

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

**AMMENDED APPLICATION OF THE NEW MEXICO OIL CONSERVATION
DIVISION, THROUGH THE ENGINEERING BUREAU CHIEF, FOR THE
ADOPTION OF AMENDMENTS TO DIVISION RULES 303 AND 309
PERTAINING TO SURFACE COMMINGLING**

CASE NO. 12935

RECEIVED
OCT 31 11:11:00
STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

APPLICATION FOR ADOPTION OF AMENDED RULES

1. The Division has heretofore filed its application in this case proposing amendment of Rules 303 and 309 and adoption of a new Rule 315 pertaining to surface commingling.
2. After consultation with industry representatives and other interested parties, the Division's Engineering Bureau has revised its proposed amendments to Rule 303 and Rules 309, and determined not to recommend a new Rule 315. The Division's proposed rule amendments are set forth in Exhibit A (Exhibit Draft), attached hereto, which shows the rules as the Division proposes that they read after enactment. Also attached is Exhibit B (Formal Draft) setting forth the amendments the Division proposes to existing rules. The Division's proposed form C-107-B described in the proposed rule amendments is attached hereto as Exhibit C.

WHEREFORE, the Engineering Bureau Chief of the Division hereby applies to the Commission to enter an order:

- A. Amending Rules 303 and 309 as set forth in Exhibit B.

B. Granting such other and further relief as the Commission deems appropriate.

RESPECTFULLY SUBMITTED,



David K. Brooks
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505)-476-3450
Attorney for The New Mexico Oil
Conservation Division

EXHIBIT A to Application

Case No. 12935

DRAFT: October 30, 2002

NEW MEXICO OIL CONSERVATION DIVISION SURFACE COMMINGLING PROPOSED NEW RULE

REPEAL CURRENT RULES 303.B, 309.B AND 309.C AND THE FIRST SENTENCE OF CURRENT RULE 309.A, AND AMEND RULES 303 AND 309 TO READ AS FOLLOWS:

19.15.5.303 SEGREGATION OF PRODUCTION FROM DIFFERENT POOLS OR LEASES

A. In General.

- (1) Pool Segregation Required – Each pool shall be produced as a single common source of supply, and wells therein shall be completed, cased, maintained and operated so as to prevent communication within the wellbore with any other pool or horizon. Oil, gas or oil and gas produced from each pool shall at all times be segregated, and the combination or commingling of production, before marketing, with production from any other pool without division approval is prohibited.
- (2) Lease Segregation Required – Oil, gas, or oil and gas, shall not be transported from a lease until it has been accurately measured or determined by other methods acceptable to the division. The production from each lease shall at all times be segregated, and the combination or commingling of production, before marketing, with production from any other lease or leases without division approval is prohibited.
- (3) Exceptions -- Exceptions to paragraphs (1) and (2) of this subsection may be permitted for surface commingling, down-hole commingling and off-lease storage and/or measurement pursuant to subsections B, C and D, respectively, of this section. Exceptions granted by previous orders of the division remain in effect in accordance with their terms and conditions.

B. Surface Commingling – Oil, Gas, or Oil and Gas.

- (1) Introduction. To prevent waste, to promote conservation and to protect correlative rights, the division shall have the authority to grant

exceptions to permit the surface commingling of oil, gas, or oil and gas, in common facilities from two or more pools, and/or two or more leases, provided that:

- (a) the method used to allocate the production to the various leases and/or pools to be commingled is approved by the division,
 - (b) if federal, indian or state lands are involved, the United States bureau of land management or the commissioner of public lands for the State of New Mexico (as applicable) has been notified of the proposed commingling, and
 - (c) all other applicable requirements set out in this subsection are met.
- (2) Definitions - For purposes of this section only, the following definitions shall apply:
- (a) Lease. "Lease" means the larger of (i) the geographical area covered by a single oil and gas lease covering 100% of the oil and gas interest, or by two or more oil and gas leases, each covering an identical, undivided interest in the entire area, and collectively covering 100% of the oil and gas interest; or (ii) a spacing unit, communitized unit or unitized area pooled, communitized or unitized by agreement or by order of the division as to one or more pools underlying such area. If a portion of the land covered by an oil and gas lease or leases as described above is pooled, communitized or unitized with land not so covered, then the lands included in any such unit shall constitute a lease, and the remaining lands covered by such oil and gas lease or leases shall constitute a separate and distinct lease. Within an exploratory unit, each participating area and each spacing unit not in a participating area shall constitute a separate lease. If the ownership of two or more pools, as to the same geographical area, is identical, then all such pools (as to such area) shall comprise one lease, but if there is any diversity of ownership between different pools, or between different zones or strata, then each such pool, zone or stratum having such diverse ownership shall be considered a separate lease.
 - (b) Diverse Ownership. "Diverse Ownership" exists if leases or pools have any different working, royalty or overriding royalty interest owners or any different ownership

percentages of the same working, royalty or overriding royalty interest owners.

