

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION TO CONSIDER:**

**CASE NO. 16009
ORDER NO. R-14758**

**APPLICATION OF OXY USA INC. FOR A NON-STANDARD SPACING AND
PRORATION UNIT AND COMPULSORY POOLING, EDDY COUNTY, NEW
MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on March 8, 2018 at Santa Fe, New Mexico, before Examiner Michael A. McMillan, and again on March 22, 2018, before Examiner William V. Jones.

NOW, on this 29th day of June 2018, the Division Director, having considered the testimony, the record and the recommendations of Examiner McMillan,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) Case Nos. 16009, 16010, 16011 and 16012 were consolidated at the hearing for the purpose of testimony and a single order is being issued for each case.

(3) OXY USA Inc. ("OXY" or "Applicant"), seeks approval of a non-standard 319.91-acre, more or less, oil spacing and proration unit and project area ("the Unit") in the Bone Spring formation, Cotton Draw; Bone Spring Pool (Pool Code 13367) underlying Lot 4, SW/4 NW/4 and W/2 SW/4 (W/2 W/2 equivalent) of Section 1, and the W/2 W/2 of Section 12, all in Township 24 South, Range 30 East, NMPM, Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests within the Unit in the Bone Spring formation.

(4) The Unit will be dedicated to two horizontal wells; the Nimitz MDP1 12 Federal Com Well No. 1H and the Nimitz MDP1 12 Federal Com Well No. 2H ("the proposed wells").

(5) The Nimitz MDP1 12 Federal Com Well No. 1H (API No. 30-015-44526) will be drilled from a surface location, 275 feet from the South line and 102 feet from the West line (Unit M) of Section 12, to a terminus, 180 feet from the North line and 440 feet from the West line (Lot 4/ Unit D) of Section 1, all in Township 24 South, Range 30 East. The completed interval of the proposed well will be at orthodox location.

(6) The Nimitz MDP1 12 Federal Com Well No. 2H (API No. 30-015-44580) will be drilled from a surface location, 450 feet from the North line and 1760 feet from the West line (Unit C) of Section 13, to a terminus, 180 feet from the North line and 1270 feet from the West line (Lot 4/ Unit D) of Section 1, all in Township 24 South, Range 30 East. The completed interval of the proposed well will be at an unorthodox location.

(7) Spacing in this area is governed by statewide Rule 19.15.15.9(A) NMAC, which provides for standard 40-acre units, each comprising a governmental quarter-quarter section. The Unit and project area consists of eight adjacent quarter-quarter sections.

(8) Applicant appeared at the hearing through counsel and presented evidence to the effect that:

- (a) the Bone Spring formation in this area is suitable for development by horizontal drilling;
- (b) the proposed orientation of the horizontal wells from south to north is appropriate for the Unit;
- (c) all quarter sections to be included in the Unit are expected to be productive in the Bone Spring formation, so that the Unit as requested will not impair correlative rights;
- (d) Applicant stated that an administrative non-standard location, NSL 7569-A, issued on November 8, 2017 was approved for the Nimitz MDP1 12 Federal Com Well No. 2H;
- (e) notice by certified mail was provided to all uncommitted interest owners in the proposed Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant when the Application was filed, and to heirs known to Applicant of deceased persons who appear as owners in such instruments; and
- (f) out of abundance of caution, those potentially affected parties whose whereabouts could not be ascertained were noticed by publication as provided in Rule 19.15.4.12.B NMAC.

(9) No other party appeared at the hearing, or otherwise opposed the granting of this application.

The Division concludes that:

(10) Approval of the proposed non-standard unit will enable Applicant to drill two horizontal wells that will efficiently produce the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights.

(11) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(12) Applicant is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed wells to a common source of supply within the Unit at the proposed locations.

(13) There are interest owners in the Unit that have not agreed to pool their interests.

(14) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation within the Unit.

(15) Subsequent to the Hearing, OXY provided an affidavit from an engineer that the measurement methods approved by Hearing Order No. R-14299, issued on February 14, 2017 will ensure protection of correlative rights and prevention of waste for the wells subject to this hearing. Therefore, at OXY's discretion it may abide by measurement of oil and gas production set forth in Hearing Order No. R-14299.

(16) OXY USA Inc. should be designated the operator of the proposed wells and of the Unit.

(17) To ensure protection of correlative rights, any pooled working interest owner whose address is known should be notified and have an opportunity to protest before the Division grants any extension of the time provided herein for commencing drilling.

(18) Infill wells within the Unit should be subject to Division Rules 19.15.13.9 NMAC through 19.15.13.10 NMAC and to the terms and conditions of this order.

(19) Any pooled working interest owner who does not pay its share of estimated well costs for any well in advance should have withheld from production its share of reasonable well costs of such well plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(20) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month, per well, while drilling and \$750 per month, per well, while

producing, provided that these rates should be adjusted annually pursuant to the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) A non-standard 319.91-acre, more or less, oil spacing and proration unit and project area ("the Unit") is hereby established for oil and gas production from the Bone Spring formation, Cotton Draw; Bone Spring (Pool Code 13367) underlying Lot 4, SW/4 NW/4 and W/2 SW/4 (W/2 W/2 equivalent) of Section 1, and the W/2 W/2 of Section 12, all in Township 24 South, Range 30 East, NMPM, in Eddy County, New Mexico.

