns ~61.40% of the working interest in Section 15 and has the support of various interest owners, including two of the other largest interest owners in the acreage (Occidental Permian Limited Partnership and Marathon Oil Company), thereby controlling 77% of the working interest in Section 15. *See* Permian Ex. C-3 (Tract Capitulation) & Rebuttal Ex. 1 (Control Locator Map); V-F Ex. A-3 (NMNM 089879 and NMNM 089882); *see also* Tr. 1/28/25, page 167, lines 2-15. The remaining working interest is divided among several smaller interest owners, including V-F's interest that is subject to the obligations under a Term Assignment issued by Javalina Partners & Zorro Partners and assigned to V-F in October 2023. *See* Tr. 2/27/25, page 88, lines 12-18. [1]

[1] V-F Rebuttal Ex. 3 proports to convey a Term Assignment from Moore & Shelton Company, Ltd. to V-F. The Term Assignment is dated January 24, 2025, and was not part of the county records when Permian conducted its title examination for the subject lands. Therefore, Permian did not credit V-F with this interest in its exhibits; however,

Moreover, Permian has the overwhelming majority working interest control in its own proposed spacing units and has no lease issues to contend with related to its proposed development plans. *See* Permian Ex. C-8 & Rebuttal Ex. 1 (Control Locator Map). In contract, V-F's plans include unleased state minerals, that cannot be pooled by the Division,[2] and, further, cannot be developed until nominated and leased by the State Land Office ("SLO"). Meaning, that even if the Division were to find in favor V-F, it cannot develop the acreage as proposed in Case No. 25115 until the state minerals have been properly leased. It is not clear what the timeframe for that would be and V-F has had no communication with the SLO regarding the issue. *See* Tr. 1/28/25, page 138, lines 21-23. Coupled with a pending Term Assignment expiration date (11/1/2026), V-F faces significant hurdles to its plans.

2. Division precedent places the burden on V-F to bring forth convincing evidence demonstrating Permian's development plan for Section 15 will cause waste or otherwise negatively impact correlative rights.

As the majority working interest owner in Section 15, Division precedent establishes that Permian's pooling applications must be granted unless V-F demonstrates with convincing evidence that Permian's proposed development plans for Section 15 will cause waste or otherwise negatively impact correlative rights. In *COG Operating v. Mewbourne*, Division Order R-21198 (11/3/20), the Division was presented with a circumstance similar to that presented under these cases. COG sought to combine Section 6 with Sections 7 and 18 to drill 3-mile wells. Mewbourne objected because it owned a majority of the working interest in

during cross-examination, V-F's landman, Jordan Shaw, stated that crediting V-F with this interest did not change the fact that Permian owns the "majority of the working interest in Section 15." *See* Tr. 1/28/25, page 167, lines 8-17. It appears that this would add 21 acres to V-F's interest in Section 15, bring their net acreage there to 78.8 acres.

[2] V-F's initial hearing packet for Case No. 25115 indicated that it would pool these unleased state minerals. *See* V-F Original Hearing Packet; *see also*, 1/28/25, pages 137, lines 9-25, and page 138, lines 1-2. V-F has since filed a revised hearing packet to correct this overreach. Pooling unleased state or federal minerals has not been tested previously, but as a general rule, the Division does not pool these royalty interests.

Section 6 and had plans to develop that acreage. The Division focused on the ownership in the Section 6 disputed acreage and denied COG's application finding "COG failed to establish that its applications, if granted, would more efficiently recover the oil and gas reserves underlying Section 6" and concluding "the mineral interest ownership held by each party at the time the application was heard supports independent development by Mewbourne of Section 6, and by COG of Sections 7 and 18." Division Order R-21198, at p. 5, Conclusions ¶8 and ¶13. The same is true here: The mineral ownership held by Permian and V-F supports the independent development of Sections 14 and 15 by Permian and the independent development of Section 16 by V-F.

A similar result was reached in *Cimarex v. Chevron,* Division Order R-22204 (7/25/22). In that case Cimarex sought to combine Sections 8, 17 and 20 to drill 3-mile horizontal wells. Chevron objected because it owned a majority of the working interest in Sections 17 and 20 and had plans to develop its acreage. Cimarex claimed pooling Chevron's acreage was necessary to avoid drilling "economically inferior" one-mile wells and that it had a superior development plan. *See* Division Order R-22204 at ¶14-¶20. The Division found "the evidence on competing development plans to be insufficient to support one plan over the other." *Id.* at ¶25. The Division therefore decided the matter based on ownership, noting Chevron's applications still allowed Cimarex to drill one-mile wells in Section 8 where Cimarex owned a majority of the working interest, allowed Chevron to drill wells in in Sections 17 and 20 where Chevron owned a majority of the working interest, and therefore offered "the best opportunity for each party to develop its own acreage." *Id.* at ¶23-¶26.

