

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

**APPLICATIONS OF V-F PETROLEUM INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Case Nos. 24994- 24995
& 25115-25117**

**APPLICATIONS OF READ & STEVENS, INC.
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Case Nos. 24941-24942
& 25145-25148**

**V-F PETROLEUM INC.'S MOTION TO LIMIT THE SCOPE OF THE DIVISION'S
EVIDENTIARY HEARING TO ISSUES WITHIN ITS JURISDICTION**

V-F Petroleum Inc. ("V-F"), through its undersigned attorneys, files with the Oil Conservation Division ("Division" or "OCD") this Motion to the Limit Scope of the Division's Evidentiary Hearing to Issues within its Jurisdiction ("V-F's Motion"). In support of its Motion, V-F states the following:

I. Procedural Background:

1. On February 14, 2025, the Hearing Examiner on behalf of the OCD ruled in favor of Carolyn Beall ("Beall") and against Permian, finding that Beall was a party of record in Case Nos. 25145-15246 on the basis that her participation contributes to the protection of correlative rights pursuant to 19.15.4.11 NMAC. *See* OCD's Email, dated February 14, 2025, attached hereto as Exhibit 1; *see also* Tr. (2-27-25), 65: 9-11 (the Division is "ruling in favor for [Beall's] intervention in this case based on the record from the last hearing, *so that issue is decided.* ") (Emphasis added).

2. On March 27, 2025, the Division held a motion hearing to address the subject-matter of pleadings filed by V-F, Read & Stevens, Inc. and Permian Resources Operating, LLC ("Permian"), and Beall. Beall and V-F had filed motions to strike from the record Permian's Opinion Letter Regarding the Operating Rights of Carolyn Beall, Charles B. Read, the Charles B. Read Trust "A",

and Jean Read in the N1/2 Section 14 (“Opinion Letter”) on the basis that the purpose of the Opinion Letter is to persuade the Division to review title and make a determination on Beall’s ownership and property rights. All parties to these proceedings and the Division agree that the Division does not have jurisdiction to adjudicate title. *See* Transcript (“Tr.”) (3-27-25) (not yet available as of the date of this Motion).

3. At the conclusion of the contested hearing on February 27, 2025, the Technical Examiner requested from Permian “additional testimony, or written testimony...from the landman that describes all the depth severances including Ms. Beall’s.” Tr. (2-27-25), 227: 10-23. The Examiner clarified that this “supplemental exhibit” should be “a document showing that 9,397 [ft] depth severance that’s in the southeast quarter of the southwest quarter.” *Id.* The Technical Examiner further explained that “[t]he Division’s not going to use the title [document] for purposes of reviewing it. The purpose is to have an understanding of where the depth severance is, especially where it relates to the vertical limit that the Division is force pooling the interest of.” *Id.* at 229: 4-5.

4. On March 10, 2025, Permian submitted its Opinion Letter claiming this satisfied the Technical Examiner’s request. However, the Opinion Letter opines only on Beall’s title and ownership and does not describe or identify any depth severances at 9,397 – 9,400 feet, as requested by the Technical Examiner. Furthermore, Permian submitted the Opinion Letter not for the purpose of identifying the subject depth severances but for the sole purpose of making a second run at trying to exclude Beall from the proceedings (after the OCD already ruled that she is a party of record) by asking the Division to make a determination of her property rights and ownership in the S/2 N/2 of Section 14 (“S/2 N/2 Tract”). *See* Permian’s Motion to Strike, p. 2. Beall maintains that she owns working interest in the S/2 N/2 and has a right to be a party of record as granted by the Division. Permian now challenges this claim by initiating a title dispute before the Division and submitting the

Opinion Letter to argue that Beall does not own in the S/2 N/2. Based on the Opinion Letter, Permian is asking the Division to make a determination of her property rights in the S/2 N/2. *See id.*

5. The Division declined to strike the Opinion Letter from the record, despite requests by Beall and V-F. Instead, the Division set a date, April 10, 2025, for an evidentiary hearing, at which time the Division plans to hear the testimony from Permian's expert witness on legal title to determine Beall's property rights, thereby adjudicating her ownership in the S/2 N/2 Tract. If the Division determines, based on Permian's title analysis, that Beall does not have property rights in the S/2 N/2 Tract, then presumably the Division will grant Permian's motion to strike Beall's intervention and exclude her from participating in Case No. 25146; on the other hand, if the Division determines that she does own property rights in said Tract, then presumably the Division will allow Beall to remain as a party of record in Case No. 25146. Either outcome, however, necessarily rests on an adjudication of Beall's title and ownership, which is prohibited under case law and Division orders.

6. V-F has consistently objected, and maintains its objection, to this form of adjudication on the grounds that it exceeds the Division's jurisdiction, as described herein. Permian opposes V-F's Motion to limit the scope of the evidentiary hearing as requested herein, while Beall concurs with V-F's Motion.

II. Legal Arguments:

A. The Division plans to determine, and therefore adjudicate, property rights at its evidentiary hearing set for April 10, 2025.