- (c) Identical Ownership. "Identical Ownership" exists if leases or pools have all the same working, royalty and overriding royalty owners in exactly the same percentages.

(3) Specific Requirements and Provisions for Commingling of Leases or Pools with Identical Ownership.

(a) Measurement and Allocation Methods.

(i) Well Test Method.

If all wells or units to be commingled are marginal and are physically incapable of producing top unit allowable for their respective pools, or if all affected pools are unprorated, commingling shall be permitted without separately measuring the production from each pool or lease. Instead, the production from each well and from each pool or lease may be determined from well tests conducted periodically, but no less than annually. This shall not include those cases where wells can produce an amount of oil equal to top allowable for the pool but are restricted because of high gas oil ratios.

The operator of any such marginal commingling installation shall notify the division at any time any well or unit so commingled under this subsection becomes capable of producing top allowable for its pool, at which time the division shall require separate measurement.

If any well or unit in a prorated pool to be commingled can physically be produced at top allowable rates (even if restricted because of high gas-oil ratio) commingling will be permitted only if the production from such pool is metered prior to commingling, or determined by the subtraction method.

- (ii) Metering Method. Production from each well and each pool or lease may be determined by separately metering before commingling.

- (iii) Subtraction Method. If production from all except one of the pools or leases to be commingled is separately measured, the production from the remaining pool or lease may be determined by the subtraction method as follows:

For oil, the net production from the unmetered pool or lease shall be the difference between the net pipeline runs with the beginning and ending stock adjustments, and the sum of the net production of all metered pools or leases.

For gas, the net production from the unmetered pool or lease shall be the difference between the volume recorded at the sales meter and the sum of the volumes recorded at the individual pool or lease meters.

- (iv) Alternative Methods. Production from each well and each pool or lease to be commingled may also be determined by any other method specifically approved by the division prior to commingling. The division shall determine what evidence is necessary to support any request to use an alternative method.

- (b) Approval Process. Prior to commingling, the applicant shall notify the division by filing form C-103 (sundry notices and reports on wells) in the Santa Fe office (and a copy in the appropriate district office) with the following information set forth therein or attached thereto:

- (i) Identification of each of the leases, pools and/or leases and pools to be commingled,
- (ii) The method of allocation to be used. If well test method is proposed, the notification to the division shall be accompanied by a tabulation of production showing that the average daily production of any affected proration unit over a 60-day period has been below top unit allowable for the subject pool (or for any newly drilled well without a 60-day production history, a tabulation of the available production) or other evidence acceptable to the division to establish that the well or wells on such are not capable of producing top unit allowable. If the proposed method of allocation is other than an approved method provided in this section, the operator shall submit evidence of the reliability of such method.

- (iii) A certification by a licensed attorney or qualified petroleum landman that the ownership in all pools and leases to be commingled is identical as defined in this section, and
- (iv) Evidence of notice to the state land office and/or the United States bureau of land management, if required.

Commingling may be commenced upon approval of form C-103 by the division, subject to consent of the state land office and/or the United States bureau of land management if required and to compliance with any conditions of such approval noted by the division.

(4) Specific Requirements and Provisions for Commingling of Leases or Pools with Diverse Ownership.

(a) Measurement and Allocation Methods. Where there is diversity of ownership between two or more leases, two or more pools, or between different pools and leases, the surface commingling of production therefrom shall be permitted only if production from each of such pools or leases is accurately metered, or determined by other methods specifically approved by the division, prior to such commingling.

(b) Meter Proving Frequencies.

(i) Oil. Each meter used in oil production accounting shall be proved for accuracy as follows:

monthly, if more than 100,000 barrels of oil per month are measured through the meter;

quarterly, if between 10,000 and 100,000 barrels of oil per month are measured through the meter; and

semi-annually, if less than 10,000 barrels of oil per month are measured through the meter.

(ii) Gas. For each gas sales and allocation meter, the accuracy of the metering equipment at the point of delivery or allocation shall be tested following the initial installation or following repair and, if proven adequate, retested:

quarterly, if 100 mcf/gpd or more are measured through the meter; and

semi-annually, if less than 100 mcf/gpd are measured through the meter.

- (iii) Correction and Adjustment. If the meter proving and calibration tests reveal inaccuracy in the measuring equipment of more than two percent (2%), the volume measured since the last calibration shall be corrected in addition to adjusting the meter to zero error. The operator shall submit a corrected report adjusting the volume of oil or gas measured and showing all calculations made in correcting the volumes. The volumes shall be corrected back to the time the inaccuracy occurred, if known. If the time is unknown, volumes shall be corrected for the last half of the period elapsed since the date of the last calibration.

- (c) Low Production Gas Wells. For gas wells producing less than 15 mcf/gpd, estimation of production is an acceptable alternative to individual well measurement provided that commingling of production from different pools or leases does not take place unless otherwise authorized pursuant to this section.

