

**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:**

**CASE NO. 15318
ORDER NO. R-14087**

APPLICATION OF ANSCHUTZ OIL COMPANY, LLC FOR A NON-STANDARD OIL SPACING AND PRORATION UNIT AND COMPULSORY POOLING, RIO ARriba COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on June 11, 2015, at Santa Fe, New Mexico, before Examiner Phillip R. Goetze.

NOW, on this 30th day of November, 2015, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

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

(2) Anschutz Oil Company, LLC (the "Applicant" or "Anschutz") seeks approval of a non-standard 650.32-acre, more or less, oil spacing and proration unit (the "proposed Units") in the Gavilan-Mancos Pool (Pool code 27194) and the Gavilan Greenhorn-Graneros-Dakota Pool (Pool code 27192) consisting of Lots 1 through 4, S/2 N/2, and S/2 of Section 1 (All), Township 24 North, Range 2 West, NMPM, Rio Arriba County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Units for the Mancos and Dakota formations.

(3) The Unit will be dedicated to Applicant's Schmitz Well No. 1 (the "proposed well"; API No. 30-039-31333), a vertical well to be drilled 1708 feet from the South line and 949 feet from the East line (Unit I) of Section 1, Township 24 North, Range 2 West, NMPM.

(4) The proposed well is to be completed in both the Gavilan-Mancos Pool and the Gavilan Greenhorn-Graneros-Dakota Pool. Spacing in the Gavilan-Mancos Pool is governed by the *Special Rules and Regulations for the Gavilan-Mancos Pool*, as established by Commission Order No. R-7407 (as amended) on December 20, 1983, which provided for standard proration units of 640 acres comprising a single governmental section with at least one and not more than two wells drilled or recompleted in a standard unit with the second well not to be located in the same quarter section nor closer than 1650 feet to the first well drilled on the unit (see Rule 3 of Commission Order No. R-7407-E dated June 8, 1987).

(5) Spacing in the Gavilan Greenhorn-Graneros-Dakota Pool is governed by the *Special Rules and Regulations for the Gavilan Greenhorn-Graneros-Dakota Oil Pool*, as established by Commission Order No. R-7745 (as amended) on November 30, 1984, which provide for standard units of 320 acres comprising the N/2, S/2, E/2, or W/2 of a single governmental section. Wells in a 320-acre standard unit are to be located no nearer than 790 feet to the outer boundary of the unit and no nearer than 330 feet to a governmental quarter-quarter section line.

(6) A party identified for compulsory pooling, T. H. McElvain Oil and Gas, LLLP, filed a pre-hearing statement for appearance regarding the application.

(7) At hearing, T. H. McElvain Oil and Gas, LLLP (the "Opponent") appeared through legal counsel in opposition to the application.

Applicant appeared at hearing through counsel and presented the following testimony.

(8) Applicant is owner of an oil and gas working interest within the proposed Unit.

(9) Applicant seeks a 650.32-acre, more or less, spacing and proration unit for the proposed well in the Gavilan-Mancos Pool based on the amended Order No. R-7407-E since the proposed Unit comprises a single governmental section.

(10) Applicant also seeks a 650.32-acre, more or less, spacing and proration unit for the proposed well in the Gavilan Greenhorn-Graneros-Dakota Pool (the "Gavilan Dakota Pool") based on Rule 3 of the *Special Rules and Regulations* which states that wells completed in the Gavilan-Dakota Pool shall have the same proration and spacing unit as any well completed in the Gavilan-Mancos Pool.

(11) Applicant stated in testimony that downhole commingling between the two pools would be considered in the future and that the primary target is the deeper Dakota formation.

(12) Applicant proposed charges for supervision (combined fixed rates) should be fixed at \$10,000 per month while drilling and \$1500 per month while producing, and

that these rates should be adjusted periodically pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*"

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

(14) Applicant acknowledged in testimony that proper notification for the creation of a non-standard Unit had not been conducted and that the mineral ownership information supporting the compulsory pooling portion of the application was incomplete.

Opponent appeared at hearing through counsel and presented the following testimony.

(15) Opponent noted deficiencies in the content of the well proposal letter sent by Applicant to satisfy the notification requirements under Division Rule 19.15.4.12(A)(1) NMAC.

(16) Opponent noted that the mineral ownership information for the proposed Unit was vague and incomplete, and that Opponent was waiting for the completion of a title opinion regarding its own mineral ownership for tracts within the proposed Unit.

(17) Opponent stated that proposed distribution of costs and revenues was irregular since Applicant made no adjustments for differences in mineral ownership for the respective pools or for subdivision of lease tracts within the proposed Unit.

(18) Opponent offered as evidence Rule 9 of the *Special Rules and Regulations for the Gavilan Greenhorn-Graneros-Dakota Oil Pool* contained in Commission Order No. R-7745 which states:

"Production from any well drilled to the Gavilan Greenhorn-Graneros-Dakota Oil Pool after the effective date of this order shall not be downhole commingled with production from any other pool."

The Division concludes as follows:

(19) Division recognizes Rule 9 of the *Special Rules and Regulations for the Gavilan Greenhorn-Graneros-Dakota Oil Pool* from Commission Order No. R-7745 as appropriate to this application along with Findings Paragraphs (21) through (25) of the same Order.

(20) Applicant stated in testimony that primary target for the proposed well was the Gavilan-Dakota Oil Pool and that downhole commingling between the two pools was a future consideration. However, Division form C-102 filed for the proposed well

(Applicant Exhibit No. 1) and the copies of Applicant's letter to mineral interest owners (Applicant Exhibit No. 3) clearly indicate that downhole commingling between the two pools was critical for the economic viability of the proposed well.

(21) Approval by Division of the proposed Unit and associated compulsory pooling of mineral interests within the Gavilan-Mancos Pool is not possible since the ability to produce the reserves in that pool with the same well completed in the Dakota formation is not allowed under current Division rules. Consequently, approval by Division of this application would impede the correlative rights and any possible compensation of mineral interest owners within the Gavilan-Mancos Pool.

(22) Additionally, Applicant provided limited geological evidence by affidavit and no engineering evidence supporting that the proposed well completed in the Gavilan-Dakota Pool would efficiently produce the reserves underlying the proposed Unit, thereby preventing waste and protecting correlative rights.

(23) Applicant did not provide evidence of proper notification under Division Rule 19.15.15.11(B) NMAC to "affected persons" in adjoining spacing units similar to the proposed Unit (i.e. adjoining 640-acre spacing units).

(24) Applicant could not demonstrate that proper notification of interest owners for compulsory pooling under Division Rule 19.15.4.12(A)(1) NMAC had been completed.

(25) The approval of the application as proposed should be denied.

IT IS THEREFORE ORDERED THAT:

(1) The application by Anschutz Oil Company, LLC for approval of a non-standard 650.32-acre, more or less, oil spacing and proration unit and project area in the Gavilan-Mancos Pool (Pool code 27194) and the Gavilan Greenhorn-Graneros-Dakota Pool (Pool code 27192) consisting of Lots 1 through 4, S/2 N/2, and S/2 of Section 1 (All), Township 24 North, Range 2 West, NMPM, Rio Arriba, New Mexico, **is hereby denied.**

(2) 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.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David R. Catanach

DAVID R. CATANACH
Director