

**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 FOR  
THE PURPOSE OF CONSIDERING:**

**APPLICATION OF ASCENT ENERGY, LLC  
FOR COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO.**

**Case No. 16481**

**APPLICATION OF ASCENT ENERGY, LLC  
FOR COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO.**

**Case No. 16482**

**APPLICATION OF APACHE CORPORATION  
FOR COMPULSORY POOLING AND APPROVAL  
OF A HORIZONTAL SPACING UNIT AND  
POTASH AREA DEVELOPMENT AREA, EDDY  
COUNTY.**

**Case No. 20171**

**APPLICATION OF APACHE CORPORATION  
FOR COMPULSORY POOLING AND APPROVAL  
OF A HORIZONTAL SPACING UNIT AND  
POTASH AREA DEVELOPMENT AREA, EDDY  
COUNTY.**

**Case No. 20202**

**ASCENT'S CLOSING STATEMENT**

Ascent Energy, LLC ("Ascent") submits the following closing argument.

**INTRODUCTION**

1. Ascent has conclusively demonstrated that its pooling applications maximize production and minimize stranded acreage. Ascent will achieve maximum production and value by using proven north-south oriented horizontal 2-mile lateral wells drilled from existing approved drilling islands in the Designated Potash Area of Eddy and Lea Counties, as described in the Secretary of Interior's Order Number 3324, dated December 3, 2012 ("Designated Potash Area"). By accommodating all operators, preventing stranded acreage, and avoiding longer,

riskier laterals, Ascent's development plan will best prevent waste while protecting the correlative rights of all mineral interest owners in the vicinity of Ascent's pooling applications.

2. The Division should reject Apache Corporation ("Apache")'s self-serving attempt to maximize its own development through an unconventional request never previously adjudicated by the Division. Only the Bureau of Land Management ("BLM") (and not the Division) has jurisdiction over Apache's request for approval of a Development Area in a Designated Potash Area. Moreover, because Apache voluntarily withdrew its pooling applications, and Apache lacks any interest in Ascent's pooling applications, there are no competing pooling applications for the Division to consider. The Division should deny the remaining portions of Apache's application, and approve Ascent's applications.

#### **STATEMENT OF THE CASES**

3. Ascent seeks the following in its cases:

(a) **Case No. 16481:** Ascent seeks an order pooling all mineral interests in the Bone Spring formation underlying a 320-acre standup horizontal spacing comprised of the W/2W/2 of Section 28 and the W/2W/2 of Section 33, Township 20 South, Range 30 East, NMPM.

(b) **Case No. 16482:** Ascent seeks an order pooling all mineral interests in the Wolfcamp formation underlying a 320-acre standup horizontal spacing unit comprised of the W/2W/2 of Section 28 and the W/2W/2 of Section 33, Township 20 South, Range 30 East, NMPM.

Ascent owns interests in the W/2 of Section 28 and the W/2 of Section 33, and these cases involve the first wells to be drilled in its proposed Anvil Development Area.

4. Apache originally sought the following in its cases:



(a) **Case 20171:** Apache sought an order pooling all mineral interests (apparently in the Bone Spring formation) underlying an 800-acre laydown horizontal spacing comprised of the N/2 of Section 28, N/2 of Section 29, and NE/4 of Section 30, Township 20 South, Range 30 East, NMPM.

(b) **Case 20202:** Apache sought an order pooling all mineral interests (apparently in the Wolfcamp formation) underlying an 800-acre laydown horizontal spacing unit comprised of the N/2 of Section 28, N/2 of Section 29, and NE/4 of Section 30, Township 20 South, Range 30 East, NMPM.

Apache also seeks approval of its 800 acre Taco Development Area. At the hearing, Apache withdrew its pooling requests.

### **ARGUMENT**

5. As an initial matter, Ascent asserts that Apache has presented cases for which the Division has no jurisdiction to grant, for the following reasons:

(a) First, Apache owns no interest in Section 28 (or Section 33). Thus, Ascent does not need to pool Apache, and Apache has no interest in Ascent's pooling cases.

(b) Second, approval of Development Areas in the Designated Potash Area is solely within the purview of the BLM under Secretarial Order No. 3324. The only provision regarding Division authority is set forth in Section 6.e(5)(a), which states:

If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the State's mandatory well spacing requirements, the BLM will participate as needed in such a process.

However, as Division counsel noted at the hearing, Apache's proposed Development Area is not seeking to "revise the State's mandatory well spacing requirements." Rather, Apache's proposed well units are standard under Division rules, and no further approval from the

Division is needed. As a result, because Apache's pooling applications have been withdrawn, there are no competing applications for pooling, and Ascent's applications should be approved.

6. Even if Apache's unprecedented applications for approval of a Development Area in the Designated Potash Area could be seen as a competing application for operatorship, the following factors set forth in Order Nos. R-14847 and R-20368 favor Ascent's applications:

(a) Geology: There is minimal difference in the Bone Spring and Wolfcamp geology presented by both parties. Apache claims that drilling laydown units is preferable, based on data from only 15 wells (Apache Exhibit E-8). However, Ascent presented a 72-well case study of production in the area (Ascent Exhibit D-2) which shows no significant difference in production between standup vs. laydown units. And, once stranded acreage is accounted for over the entire development area, there is actually a substantial downside to Apache's proposal. In addition, the largest operator in this area, XTO, is drilling 24 standup wells in adjacent spacing units (Ascent Exhibit D-3). Thus the geologic differences presented by the companies do not favor one entity over the other.