- (d) Approval Process.
 - (i) In General. Where there is diversity of ownership, the division may grant exceptions to the requirements of subsection 303.A to permit surface commingling of production from different leases or pools only after notice and an opportunity for hearing as provided in this subparagraph.

 - (ii) Application. Applications for administrative approval shall be submitted to the division's Santa Fe office on form C-107-B and shall contain a list of all parties owning any interest in any of the production to be commingled (including owners of royalty and overriding royalty interests whether or not they have a right or option to take their interest in kind) and a method of allocating production to ensure the protection of correlative rights.

 - (iii) Notice. Notice shall be given to all such interest owners in accordance with 19.15.N.1207.A NMAC. The applicant shall submit a statement attesting that applicant, on or before the date the application was submitted to the division, sent notification to each of

the interest owners by submitting a copy of the application and all attachments thereto, by certified mail, return receipt requested, advising them that any objection must be filed in writing with the Santa Fe office of the division within 20 days from the date the division received the application. The division may approve the application administratively, without hearing, upon receipt of written waivers from all parties owning any interest in the production to be commingled, or if no such owner had filed an objection within the 20-day period. If any objection is received, the application shall be set for hearing. Notice of the hearing shall be given to the applicant, to any party who has filed an objection, and to such other parties as the division shall direct.

- (iv) Hearing Ordered by the Division. The division may set for hearing any application for administrative approval of surface commingling, and, in such case, notice of such hearing shall be given in such manner as the division shall direct.
- (v) Notice by Publication. When an applicant has been unable to locate all owners of interests in production to be commingled, notice shall be provided by publication, and proof of publication shall be submitted with the application. Such proof shall consist of a copy of the legal advertisement which was published in a newspaper of general circulation in the county or counties in which the commingled production is located. The contents of such advertisement shall include (a) the name, address, telephone number, and contact party for the applicant, (b) the location by section, township and range of the leases from which production will be commingled and the location of the commingling facility; (c) the source of all commingled production by formation and pool name, and (d) a notation that interested parties must file objections or requests for hearing in writing with the oil conservation division's Santa Fe office, within 20 days, or the application may be approved.
- (vi) Effect of Protest. All protests and requests for hearing received by the division shall be included in the case file; provided however, the protest will not

be considered by the division as evidence. If the protesting party does not appear at the hearing and present evidence in support of its objection the application may be granted without the division receiving additional evidence in support thereof.

- (vii) Additions. A surface commingling order may authorize, prospectively, the inclusion therein of additional pools and/or leases within defined parameters set forth in the order, provided that (a) the notice to the interest owners has included a statement that authorization for subsequent additions is being sought and of the parameters for such additions proposed by the applicant, and (b) the division finds that subsequent additions within defined parameters will not, in reasonable probability, reduce the value of the commingled production or otherwise adversely affect the interest owners. A subsequent application to amend an order so providing to add to the commingled production other leases or pools that are within the parameters for addition provided in the order sought to be amended shall require notice only to the owners of the production to be added, unless the division otherwise directs.

C. Down-Hole Commingling. [No change]

D. Off-Lease Storage and/or Off-Lease Measurement. The division may grant exceptions to the requirements of subsection A of this section, administratively, without hearing, to permit production from one lease to be transported prior to measurement to another lease for storage thereon when:

- (1) an application for off-lease storage and/or off-lease measurement has been filed on division form C-107-B with the Santa Fe office of the division with one copy to the appropriate district office of the division,
- (2) all such production is from the same common source of supply,
- (3) commingling of production from different leases will not result,
- (4) there will be no intercommunication of the handling, separating, treating or storage facilities designated to each lease,

- (5) all parties owning working interests in any of the production to be transported off lease have been notified of the application in accordance with the provisions of 19.15.N.1207.A NMAC and have consented in writing to the off-lease storage and/or measurement,
- (6) in lieu of paragraph (5) of this subsection B, the applicant furnishes proof that said parties were notified by registered or certified mail of its intent to transport the production from one lease to another lease for storage prior to measurement, and after a period of twenty (20) days following receipt of the application, no party has filed objection to the application, and
- (7) if state, federal or indian lands are involved, the commissioner of public lands for the State of New Mexico or the United States bureau of land management (as applicable) has been notified. In such cases division approval of the proposed off-lease storage and/or measurement shall be conditional upon approval by the bureau of land management or state land office (as applicable).

The division may set for hearing any application for approval of off-lease storage or off-lease measurement, in which event notice of hearing shall be given, pursuant to 19.15.N.1207.A NMAC, to all owners of working interests in the affected lease or leases, and to such other owners as the division may direct.

19.15.5.309 AUTOMATIC CUSTODY TRANSFER EQUIPMENT

Oil shall be received and measured in a facility of an approved design. Such facilities shall permit the testing of each well at reasonable intervals and may be comprised of manually gauged, closed stock tanks for which proper strapping tables have been prepared, or of automatic custody transfer (ACT) equipment. The use of such automatic custody transfer equipment shall be permitted only after compliance with the following:

(1) through (12) unchanged.