7. After repeated objections by V-F and Beall, the Division has adopted Permian's position that it should hear testimony on Beall's title and ownership to determine whether Beall has property rights in the S/2 N/2 Tract. The Division attempts to justify this adjudication of title by adopting Permian's argument that if the Division determines that Beall does not own interest in the S/2 N/2 Tract, then there would be no depth severance to clarify. *See Permian's Response to V-F*

Petroleum Inc. Consolidated Motion (“Response to V-F”) (Permian justifying the adjudication of Beall’s title by stating “it is impossible to clarify a depth severance when a party does not own an interest as claimed.”) (Emphasis by Permian in the original); *see also* the Transcript for March 27, 2025, docket not yet issued as of the date of this Motion (the Hearing Examiner reiterating Permian’s position that if the Division determines that Beall does not own interest in in the S/2 N/2 Tract then the question of the depth severance would be resolved).

8. However, such justification is based on a false premise that cannot be used to adjudicate a matter outside the Division’s jurisdiction. The Technical Examiner on February 27, 2025, had requested a title document that (1) described one or more wells for reference; (2) that described some sort of depth severance; and (3) shows ownership that ends at approximately 9,400 feet. Tr. (2-27-25), 228: 14-20. The Technical Examiner requested this document for the purpose of determining where the depth severances are located, especially as the depth severance relates to the vertical limit of Permian’s spacing unit, and not for the purpose of determining title. *See id.* at 229: 4-5. The depth severance, as the focus of the Technical Examiner’s request, corresponds to the upper vertical limit of Permian’s spacing unit, and therefore, the severance exists independently from Beall’s interest as it is being used to divide and exclude the correlative rights of owners in the upper part of the Third Bone Spring, outside Permian’s spacing unit, not just Beall’s correlative rights.

9. Instead of satisfying the Technical Examiner’s request by providing the appropriate document, Permian submitted the Opinion Letter that addresses only Beall’s ownership and property rights and fails to describe or identify the requested depth severance at 9,397 – 9,400 feet, arguing in a circular manner that Permian will not provide any documents describing the depth severance at 9,400 feet as requested because the Opinion Letter demonstrates that Beall does not own any interest in the S/2 N/2 Tract. Therefore, Permian asserts that if the Division determines Beall does not own

in the Tract, there is no need to clarify the depth severance. *See, e.g.*, Permian's Response to Carolyn Beall's Motion to Strike ("Response to Beall"), p. 2.

10. However, in order for Permian to prevail on this assertion, that Beall does not own interest in the S/2 N/2 Tract, the Division would be required to (1) adjudicate Permian's claim that Beall lacks property rights in said Tract, despite Beall's showing to the contrary; and (2) adopt as its ruling the legal conclusions of Permian's Opinion Letter thereby denying Beall's claim of ownership; in other words, at the evidentiary hearing, the Division would necessarily be required to perform the judicial function of determining Beall's property rights.

11. Clearly, the Division need not exceed its jurisdiction by adjudicating Beall's property rights in order to comply with the Technical Examiner's request that Permian provide documents identifying the locations of the depth severance. The Division can obtain this information from any title document provided by Permian (if Permian were willing to produce the document requested) that describes the depth severance corresponding to the upper limit of Permian's spacing unit. Consequently, the Division should demand that Permian produce the appropriate document, thereby avoiding the wasteful expenditure of administrative resources on an unnecessary evidentiary hearing.

B. It is a transgression of case law and its own conclusions of law for the Division to determine Beall's property rights at the scheduled evidentiary hearing.

12. The New Mexico Supreme Court has long established as foundational case law that the Division lacks jurisdiction to determine property rights and ownership. *See Continental Oil Co. v. OCC*, 1962-NMSC-062, ¶ 28, 373 P.2d 809. This prohibition on the Division adjudicating title remains in effect regardless of the Division's stated purpose for the adjudication – including whether the adjudication is framed as a means of determining if Beall's interest is affected by a depth severance. The *Continental* Court ruled that determining property rights and ownership is a judicial

function, reserved for district court, and outside the jurisdiction of the Division. *See id.* In fact, the Court emphasized that if the Division were to adjudicate property rights and ownership, “grave constitutional problems would arise.” *Id.* Consequently, if the Division allows Permian’s legal testimony on April 10, 2025, for the purpose of determining whether Beall holds title to property rights in the S/2 N/2 Tract, it will be acting in direct violation of controlling New Mexico case law.

