

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

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

**CASE NO. 22957  
ORDER NO. R-22798**

**ORDER**

The Director of the New Mexico Oil Conservation Division (“OCD”), having heard this matter through a Hearing Examiner on August 4, 2022, and after considering the testimony, evidence, and recommendation of the Hearing Examiner, issues the following Order.

**FINDINGS OF FACT**

1. Novo Oil & Gas Northern Delaware, LLC (“Operator” or “Novo”) submitted an application (“Application”) to compulsory pool the uncommitted oil and gas interests within the spacing unit (“Unit”) described in Exhibit A. Operator seeks to be designated the operator of the Unit.
2. Operator will dedicate the well(s) described in Exhibit A (“Well(s)”) to the Unit.
3. Operator proposes the supervision and risk charges for the Well(s) described in Exhibit A.
4. Operator identified the owners of uncommitted interests in oil and gas minerals in the Unit and provided evidence that notice was given.
5. The Application was heard by the Hearing Examiner on the date specified above, during which Operator presented evidence through affidavits in support of the Application. At the hearing, Jonathan Samaniego (“Samaniego”) appeared on behalf of himself and opposed the Application. Samaniego is one of the uncommitted interest owners that Novo is seeking to pool in this application. Samaniego opposes the Application. At the conclusion of the hearing, the Hearing Examiner left the record to allow Samaniego to present his arguments. The Hearing Examiner issued procedural orders that allowed Samaniego to submit proposed findings by October 28, 2022 and allowed Novo until November 4, 2022. Both parties submitted timely filings.
6. In his filing, Samaniego lists a number of issues that he believes prevent the approval of a compulsory application. Among these allegations are:
  - a) Various violations of rules by Novo that would prevent the approval of compulsory pooling;

- b) Novo's commencement of drilling prior to the approval of compulsory pooling;
  - c) Novo's failure to notify Samaniego about the hearing; and
  - d) Various claims about the ownership percentages provided by Novo in its evidence;
7. Novo responded to Samaniego's filing by first arguing that Samaniego either failed to submit evidence supporting his claims or failed to comply with the hearing procedures governing the presentation of evidence. 19.15.4.13 NMAC. Novo then denied Samaniego's claims about alleged violations by asserting that such violations do not exist. Novo disputes the land ownership percentages offered by Samaniego and argues that, if any discrepancies exist, they are irrelevant. Novo also discussed the various efforts to provide notice to Samaniego.
  8. Analysis. The OCD finds that, in general, the allegations of Samaniego are disputed and are not supported by substantial evidence in the record or by the rules of the Oil Conservation Commission ("Rules").
  9. While Samaniego and Novo dispute whether Novo has any compliance issues, the claim that ongoing compliance issues require the denial of a compulsory application is not supported by the Rules. As stated by Samaniego, certain OCD approvals specifically provide that the OCD consider whether an applicant or operator is not in compliance with the requirements of 19.15.5.9(A) NMAC (rule lists requirements for compliance). One example is an application to drill which OCD may deny if the applicant is not in compliance with 19.15.5.9(A) NMAC. 19.15.14.10(A) NMAC. The rules for compulsory pooling do not mention any requirement for compliance with 19.15.5.9(A) NMAC. 19.15.13 NMAC. Compliance with 19.15.5.9(A) would have been determined when Novo applied for drilling permits which were granted.
  10. Samaniego argues that Novo illegally drilled the well prior to obtaining approval for pooling. The parties agree that Novo commenced the drilling of its wells prior to the decision on compulsory pooling. An approved permit to drill is required before an operator can commence drilling. 19.15.14.8(A) NMAC. Novo did obtain approvals for drilling. The Rules do not require that approval of compulsory pooling be obtained prior to drilling a well. Instead, if compulsory pooling is needed for a horizontal well, an OCD order pooling interests must be obtained prior to producing the well. 19.15.16.15(B)(10) NMAC.
  11. Samaniego makes various claims about the percentage of interests that he and others own in the Unit. Novo disputes the accuracy of his claims and has provided the sworn testimony of a landman. (Novo Ex. C). Novo does not dispute that Samaniego owns unleased mineral interests in the Unit. Novo is seeking to pool Samaniego's unleased mineral interests. (Novo Ex. C3). Samaniego's unsupported claims over ownership percentages is not sufficient to deny an application for compulsory pooling.