309.B Repealed
 309.C Repealed

EXHIBIT B

Case No. 12935

PROPOSED SURFACE COMMINGLING RULE AMENDMENTS - OFFICIAL DRAFT

19.15.5.303 Segregation of Production from Different Pools or Leases:

A. In General.

1. Pool Segregation Required. Each pool shall be produced as a single common source of supply, and wells therein shall be completed, cased, maintained, and operated so as to prevent communication within the wellbore with any other specific pool or horizon. ~~The production~~ Oil, gas or oil and gas produced from each pool shall at all times be segregated, and the combination or commingling or confusion of production, before marketing, with production from any other pool or pools without division approval is strictly prohibited.

B. Surface Commingling - Oil, Gas, or Oil and Gas.

1. Introduction. To prevent waste, to promote conservation and to protect ~~correlative rights, The Director~~ division shall have the authority to grant an exceptions to Rule 303A to permit the surface commingling of oil, gas, or oil and gas in common facilities of the commonly owned production from two or more pools and/or two or more leases, provided that: common sources of supply, without notice and hearing, provided that the liquid hydrocarbon production from each common source of supply is to be accurately measured or determined prior to such commingling in accordance with the applicable provisions of the Division's "Manual for the Installation and Operation of Commingling Facilities," then current.

a. the method used to allocate the production to the various leases and/or pools to be commingled is approved by the division,

b. if federal, indian or state lands are involved, the United States bureau of land management or the commissioner of public lands for the State of New Mexico (as applicable) has been notified of the proposed commingling, and

c. all other applicable requirements set out in this subsection are met.

2. Application for administrative approval to commingle the production from two or more common sources of supply shall be filed in triplicate with the Santa Fe Office of the Division. The application must contain detailed data as to the gravities of the liquid hydrocarbons, the values thereof, and the volumes of the liquid hydrocarbons production from each pool, as well as the expected gravity and value of the commingled liquid hydrocarbons production; a schematic diagram of the proposed installation; a plat showing the location of all wells on the applicant's lease and the pool from which each well is producing. The application shall also state specifically whether the actual commercial value of such commingled production will be less than the sum of the values of the production from each common source of supply and, if so, how much less.

Definitions - For purposes of this section only, the following definitions shall apply:

a. Lease. "Lease" means the larger of (i) the geographical area covered by a single oil and gas lease covering 100% of the oil and gas interest, or by two or more oil and gas leases, each covering an identical, undivided interest in the entire area, and collectively covering 100% of the oil and gas interest; or (ii) a spacing unit, communitized unit or unitized area pooled, communitized or unitized by agreement or by order of the division as to one or more pools underlying such area. If a portion of the land

covered by an oil and gas lease or leases as described above is pooled, communitized or unitized with land not so covered, then the lands included in any such unit shall constitute a lease, and the remaining lands covered by such oil and gas lease or leases shall constitute a separate and distinct lease. Within an exploratory unit, each participating area and each spacing unit not in a participating area shall constitute a separate lease. If the ownership of two or more pools, as to the same geographical area, is identical, then all such pools (as to such area) shall comprise one lease, but if there is any diversity of ownership between different pools, or between different zones or strata, then each such pool, zone or stratum having such diverse ownership shall be considered a separate lease.

b. Diverse Ownership. "Diverse Ownership" exists if leases or pools have any different working, royalty or overriding royalty interest owners or any different ownership percentages of the same working, royalty or overriding royalty interest owners.

c. Identical Ownership. "Identical Ownership" exists if leases or pools have all the same working, royalty and overriding royalty owners in exactly the same percentages.

3. Specific Requirements and Provisions for Commingling of Leases or Pools with Identical Ownership.

a. Measurement and Allocation Methods.

i. Well Test Method. If all wells or units to be commingled are marginal and are physically incapable of producing top unit allowable for their respective pools, or if all affected pools are unprorated, commingling shall be permitted without separately measuring the production from each pool or lease. Instead, the production from each well and from each pool or lease may be determined from well tests conducted periodically, but no less than annually. This shall not include those cases where wells can produce an amount of oil equal to top allowable for the pool but are restricted because of high gas oil ratios. The operator of any such marginal commingling installation shall notify the division at any time any well or unit so commingled under this subsection becomes capable of producing top allowable for its pool, at which time the division shall require separate measurement. If any well or unit in a prorated pool to be commingled can physically be produced at top allowable rates (even if restricted because of high gas-oil ratio) commingling will be permitted only if the production from such pool is metered prior to commingling, or determined by the subtraction method.

ii. Metering Method. Production from each well and each pool or lease may be determined by separately metering before commingling.