(2) Pursuant to the application of OXY USA Inc., all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to two horizontal wells; the Nimitz MDP1 12 Federal Com Well No. 1H and the Nimitz MDP1 12 Federal Com Well No. 2H ("the proposed wells").

(4) The Nimitz MDP1 12 Federal Com Well No. 2H (API No. 30-015-44526) shall be drilled from a surface location, 275 feet from the South line and 102 feet from the West line (Unit M) of Section 12, to a terminus, 180 feet from the North line and 440 feet from the West line (Lot 4/ Unit D) of Section 1, all in Township 24 South, Range 30 East. The completed interval of the proposed well will be at orthodox location.

(5) The Nimitz MDP1 12 Federal Com Well No. 2H (API No. 30-015-44580) shall be drilled from a surface location, 450 feet from the North line and 1760 feet from the West line (Unit C) of Section 13, to a terminus, 180 feet from the North line and 1270 feet from the West line (Lot 4/ Unit D) of Section 1, all in Township 24 South, Range 30 East. The first and last perf shall be no closer to the boundaries of the Unit than what was approved by Administrative Order NSL 7569-A.

(6) The operator of the Unit shall commence drilling the proposed wells on or before June 30, 2019, and shall thereafter continue drilling the wells with due diligence to test the Bone Spring formation.

(7) In the event the operator does not commence drilling at least one of the proposed wells on or before June 30, 2019, Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(8) The operator shall notify each pooled working interest owner for whom it has a valid address before it files with the Division any request for extension of the time to commence drilling and shall certify its compliance with this requirement in its request for extension. The Division may grant an extension at its discretion after 20-days from receipt

of the request if no objection is received. Otherwise, the Division shall not grant the extension without a hearing.

(9) Unless at least one of the proposed wells is drilled and completed within 120 days after commencement of the first such well, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed wells for good cause shown by satisfactory evidence. If neither of the proposed wells is completed in all quarter-quarter sections included in the Unit within 120 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Unit so that it includes only those quarter-quarter sections in which at least one well is completed.

(10) Upon final plugging and abandonment of both proposed wells and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled unit created by this order shall terminate unless this order has been amended to authorize further operations.

(11) OXY USA Inc. (OGRID 16696) is hereby designated the operator of the wells and of the Unit.

(12) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit separate itemized schedules of estimated costs of drilling, completing and equipping each proposed well ("well costs").

(13) Within 30 days from the date the schedule of estimated well costs for each well is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs for such well to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs for either well as provided above shall remain liable for operating costs but shall not be liable for risk charges to the extent computed based on costs of such well. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph for either well shall thereafter be referred to as "non-consenting working interest owners" with respect to any well for which they so elect.

(14) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs for each proposed well within 90 days following completion of such well. If no objection to the actual well costs for any well is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule for such well, the actual well costs shall be deemed to be the reasonable well costs. If there is an

objection to actual well costs within the 45-day period, the Division will determine reasonable well costs for such well after public notice and hearing.

(15) Within 60 days following determination of reasonable well costs for any well, any pooled working interest owner who has paid its share of estimated costs of such well in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid for such well exceed its share of reasonable well costs.

(16) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of production from each well:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(17) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs for such well.

(18) Except as provided in the foregoing paragraphs, all proceeds from production from the well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A-31, as amended).

(19) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$7,500 per month, per well, while drilling and \$750 per month, per well, while producing, provided that these rates shall be adjusted annually pursuant to the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production from each well the proportionate share of both the supervision charges and the actual expenditures required for operating of such well, not in excess of what are reasonable, attributable to pooled working interest owners.

(20) During the cost recovery period, the operator shall furnish to the Division and to each known non-consenting pooled working interest owner, annually, and within 90 days after payout occurs, a schedule of all revenues attributable to each proposed well, and all charges for supervision and operating costs charged against such revenues. Operating costs shall include all reasonable costs actually incurred for the maintenance and operation of the well, except for "well costs" reported pursuant to Ordering Paragraph (13), that are

properly chargeable to the joint account pursuant to COPAS procedures. If no objection to the operating costs is received by the Division, and the Division has not objected, within 45 days following receipt of any schedule, the costs shall be deemed to be the reasonable operating costs. If there is an objection to the accuracy or reasonableness of operating costs reported within the 45-day period, the Division will determine reasonable operating costs after public notice and hearing.

(21) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any costs that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(22) OXY USA Inc. at its discretion shall measure oil and gas production based on the requirements of Hearing Order No. R-14299.

(23) Should all the parties to this compulsory pooling order reach voluntary agreement after entry of this order, this order shall thereafter be of no further effect.

(24) The operator of the wells and Unit shall notify the Division in writing of the subsequent voluntary agreement of any party subject to the compulsory pooling provisions of this order.

(25) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

A handwritten signature in black ink, appearing to read "Heather Riley".

**HEATHER RILEY
Director**