12. Perhaps the most significant issue raised by Samaniego is notice. The Rules require that an applicant for compulsory pooling provide individual notice “to each owner of an interest in the mineral estate of any portion of the lands the applicant proposes to be pooled”. 19.15.4.12(A)(1)(a) NMAC. “When an applicant has been unable to locate persons entitled to notice after exercising reasonable diligence, the applicant shall provide notice by publication...” 19.15.4.12(B) NMAC. Therefore, the applicant must demonstrate that they have exercised reasonable diligence in locating the parties entitled to notice. See *Elizabeth Kaye Dillard*, R-22240 ¶18-19 (Aug. 29, 2022).
13. Samaniego claims that he never received notice of the hearing on the Application. Novo presented evidence that they timely sent certified letters to Samaniego at four different addresses. (Novo Ex. E). Novo also published notice of the hearing in the Carlsbad newspaper and listed Samaniego’s name in the notice. (Novo Ex. F). Novo later provided e-mail correspondence with Samaniego where Novo attempted to determine the best mailing address. (Ex. A to Novo’s response).
14. The Rules provide that the failure to provide notice as required by the Rules can be cause to reopen a case. 19.15.4.12(D) NMAC. In a recent case, the OCD reopened a hearing when it was shown that a contractor for the applicant had the correct address for an interest owner but the applicant failed to use that address. *Elizabeth Kaye Dillard*, R-22240 ¶26 (Aug. 29, 2022) (the applicant also published a late notice which did not include the name of the interest owner). In this case, the efforts of Novo to reach Samaniego by mailing to four addresses constitute reasonable diligence. Further, reopening the hearing is unnecessary since Samaniego participated in the original hearing and was also granted additional time to file additional documents.
15. Finally, most of the remedies sought by Samaniego (e.g., forfeiting interests, appointing a trustee, sanctioning Novo) are beyond the scope of this compulsory pooling hearing. One remedy sought by Samaniego – denial of the 200% risk charge – is available in a compulsory pooling proceeding. 19.15.13.8 NMAC. *Matador Production Company*, R-14053-E (Nov. 10, 2016) (Commission assigned a 150% risk charge). However, the Rules require a party wanting to change the risk charge to file a timely pre-hearing statement raising the issue and then present relevant geologic or technical evidence. 19.15.13.8(D) NMAC. Samaniego did not raise the issue properly and did not present any geologic or technical evidence. Therefore, there is not substantial evidence to support a different risk charge.
16. The OCD finds that there is not sufficient evidence to deny the Application. The unleased mineral interest of Samaniego which is pooled by this Order shall consist of a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest. As a Pooled Working Interest Owner, Samaniego will have a further opportunity to pay his share of the estimated well costs under this Order.

### **CONCLUSIONS OF LAW**

17. OCD has jurisdiction to issue this Order pursuant to NMSA 1978, Section 70-2-17.
18. Operator is the owner of an oil and gas working interest within the Unit.
19. Operator satisfied the notice requirements for the Application and the hearing as required by 19.15.4.12 NMAC.
20. OCD satisfied the notice requirements for the hearing as required by 19.15.4.9 NMAC.
21. Operator has the right to drill the Well(s) to a common source of supply at the depth(s) and location(s) in the Unit described in Exhibit A.
22. The Unit contains separately owned uncommitted interests in oil and gas minerals.
23. Some of the owners of the uncommitted interests have not agreed to commit their interests to the Unit.
24. The pooling of uncommitted interests in the Unit will prevent waste and protect correlative rights, including the drilling of unnecessary wells.
25. This Order affords to the owner of an uncommitted interest the opportunity to produce his just and equitable share of the oil or gas in the pool.

### **ORDER**

26. The uncommitted interests in the Unit are pooled as set forth in Exhibit A.
27. The Unit shall be dedicated to the Well(s) set forth in Exhibit A.
28. Operator is designated as operator of the Unit and the Well(s).
29. If the location of a well will be unorthodox under the spacing rules in effect at the time of completion, Operator shall obtain the OCD's approval for a non-standard location in accordance with 19.15.16.15(C) NMAC.
30. If the Unit is a non-standard horizontal spacing unit which has not been approved under this Order, Operator shall obtain the OCD's approval for a non-standard horizontal spacing unit in accordance with 19.15.16.15(B)(5) NMAC.
31. The Operator shall commence drilling the Well(s) within one year after the date of this Order, and complete each Well no later than one (1) year after the commencement of drilling the Well.