iii. Subtraction Method. If production from all except one of the pools or leases to be commingled is separately measured, the production from the remaining pool or lease may be determined by the subtraction method as follows: For oil, the net production from the unmetered pool or lease shall be the difference between the net pipeline runs with the beginning and ending stock adjustments, and the sum of the net production of all metered pools or leases. For gas, the net production from the unmetered pool or lease shall be the difference between the volume recorded at the sales meter and the sum of the volumes recorded at the individual pool or lease meters.

iv. Alternative Methods. Production from each well and each pool or lease to be commingled may also be determined by any other method specifically approved by the division prior to commingling. The division shall determine

what evidence is necessary to support any request to use an alternative method.

b. Approval Process. Prior to commingling, the applicant shall notify the division by filing form C-103 (sundry notices and reports on wells) in the Santa Fe office (and a copy in the appropriate district office) with the following information set forth therein or attached thereto:

i. Identification of each of the leases, pools and/or leases and pools to be commingled.

ii. The method of allocation to be used. If well test method is proposed, the notification to the division shall be accompanied by a tabulation of production showing that the average daily production of any affected proration unit over a 60-day period has been below top unit allowable for the subject pool (or for any newly drilled well without a 60-day production history, a tabulation of the available production) or other evidence acceptable to the division to establish that the well or wells on such are not capable of producing top unit allowable. If the proposed method of allocation is other than an approved method provided in this section, the operator shall submit evidence of the reliability of such method.

iii. A certification by a licensed attorney or qualified petroleum landman that the ownership in all pools and leases to be commingled is identical as defined in this section, and

iv. Evidence of notice to the state land office and/or the United States bureau of land management, if required.

Commingling may be commenced upon approval of form C-103 by the division, subject to consent of the state land office and/or the United States bureau of land management if required and to compliance with any conditions of such approval noted by the division.

~~Where State and Federal lands are involved, applicant shall furnish evidence that the Commissioner of Public Lands for the State of New Mexico or the Regional Supervisor of the United States Bureau of Land Management has consented to the proposed commingling.~~

4. Specific Requirements and Provisions for Commingling of Leases or Pools with Diverse Ownership.

a. Measurement and Allocation Methods. Where there is diversity of ownership between two or more leases, two or more pools, or between different pools and leases, the surface commingling of production therefrom shall be permitted only if production from each of such pools or leases is accurately metered, or determined by other methods specifically approved by the division, prior to such commingling.

b. Meter Proving Frequencies.

(i) Oil. Each meter used in oil production accounting shall be proved for accuracy as follows: monthly, if more than 100,000 barrels of oil per month are measured through the meter; quarterly, if between 10,000 and 100,000 barrels of oil per month are measured through the meter; and semi-annually, if less than 10,000 barrels of oil per month are measured through the meter.

ii. Gas. For each gas sales and allocation meter, the accuracy of the metering equipment at the point of delivery or allocation shall be tested following the initial installation or following repair and, if proven adequate, retested: quarterly, if 100 mcf/gpd or more are measured through the meter, and semi-annually, if less than 100 mcf/gpd are measured through the meter.

iii. Correction and Adjustment. If the meter proving and

calibration tests reveal inaccuracy in the measuring equipment of more than two percent (2%), the volume measured since the last calibration shall be corrected in addition to adjusting the meter to zero error. The operator shall submit a corrected report adjusting the volume of oil or gas measured and showing all calculations made in correcting the volumes. The volumes shall be corrected back to the time the inaccuracy occurred, if known. If the time is unknown, volumes shall be corrected for the last half of the period elapsed since the date of the last calibration.

c. Low Production Gas Wells. For gas wells producing less than 15 mcfgpd, estimation of production is an acceptable alternative to individual well measurement provided that commingling of production from different pools or leases does not take place unless otherwise authorized pursuant to this section.

d. Approval Process.

i. In General. Where there is diversity of ownership, the division may grant exceptions to the requirements of subsection 303.A to permit surface commingling of production from different leases or pools only after notice and an opportunity for hearing as provided in this subparagraph.

ii. Application. Applications for administrative approval shall be submitted to the division's Santa Fe office on form C-107-B and shall contain a list of all parties owning any interest in any of the production to be commingled (including owners of royalty and overriding royalty interests whether or not they have a right or option to take their interest in kind) and a method of allocating production to ensure the protection of correlative rights.

iii. Notice. Notice shall be given to all such interest owners in accordance with 19.15.N.1207.A NMAC. The applicant shall submit a statement attesting that applicant, on or before the date the application was submitted to the division, sent notification to each of the interest owners by submitting a copy of the application and all attachments thereto, by certified mail, return receipt requested, advising them that any objection must be filed in writing with the Santa Fe office of the division within 20 days from the date the division received the application. The division may approve the application administratively, without hearing, upon receipt of written waivers from all parties owning any interest in the production to be commingled, or if no such owner had filed an objection within the 20-day period. If any objection is received, the application shall be set for hearing. Notice of the hearing shall be given to the applicant, to any party who has filed an objection, and to such other parties as the division shall direct.