The Division has decided other competing pooling cases based on ownership in the disputed acreage where the evidence does not clearly establish that one development plan is

superior to the other. In *Applications of COG Operating and WPX Energy*, Division Order R-21826 (8/31/20), the Division found that WPX failed to establish its development plan was superior to COG's plan, and therefore concluded COG should be allowed to develop the disputed acreage where COG held superior working interest control:

> OCD concludes that the conflicting evidence over well and overall development proposals do not clearly favor one proposal, while the evidence on working interest control strongly favors the COG proposal. In the absence of other compelling factors, working interest control…should be the controlling factor in awarding operations. (citing *KCS Medallion Resources, Inc.,* Division Order R-10731-B at ¶24).

Division Order R-21826 at ¶21 (8/31/21). In *Matador v. Flat Creek,* Order R-21800 (8/26/21) the applicants sought to develop the Wolfcamp underlying Section 23 with laydown wells. The Division found that "neither party has conclusively demonstrated that its well development proposal would economically recover more oil or gas." Division Order R-21800 at ¶17. The Division therefore granted Matador's applications stating:

> In the absence of evidence demonstrating greater recovery from one party's development plan, OCD must consider other factors including working interest control. The weight of the factors, and in particular the working interest control factor, favors Matador.

Division Order R-21800 at ¶22. Similarly, in *BTA Oil v. Marathon,* Division Order R-20368 (2/16/19), Marathon contended it had a superior development plan for acreage where BTA owned a majority of the working interest. The Division found that "Marathon has not presented sufficient empirical or modeling evidence to enable the Division to conclude that its preferred density is necessary to prevent waste." Division Order R-20368 at p. 8, ¶24. The Division found a lack of convincing evidence with respect to Marathon's other concerns about BTA's initial development plan. *Id.* at p. 8, ¶25-¶26. The Division therefore decided the matter based on BTA's superior ownership control in the disputed acreage. *Id.* at p. 8, ¶¶29-30.

Although these three preceding sets of cases are similar to the present contested matter, there is one distinct difference—Permian provided evidence of its superior development plan and well performance in Eddy County[3] whereas V-F provided nothing. V-F's exhibits and witness testimony provide nothing to show that its plan is better than Permian's plan. Neither did V-F (or Ms. Beall) demonstrate that Permian's plan would cause waste or negatively impact correlative rights.[4] That being said, V-F did provide evidence—and their geologist confirmed—that Section 15 has higher quality rock than Section 16, and V-F is nonetheless seeking to develop Permian's interest. *See* V-F Ex. B-3 & Rebuttal Exs. 13 & 14; *see also*, Tr. 1/28/25, page 227, lines 4-18.

B. V-F and Ms. Beall Have Failed To Establish A Compelling Reason To Deny Permian Operatorship of Section 15.

V-F and Ms. Beall have made multiple attempts to thwart the proceedings, none of which have been successful, or have anything to do with the contested case factors, which, because Permian is the overwhelming majority interest owner, they have the burden of proving. *See* Division Order R-21198 (11/3/20).

1. Permian's plans protect correlative rights and account for the two depth severances.

[3] *See* Permian Ex. E, E-2 to E-6.

[4] At the February 27, 2025 hearing, counsel for V-F misstated the testimony of Permian's geologist from the January 28, 2025 hearing regarding drainage. *See* Tr. 2/27/2025, page 117, lines 14-18. Similarly, counsel for Ms. Beall made the same misstatements regarding both Permian's geologist and engineer in multiple filings, including Ms. Beall's prehearing statement, notice of intervention, ¶ 6, and notice of interest and objection ¶ 9-10. Neither Permian's geologist nor engineer stated that Permian's Third Bone Spring plans would drain the Upper Third Bone Spring or otherwise drain Ms. Beall's interest above the depth severance in the NE/4 NW/4 of Section 14. Rather, Permian's geologist and engineer responded to a myriad of convoluted assumptions and hypotheticals posed by V-F's counsel. *See* Tr. 1/28/25, page 63, lines 7-24 ("Mr. Cantin, let's *assume* . . ." and "We're going to make that *assumption*."); *see also*, page 82, lines 15-21 ("let's *assume* it's drilled below the depth severance, . . .). The questions asked were not based on the actual facts of the case and neither party offered evidence of any kind to support their proposition that Permian's Third Bone Spring plans will impact correlative rights by draining above either of the depth severances in Section 14. Moreover, the Hearing Examiner agreed and found that no evidence of drainage had been presented at the hearing. *See* Tr. 2/27/2025, page 220, line 2.