32. This Order shall terminate automatically if Operator fails to comply with Paragraph 31 unless Operator obtains an extension by amending this Order for good cause shown.
33. The infill well requirements in 19.15.13.9 NMAC through 19.15.13.12 NMAC shall be applicable.
34. Operator shall submit each owner of an uncommitted working interest in the pool ("Pooled Working Interest") an itemized schedule of estimated costs to drill, complete, and equip the well ("Estimated Well Costs").
35. No later than thirty (30) days after Operator submits the Estimated Well Costs, the owner of a Pooled Working Interest shall elect whether to pay its share of the Estimated Well Costs or its share of the actual costs to drill, complete and equip the well ("Actual Well Costs") out of production from the well. An owner of a Pooled Working Interest who elects to pay its share of the Estimated Well Costs shall render payment to Operator no later than thirty (30) days after the expiration of the election period, and shall be liable for operating costs, but not risk charges, for the well. An owner of a Pooled Working Interest who fails to pay its share of the Estimated Well Costs or who elects to pay its share of the Actual Well Costs out of production from the well shall be considered to be a "Non-Consenting Pooled Working Interest."
36. No later than one hundred eighty (180) days after Operator submits a Form C-105 for a well, Operator shall submit to each owner of a Pooled Working Interest an itemized schedule of the Actual Well Costs. The Actual Well Costs shall be considered to be the Reasonable Well Costs unless an owner of a Pooled Working Interest files a written objection no later than forty-five (45) days after receipt of the schedule. If an owner of a Pooled Working Interest files a timely written objection, OCD shall determine the Reasonable Well Costs after public notice and hearing.
37. No later than sixty (60) days after the expiration of the period to file a written objection to the Actual Well Costs or OCD's order determining the Reasonable Well Costs, whichever is later, each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs shall pay to Operator its share of the Reasonable Well Costs that exceed the Estimated Well Costs, or Operator shall pay to each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs its share of the Estimated Well Costs that exceed the Reasonable Well Costs.
38. The reasonable charges for supervision to drill and produce a well ("Supervision Charges") shall not exceed the rates specified in Exhibit A, provided however that the rates shall be adjusted annually pursuant to the COPAS form entitled "Accounting Procedure-Joint Operations."

39. No later than within ninety (90) days after Operator submits a Form C-105 for a well, Operator shall submit to each owner of a Pooled Working Interest an itemized schedule of the reasonable charges for operating and maintaining the well ("Operating Charges"), provided however that Operating Charges shall not include the Reasonable Well Costs or Supervision Charges. The Operating Charges shall be considered final unless an owner of a Pooled Working Interest files a written objection no later than forty-five (45) days after receipt of the schedule. If an owner of a Pooled Working Interest files a timely written objection, OCD shall determine the Operating Charges after public notice and hearing.
40. Operator may withhold the following costs and charges from the share of production due to each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs: (a) the proportionate share of the Supervision Charges; and (b) the proportionate share of the Operating Charges.
41. Operator may withhold the following costs and charges from the share of production due to each owner of a Non-Consenting Pooled Working Interest: (a) the proportionate share of the Reasonable Well Costs; (b) the proportionate share of the Supervision and Operating Charges; and (c) the percentage of the Reasonable Well Costs specified as the charge for risk described in Exhibit A.
42. Operator shall distribute a proportionate share of the costs and charges withheld pursuant to paragraph 40 to each Pooled Working Interest that paid its share of the Estimated Well Costs.
43. Each year on the anniversary of this Order, and no later than ninety (90) days after each payout, Operator shall provide to each owner of a Non-Consenting Pooled Working Interest a schedule of the revenue attributable to a well and the Supervision and Operating Costs charged against that revenue.
44. Any cost or charge that is paid out of production shall be withheld only from the share due to an owner of a Pooled Working Interest. No cost or charge shall be withheld from the share due to an owner of a royalty interests. For the purpose of this Order, an unleased mineral interest shall consist of a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest.
45. Except as provided above, Operator shall hold the revenue attributable to a well that is not disbursed for any reason for the account of the person(s) entitled to the revenue as provided in the Oil and Gas Proceeds Payment Act, NMSA 1978, Sections 70-10-1 *et seq.*, and relinquish such revenue as provided in the Uniform Unclaimed Property Act, NMSA 1978, Sections 7-8A-1 *et seq.*
46. The Unit shall terminate if (a) the owners of all Pooled Working Interests reach a voluntary agreement; or (b) the well(s) drilled on the Unit are plugged and abandoned in accordance with the applicable rules. Operator shall inform OCD no later than thirty (30) days after such occurrence.