iv. Hearing Ordered by the Division. The division may set for hearing any application for administrative approval of surface commingling, and, in such case, notice of such hearing shall be given in such manner as the division shall direct.

v. Notice by Publication. When an applicant has been unable to locate all owners of interests in production to be commingled, notice shall be provided by publication, and proof of publication shall be submitted with the application. Such proof shall consist of a copy of the legal advertisement which was published in a newspaper of general circulation in the county or counties in which the commingled production is located. The contents

of such advertisement shall include (a) the name, address, telephone number, and contact party for the applicant, (b) the location by section, township and range of the leases from which production will be commingled and the location of the commingling facility; (c) the source of all commingled production by formation and pool name, and (d) a notation that interested parties must file objections or requests for hearing in writing with the oil conservation division's Santa Fe office, within 20 days, or the application may be approved.

vi. Effect of Protest. All protests and requests for hearing received by the division shall be included in the case file; provided however, the protest will not be considered by the division as evidence. If the protesting party does not appear at the hearing and present evidence in support of its objection the application may be granted without the division receiving additional evidence in support thereof.

vii. Additions. A surface commingling order may authorize, prospectively, the inclusion therein of additional pools and/or leases within defined parameters set forth in the order, provided that (a) the notice to the interest owners has included a statement that authorization for subsequent additions is being sought and of the parameters for such additions proposed by the applicant, and (b) the division finds that subsequent additions within defined parameters will not, in reasonable probability, reduce the value of the commingled production or otherwise adversely affect the interest owners. A subsequent application to amend an order so providing to add to the commingled production other leases or pools that are within the parameters for addition provided in the order sought to be amended shall require notice only to the owners of the production to be added, unless the division otherwise directs.

C. [NO CHANGE]

D. Off-Lease Storage and/or Off-Lease Measurement. The division may grant exceptions to the requirements of subsection A of this section, administratively, without hearing, to permit production from one lease to be transported prior to measurement to another lease for storage thereon when:

1. an application for off-lease storage and/or off-lease measurement has been filed on division form C-107-B with the Santa Fe office of the division with one copy to the appropriate district office of the division,

2. all such production is from the same common source of supply,

3. commingling of production from different leases will not result,

4. there will be no intercommunication of the handling, separating,

treating or storage facilities designated to each lease,

5. all parties owning working interests in any of the production to be transported off lease have been notified of the application in accordance with the provisions of 19.15.N.1207.A NMAC and have consented in writing to the off-lease storage and/or measurement.

6. in lieu of paragraph (5) of this subsection B, the applicant furnishes proof that said parties were notified by registered or certified mail of its intent to transport the production from one lease to another lease for storage prior to measurement,

and after a period of twenty (20) days following receipt of the application, no party has filed objection to the application, and

7. if state, federal or indian lands are involved, the commissioner of public lands for the State of New Mexico or the United States bureau of land management (as applicable) has been notified. In such cases division approval of the proposed off-lease storage and/or measurement shall be conditional upon approval by the bureau of land management or state land office (as applicable).

The division may set for hearing any application for approval of off-lease storage or off-lease measurement, in which event notice of hearing shall be given, pursuant to 19.15.N.1207.A NMAC, to all owners of working interests in the affected lease or leases, and to such other owners as the division may direct.

19.15.5.309 Central Tank Batteries:

~~A.~~ Automatic Custody Transfer Equipment.

~~1A.~~ Oil shall not be transported from a lease until it has been received and measured in a facility of an approved design located on the lease. Such facilities shall permit the testing of each well at reasonable intervals and may be comprised of manually gauged closed stock tanks for which proper strapping tables have been prepared, with a maximum of sixteen proration units producing into said tanks, or of automatic custody transfer (ACT) equipment. The use of such automatic custody transfer equipment shall be permitted only after compliance with the following: The operator shall file with the Division Form C-106, Notice of Intention to Utilize Automatic Custody Transfer Equipment, and shall receive approval thereof prior to transferring oil through the ACT system. The carrier shall not accept delivery of oil through the ACT system until Form C-106 has been approved.

~~2B.~~ Form C-106 shall be submitted in quadruplicate to the appropriate District Office of the Division and shall be accompanied (in quadruplicate) by the following:

~~a1.~~ Plat of the lease showing thereon all wells which will be produced into the ACT system.

~~b2.~~ Schematic diagram of the ACT equipment, showing thereon all major components such as surge tanks and their capacity, extra storage tanks and their capacity, transfer pumps, monitors, reroute valves, treaters, samplers, strainers, air and gas eliminators, back pressure valves, metering devices, (indicating type and capacity, i.e. whether automatic measuring tank, positive volume metering chamber, weir-type measuring vessel, or positive displacement meter). Schematic diagram shall also show means employed to prove accuracy of measuring device.

~~e3.~~ Letter from transporter agreeing to utilization of ACT system as shown on schematic diagram.