(b) Development Plan. Ascent's Development Plan maximizes development and minimizes stranded acreage by relying on proven north-south oriented wells that the Division has previously considered "optimum" for development in the area (Ascent Exhibits D-5, 6; Order No. R-14847). Ascent's plan demonstrates and presents a greater understanding of large scale development within its Anvil Development Area and best considers the plans of other operators to maximize development within the Designated Potash Area. Ascent's development plan offers a broader view of the entire surrounding development area and allows for longer optimal lateral development, i.e., 2-mile wells, by all operators (including Apache), which is more cost effective with less surface disturbance. By contrast, Apache's self-serving plan demonstrates a lack of



understanding of cooperative development within the Designated Potash Area by maximizing its own lateral wells at 2.5 miles while resulting in sub-optimal 1.5 mile laterals by Ascent.

Most significantly, Ascent's plan is the only development plan that prevents stranded acreage (Ascent Exhibit D-5, 6). Approving Apache's plan will result in sub-optimal development, and result in stranded acreage in the Designated Potash Area, with detrimental impacts of an estimated \$182 million in lost revenue to royalty owners, including the BLM and the State of New Mexico. Thus, this factor clearly favors Ascent.

(c) Comparison of Risk. Ascent's proposed 2-mile lateral wells and development plan conform with industry standards within the area. There have been only 23 drilled and completed 2.5 mile laterals in New Mexico's Delaware Basin. Apache's own Drilling Engineer acknowledged that longer 2.5 mile laterals introduce an increase of technological and mechanical risk. Indeed, the Division has previously recognized evidence in other pooling hearings that longer laterals and the accompanying increase in risk can be a negative factor in evaluating competing pooling applications (Order No. R-14518). Therefore, Apache's proposed 2.5 mile development is riskier, and this factor favors Ascent.

(d) Prudent Operator. Ascent's program conforms its plan with existing BLM drill islands, and avoids stranding acreage. Furthermore, Ascent: (1) has planned, permitted, and obtained operatorship of 6 development areas within the Designated Potash Area; (2) is in the process of planning and permitting 3 additional development areas within the Designated Potash Area; (3) is in the middle of an 11-well drilling program in the Designated Potash Area; and (4) is currently drilling a 5-well pad in the Designated Potash Area. By comparison, to Ascent's knowledge, Apache has no horizontal operations in the Designated Potash Area.

Ascent's key drilling personnel also have extensive drilling experience in the Delaware Basin. For example, Ascent's lead completion engineer has over 25 years of experience, spending a meaningful portion of his career in the Delaware Basin, and has completed over 2,000 wells. Ascent's drilling engineer has spent the last three years in the Permian Basin drilling horizontal wells for SM Energy where she was responsible for a 3 rig program. Moreover, Ascent's entire team is integrally involved in all day-to-day operations which are solely focused on the Delaware Basin, and all members of Ascent's technical team have more than 15 years of industry experience. As a result, this factor favors Ascent.

(e) Well Cost Estimates. There is virtually no difference in well costs, so this factor is not determinative.

(f) Working Interest Ownership: Ascent currently owns 34% of the working interest in its well units, but is in the process of acquiring an additional 50% interest. In comparison, Apache has a relatively minor position in its proposed well units. This factor also favors Ascent. See Order No. R-20368, Finding Paragraph 29. Finally, because Apache has no counter-pooling applications, the Division should approve Ascent's pooling cases. As stated in NMSA 1978 §70-2-17.C:

Where, however, such owner or owners have not agreed to pool their interests, and where one such separate owner, or owners, who has the right to drill has drilled or proposes to drill a well on said unit to a common source of supply, *the division*, to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste, *shall pool* all or any part of such lands or interests or both in the spacing or proration unit as a unit.

The Division should approve Ascent's pooling applications.

### CONCLUSION

Ascent's development plan maximizes production over a larger area with less risk, avoids stranded acreage, and results in longer laterals by all operators. Ascent demonstrated its greater

understanding of the long-term strategy to co-develop oil and gas within the Designated Potash Area. In comparison, Apache presented an unprecedented request for the Division to approve a Development Area in the Designated Potash Area even though it has withdrawn the accompanying pooling applications. Apache's remaining development area cases can be dismissed solely on jurisdictional grounds. But even if the Division considers Apache's applications as competing applications, Ascent's applications should be granted because the proposals more fully protect the correlative rights of interested parties in the vicinity, reduce stranded acreage, and prevent waste.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this \_\_\_\_\_ day of September, 2019 by facsimile transmission:

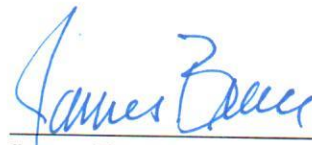
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