Permian acknowledges that its plans include two depth severances; therefore, it is seeking orders that account for said depth severances. For Case No. 24942, Permian seeks to pool only a portion of the Bone Spring formation, from the top of the Bone Spring formation to 9,397 feet where an ownership severance exists in the SE/4 SW/4 of Section 14, as shown in **Permian *Supplemental* Ex. D-7** for the Swearingen Deep 14 Fed 1 (API # 30-015-25839), located in Section 14, Township 18 South, Range 31 East, Eddy County, New Mexico. For Case No. 25148, Permian seeks to pool only a portion of the Bone Spring formation, from 9,397 feet where an ownership severance exists in the SE/4 SW/4 of Section 14 to the base of the Bone Spring formation, measured to the stratigraphic equivalent of the base of the Bone Spring formation, interpreted at 9,610 feet measured depth beneath the surface, as shown in **Permian *Supplemental* Ex. D-7** for the Swearingen Deep 14 Fed 1 (API # 30-015-25839), located in Section 14, Township 18 South, Range 31 East, Eddy County, New Mexico.

Although the depth severance has nothing to do with V-F's plans, throughout the proceedings, V-F unsuccessfully attempted to prove Ms. Beall's case for her. *See* Tr. 1/28/25, page 63, 96-98, 102-104; *see also*, Tr. 2/27/25, page 117, lines 14-20; page 173, lines 16-22; page 174, lines 11-16. Separately, Ms. Beall has not proven her claims of drainage either:

> Mr. Shaw: Yes. Because if the parties -- or if Permian does not -- if Permian does not have an allocation method, her interest would essentially be drained by the well that Permian is proposing to drill in the -- sorry.
>
> Ms. Vance: Objection.
>
> HE: What's the Objection?
>
> Ms. Vance: Mr. Shaw is not a geologist, neither -- he has not presented any evidence that there is drainage. There is –
>
> HE: I understand, Ms. Vance. Thank you. Yes. Sustained. I agree.

See Tr. 2/27/25, page 219, lines 14-25 & page 220, lines 1-10. Even with additional time to substantiate her claims and committing to provide evidence,[5] Ms. Beall offered nothing to show drainage of her interests other than making conclusory statements. *See* Beall prehearing statement, notice of intervention, ¶ 6, and notice of interest and objection ¶ 9-10; *see also, V.P. Clarence Co. v. Colgate*, 1993-NMSC-022, ¶ 2, 115 N.M. 471853 P.2d 722; *Archuleta v. Goldman*, 1987-NMCA-049, 107 N.M. 547, 761 P.2d 425 (ruling that statements in unsworn briefs are not evidence); *Trujillo v. Puro*, 1984-NMCA-050, 101 N.M. 408, 683 P.2d 963 (ruling that arguments of counsel are not evidence).

2. There are no defects with Permian's applications.

Other attempts to derail the hearings by V-F and Ms. Beall include filing premature *de novo* applications,[6] arguing that Permian's applications are defective because of notice issues[7] and including a general description of the depth severance.[8] None of this has stuck.

CONCLUSION

Simply put, V-F and Ms. Beall have not proven their case and have, in fact, done everything possible to avoid proving their case on the merits. Permian is far more experienced

[5] *See* Tr. 1/28/25, page 33, lines 22-23 ("Ms. Luck: And thank you for that clarification. We'll be prepared for February 13th."). Ms. Beall did not file any exhibits in advance of the 2/27/25 hearing; however, at the discretion of the Hearing Examiner was allowed to submit late filed exhibits. *See* Tr. 2/27/25, page 204, lines 20-25. The exhibit packet included new information regarding Ms. Beall's claimed interest in Permian's Case No. 25146. As part of Permian's revised hearing packet requested by the Division technical examiner at the 2/27/25 hearing to clarify the location of the depth severances and affected parties, Permian included a title opinion in response to Ms. Beall's Ex. A (Deed of Distribution). To the extent that V-F and Ms. Beall object to inclusion of the title opinion, Permian submits the title opinion as a rebuttal exhibit and should be accepted into the record by the Hearing Examiner, considering Ms. Beall's late filings. *See* 19.15.4.17.A and 19.15.4.19 NMAC.

[6] *See* Commission Case No. 25238 and 25239. V-F and Ms. Beall filed a Motion to Stay the Division proceedings, pending the Commission cases, but was denied by the Hearing Examiner. *See* Tr. 2/27/25, page 67, lines 12-13.

[7] At the 1/28/25 hearing, the Hearing Examiner left the record open and continued the cases to the 2/27/25 docket to allow Permian to perfect notice. *See* Tr. 1/28/25, page 17, lines 12-21. Permian's notice is perfected.

[8] *See* 19.15.4.8.A NMAC ("the name or *general description* of the common source or sources of supply or the area the order sought affects").

and owns and controls the vast majority of working interests in Section 15, and should be allowed to develop their own acreage under their superior plan of development. Therefore, the Division should follow its precedent, grant Permian's pooling applications, and deny V-F's competing pooling applications.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2025, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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