~~3C.~~ Form C-106 will not be approved by the Division unless the ACT system is to be installed and operated in compliance with the following:

~~a1.~~ Provision must be made for accurate determination and recording of uncorrected volume and applicable temperature, or of temperature corrected volume. The overall accuracy of the system shall equal or surpass manual methods.

~~b2.~~ Provision must be made for representative sampling of the oil transferred for determination of API gravity and BS&W content.

~~e3.~~ Provision must be made if required by either the producer or the transporter of the oil to give adequate assurance that only merchantable oil is run by the ACT system.

¶4. Provision must be made for set-stop counters to stop the flow of oil through the ACT system at or prior to the time the allowable has been run. All counters shall provide non-reset totalizers which shall be visible for inspection at all times.

¶5. All necessary controls and equipment must be enclosed and sealed, or otherwise be so arranged as to provide assurance against, or evidence of, accidental or purposeful mismeasurement resulting from tampering.

¶6. All components of the ACT system shall be properly sized to ensure operation within the range of their established ratings. All components of the system which require periodic calibration and/or inspection for proof of continued accuracy must be readily accessible. The frequency and methods of such calibration and/or inspection shall be set forth in Rule 309A, D(3).

¶7. The control and recording system must include adequate fail-safe features which will provide assurance against mismeasurement in the event of power failure, or the failure of the ACT system's component parts.

¶8. The ACT system and allied facilities shall include such fail-safe equipment as may be necessary, including high level switches in the surge tank or overflow storage tank which, in the event of power failure or malfunction of the ACT or other equipment, will shut down all artificially lifted wells connected to the ACT system and will shut in all flowing wells at the well-head or at the header manifold, in which latter case all flowlines shall be pressure-tested to at least 1 ½ times the maximum well-head shut-in pressure prior to initial use of the ACT system and each two years thereafter.

¶9. As an alternative to the requirements of paragraph (8) (a) above, the producer shall provide and shall at all times maintain a minimum of available storage capacity above the normal high working level of the surge tank to receive and hold the amount of oil which may be produced during maximum unattended time of lease operation.

¶10. In all ACT systems employing automatic measuring tanks, weir-type measuring vessels, positive volume metering chambers, or any other volume measuring container, the container and allied components shall be properly calibrated prior to initial use and shall be operated, maintained, and inspected as necessary to ensure against incrustation, changes in clingage factors, valve leakage or other leakage, and improper action of floats, level detectors, etc.

¶11. In all ACT systems employing positive displacement meters, the meter(s) and allied components shall be properly calibrated prior to initial use and shall be operated, maintained, and inspected as necessary to ensure against mismeasurement of oil.

¶12. The measuring and recording devices of all ACT systems shall be checked for accuracy at least once each month unless exception to such determination has been obtained from the Division Director. API Standard 1101, "Measurement of Petroleum Liquid Hydrocarbons by Positive Displacement Meter," shall be used where applicable. Meters may be proved against Master Meters, Portable Prover Tanks, or Prover Tanks permanently installed on the lease. If permanently installed Prover Tanks are used, the distance between the opening and closing levels and the provision for determining the opening and closing readings shall be sufficient to detect variations of 5/100 of one percent. Reports of determination shall be filed on the Division Form entitled "Meter Test Report," or on another acceptable form and shall be submitted in duplicate to the appropriate District office of the Division.

¶13. To obtain exception to the requirement of Paragraph (3) above that all measuring and recording devices be checked for accuracy once each month, either the producer or transporter may file such a request with the Division Director setting forth all facts pertinent to such exception. The application shall include a history of the average factors previously obtained, both tabulated and plotted on a graph of factors versus time, showing that the particular installation has experienced no erratic drift. The applicant shall also furnish evidence that the

other interested party has agreed to such exception. The Division Director may then set the frequency for determination of the system's accuracy at the interval which he deems prudent.

4D. Failure to operate an automatic custody transfer system in compliance with this rule shall subject the approval thereof to revocation by the Division.

~~B. Administrative Approval, Lease Commingling.~~

~~1. The Division Director shall have authority to grant exceptions to Rule 309A to permit the commingling of production from two or more separate leases in a common tank battery without notice and hearing, provided application has been filed in triplicate with the Division and is accompanied by plats of the leases showing thereon the wells on the leases and the formations in which they are completed, and schematic diagrams of the commingling facility, showing it to be of an acceptable design in accordance with the Division "Manual for the Installation and Operation of Commingling Facilities," then current, and provided further that:~~

~~a. All production is from the same common source of supply or an exception to Rule 303 A. (1) has been obtained.~~

~~b. Adequate facilities will be provided for accurately determining production from each well at reasonable intervals.~~

~~c. All parties owning an interest in the leases and the purchaser of the commingled production therefrom have consented in writing to the commingling of production from the separate leases.~~

~~d. In lieu of paragraph (3) of this rule, the applicant may furnish proof of the fact that said parties were notified by registered or certified mail of his intent to commingle production from the separate leases. The Division Director may approve the application if, after a period of 20 days following receipt of the application, no party has made objection to the application.~~