47. OCD retains jurisdiction of this matter for the entry of such orders as may be deemed necessary.

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION**



**DYLAN M FUGE**  
**DIRECTOR**  
DMF

**Date:** 7/24/2023

## Exhibit A

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<b>COMPULSORY POOLING APPLICATION CHECKLIST</b>	
<b>ALL INFORMATION IN THE APPLICATION MUST BE SUPPORTED BY SIGNED AFFIDAVITS</b>	
<b>Case: 22957</b>	<b>APPLICANT'S RESPONSE</b>
<b>Date</b>	August 4, 2022
Applicant	Novo Oil & Gas Northern Delaware, LLC
Designated Operator & OGRID (affiliation if applicable)	OGRID 372920
Applicant's Counsel:	Holland & Hart LLP
Case Title:	APPLICATION OF NOVO OIL & GAS NORTHERN DELAWARE, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.
Entries of Appearance/Intervenors:	
Well Family	Turks Fee 07
<b>Formation/Pool</b>	
Formation Name(s) or Vertical Extent:	Wolfcamp formation
Primary Product (Oil or Gas):	Oil
Pooling this vertical extent:	Wolfcamp formation
Pool Name and Pool Code:	Purple Sage Wolfcamp Pool (Gas) (98220)
Well Location Setback Rules:	Purple Sage Wolfcamp Special Rules
Spacing Unit Size:	318.34 acres, more or less
<b>Spacing Unit</b>	
Type (Horizontal/Vertical)	Horizontal
Size (Acres)	318.34 acres, more or less
Building Blocks:	320 acres
Orientation:	West-East
Description: TRS/County	S/2 of Section 7, Township 23 South, Range 28 East, NMPM, Eddy County, New Mexico.
Standard Horizontal Well Spacing Unit (Y/N), if No, describe	Yes
<b>Other Situations</b>	
Depth Severance: Y/N. If yes, description	No
Proximity Tracts: If yes, description	No
Proximity Defining Well: if yes, description	
Applicant's Ownership in Each Tract	Exhibit C
<b>Well(s)</b>	
Name & API (if assigned), surface and bottom hole location, footages, completion target, orientation, completion status (standard or non-standard)	Add wells as needed <div style="text-align: right; font-size: small;">                         BEFORE THE OIL CONSERVATION DIVISION                          Santa Fe, New Mexico                          Exhibit No. A                          Submitted by: Novo Oil &amp; Gas, LLC                          Hearing Date: August 04, 2022                          Case No. 22957                     </div>

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Well #1	Turks Fee 07 211H Well: SHL: 476 FNL, 925 FWL (Lot 1), Sec. 18, T23S, R28E. BHL: 380 FSL, 130 FEL (Unit P), Sec. 7, T23S, R28E. Completion Target: Wolfcamp formation Orientation: West-East Completion Status: Expected to be standard
Well #2	
Horizontal Well First and Last Take Points	Exhibit C-1
Completion Target (Formation, TVD and MD)	Exhibit C-4, Exhibit D-3
<b>AFE Capex and Operating Costs</b>	
Drilling Supervision/Month \$	\$8,000
Production Supervision/Month \$	\$800
Justification for Supervision Costs	Exhibit C
Requested Risk Charge	200%
<b>Notice of Hearing</b>	
Proposed Notice of Hearing	Exhibit B
Proof of Mailed Notice of Hearing (20 days before hearing)	Exhibit E
Proof of Published Notice of Hearing (10 days before hearing)	Exhibit F
<b>Ownership Determination</b>	
Land Ownership Schematic of the Spacing Unit	Exhibit
Tract List (including lease numbers and owners)	Exhibit C-2
Pooled Parties (including ownership type)	Exhibit C-3
Unlocatable Parties to be Pooled	N/A
Ownership Depth Severance (including percentage above & below)	N/A
<b>Joinder</b>	
Sample Copy of Proposal Letter	Exhibit C-4
List of Interest Owners (ie Exhibit A of JOA)	Exhibit C-3
Chronology of Contact with Non-Joined Working Interests	Exhibit C-3
Overhead Rates In Proposal Letter	Exhibit C-4

Cost Estimate to Drill and Complete	Exhibit C-4
Cost Estimate to Equip Well	Exhibit C-4
Cost Estimate for Production Facilities	Exhibit C-4
<b>Geology</b>	
Summary (including special considerations)	Exhibit D
Spacing Unit Schematic	Exhibit D-2
Gunbarrel/Lateral Trajectory Schematic	Exhibit D-2
Well Orientation (with rationale)	Exhibit D
Target Formation	Exhibit D-3
HSU Cross Section	Exhibit D-3
Depth Severance Discussion	N/A
<b>Forms, Figures and Tables</b>	
C-102	Exhibit C-1
Tracts	Exhibit C-2
Summary of Interests, Unit Recapitulation (Tracts)	Exhibit C-3
General Location Map (including basin)	Exhibit D-1
Well Bore Location Map	Exhibit D-2
Structure Contour Map - Subsea Depth	Exhibit D-2
Cross Section Location Map (including wells)	Exhibit D-3
Cross Section (including Landing Zone)	Exhibit D-3
<b>Additional Information</b>	
Special Provisions/Stipulations	
<b>CERTIFICATION: I hereby certify that the information provided in this checklist is complete and accurate.</b>	
Printed Name (Attorney or Party Representative):	Adam G. Rankin
Signed Name (Attorney or Party Representative):	
Date:	4-Aug-22