~~e. In addition to the foregoing requirements for administrative approval to commingle production from two or more separate leases, the following requirements shall also apply:~~

~~i. To commingle production from two or more separate leases in a common tank battery without first separately measuring the production from each such lease, the ownership of the leases must be common throughout. This shall include working interest ownership, royalty ownership, and overriding royalty ownership.~~

~~ii. To commingle production from two or more separate leases in a common tank battery where there is a diversity of ownership (whether in working interest, royalty interest, or overriding royalty interest) the hydrocarbon production from each lease shall be accurately measured and determined in accordance with the applicable provisions of the Division "Manual for the Installation and Operation of Commingling Facilities," then current.~~

~~C. Administrative Approval, Off Lease Storage.~~

~~1. For good cause shown, the Division Director shall have authority to grant an exception to Rule 309A to permit the production from one lease to be transported prior to measurement to another lease for storage thereon, provided an application reflecting ownership of the lease has been filed in triplicate with the Division and is accompanied by plats of the leases showing thereon the wells on the leases and the formations in which they are completed and the proposed location of the tank battery, and provided further that:~~

~~a. All production is from the same common source of supply.~~

~~b. Commingling of production from the two leases will not result.~~

~~c. There will be no intercommunication of the handling, separating, treating or storage facilities designated to each lease.~~

~~d. All parties owning an interest in the leases have consented in writing to the off lease storage.~~

~~e. In lieu of paragraph (4) of this rule, the applicant may furnish proof of the fact that said parties were notified by registered or certified mail of his intent to transport prior~~

~~to measurement the production from one lease to another lease for storage. The Division Director may approve the application if, after a period of 20 days following receipt of the application, no party has made objection to the application.~~

~~f. Where State or Federal lands are involved, the applicant shall furnish evidence that the Commissioner of Public Lands for the State of New Mexico or the Regional Supervisor of the United States Bureau of Land Management has consented to the proposed off-lease storage.~~

District I
1625 N. French Drive, Hobbs, NM 88240

District II
1301 W. Grand Ave, Artesia, NM 88210

District III
1000 Rio Brazos Road, Aztec, NM 87410

District IV
1220 S. St Francis Dr, Santa Fe, NM
87505

State of New Mexico
Energy, Minerals and Natural Resources Department

Form C- 107-B _____
_____, 200-

OIL CONSERVATION DIVISION
1220 S. St Francis Drive
Santa Fe, New Mexico 87505

Submit the original
application to the Santa Fe
office with one copy to the
appropriate District Office.

APPLICATION FOR SURFACE COMMINGLING

OPERATOR NAME: _____

OPERATOR ADDRESS: _____

APPLICATION TYPE:

Pool Commingling Lease Commingling Pool and Lease Commingling Off-Lease Storage and Measurement (Only if not Surface Commingled)

LEASE TYPE: Fee State Federal

Is this an Amendment to existing Order? Yes No If "Yes", please include the appropriate Order No. _____

Has the Comm. of Public Lands (BLM) and State Land office (SLO) consented in writing to the proposed commingling Yes No

(A) POOL COMMINGLING

Please attach sheets with the following information

(1) Pool Names and Codes	Gravities / BTU of Non-Commingled Production	Calculated Gravities / BTU of Commingled Production	Value of Non-Commingled Production	Calculated Value of Commingled Production	Volumes

- (2) Are any wells producing at top allowables? Yes No
- (3) Are all working, royalty and overriding royalty interests common between pools? Yes No
- (4) Include proof of notice to all interests if the answer to No. 3 is "No".
- (5) Measurement type: Metering Well Test Subtraction Method
- (6) Will commingling decrease the value of production? Yes No If "yes", describe why commingling should be approved

(B) LEASE COMMINGLING

Please attach sheets with the following information

- (1) Pool Name and Code.
- (2) Is all production from same source of supply? Yes No
- (3) Are all working, royalty and overriding royalty interests common between leases? Yes No
- (4) Include proof of notice to all interests if the answer to No. 3 is "No".
- (5) Measurement type: Metering Well Test Subtraction Method (only when No. 3 is "Yes")

(C) POOL and LEASE COMMINGLING

Please attach sheets with the following information

- (1) Complete Sections A and E.

(D) OFF-LEASE STORAGE and MEASUREMENT

Please attached sheets with the following information

- (1) Is all production from same source of supply? Yes No
- (2) Include proof of notice to all interest owners.

(E) ADDITIONAL INFORMATION (for all application types)

Please attach sheets with the following information

- (1) A schematic diagram of facility, including legal location.
- (2) A plat with lease boundaries showing all well and facility locations. Include lease numbers if Federal or State lands are involved.
- (3) Lease Names, Lease and Well Numbers, and API Numbers.
- (4) If production is to be measured by well test, include testing frequency.

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE: _____ TITLE: _____ DATE: _____

TYPE OR PRINT NAME _____ TELEPHONE NO.: _____