13. In Order No. R-11700, ¶¶ 21-26, the Division has affirmed as a “Conclusion of Law” the *Continental* Court’s ruling that the Division lacks authority to adjudicate title, and therefore, cannot permit one party to challenge another party’s good faith claim that it has colorable title in a tract of land. In Order No. R-11700, one party (“First Party”) claimed it owned working interest in a tract and applied for drilling permits based on its colorable claim of ownership. *See* Order No. R-11700, ¶¶ 5-7. The Division approved First Party’s drilling permits based on its claim that it owned working interest. *See id.* at ¶ 18. Another party (“Second Party”) subsequently applied for drilling permits covering the same lands as the First Party’s permits. *See id.* at ¶¶ 8-9. Second Party challenged First Party’s right to its permits by arguing – and attempting to demonstrate -- that First Party did not own interest in the subject lands. *See id.* at ¶¶ 11-12. Based on this challenge, Second Party asserted that the Division was obligated to revoke the permit it granted to First Party. *See id.*

14. The Division ruled against Second Party on the basis that it lacks jurisdiction to determine the validity of title and that “[e]xclusive jurisdiction of such matters resides in the courts of the State of New Mexico.” *Id.* at ¶ 21. Furthermore, the Division ruled that it cannot review or consider title for the purpose of revoking a right it had previously granted to First Party. *See id.* at ¶ 22 (stating that the Division’s approval of First Party’s drilling permits was based on applicable OCD rules at the time of issuance, and that First Party’s initial demonstration of “at least a colorable claim

of title” was sufficient for the Division to confer such rights; therefore, Second Party had no valid basis to challenge that approval through a title dispute).

15. Thus, under rulings issued by both the New Mexico Supreme Court and by the Division itself, it is clear that once the Division has granted rights to a party based on the party’s good faith claim of ownership, the Division cannot then revoke the rights granted based on a review of title or subsequent challenge to title because such review and adjudication fall outside the Division’s jurisdiction. In the present cases, the Division has already granted Beall the right to be a party of record in Case Nos. 25145 and 25146. Once that right has been granted, New Mexico case law and Order No. R-11700 make clear that the Division cannot admit nor consider Permian’s Opinion Letter, title testimony, or title documents to revoke the right it granted Beall to be a party of record. Revoking Beall’s vested right based on the Division’s review of title would raise grave constitutional concerns, as forewarned by the *Continental* Court. *See Continental* at 1962-NMSC-062, ¶ 28.

16. The legal basis for the Division’s decision to grant Beall’s intervention did not require her to demonstrate marketable or defensible title. In her Intervention, Beall satisfied the criteria for standing set forth in Order No. R-11700 by showing in good faith “at least a colorable claim of title,” and the Division granted Beall’s Intervention based on this standard.

17. A minimal, colorable claim of title is a significantly lower standard than the defensible or marketable title asserted in Permian’s Opinion Letter. Thus, admitting the Opinion Letter into the record—or allowing testimony based on it—would directly contravene both Order No. R-11700 and the New Mexico Supreme Court’s ruling in *Continental*. *See Continental* at 1962-NMSC-062, ¶ 28. Therefore, Permian’s Opinion Letter, along with any testimony offered to support title-based claims

against Beall's interest, must be excluded from the April 10, 2025, hearing, as such evidence would be used for the impermissible purpose of adjudicating title.

- C. **The Division should limit the scope of the April 10, 2025, hearing to the Technical Examiner's original, valid request: Submission of a title document describing the depth severance at 9,397 – 9400 feet for the purpose of determining the vertical extent of Permian's spacing unit and not for the purpose of determining Beall's property rights in the S/2 N/2 Tract.**

18. The Technical Examiner's request for a description of the depth severance at approximately 9,397 – 9,400 feet can be satisfied without the Division violating Order No. R-11700 and New Mexico case law simply by requiring Permian to submit the requested title document. The Technical Examiner specified that: (1) "It should be something referenced to some wells;" (2) "And there's some sort of depth severance;" and (3) "[The document(s)] have some sort of ownership that ends at that ninety – or approximately 9,400 feet." *See id.* at 228: 14-20. Therefore, the Division should limit the April 10, 2025, hearing to this request. Any testimony admitted at the hearing should be restricted to describing the location of the depth severance. Testimony that attempts to opine on or argue Beall's property rights and ownership should be excluded on the grounds that such issues lie beyond the Division's jurisdiction.

19. If the Division were to require Permian to produce the document describing the depth severance for the purpose of identifying its location, it could avoid expending unnecessary administrative resources on a hearing outside its jurisdiction. The Division has already requested that Permian submit a title document showing the location of the depth severance—a request Permian has failed to satisfy. In fact, Permian affirmatively declined to comply with the Technical Examiner's request, stating: "It did not submit title documents with its revised hearing packet because *it stands by its position that the Division does not have jurisdiction to adjudicate title.*" Permian's Motion to Strike, p. 2 (emphasis added). Thus, Permian itself acknowledges that title documents and related

evidence of ownership should not be admitted, reviewed, or considered by the Division if they are to be used for purposes of adjudicating title.

20. Furthermore, consider the illogical and internally inconsistent position Permian maintains. Permian has refused the Division's request to submit a title document describing the location of the depth severance—a document that would have enabled the Division to locate the severance without adjudicating title. Instead, Permian submitted an Opinion Letter authored by title attorneys for the sole purpose of inducing the Division to make a ruling—outside its jurisdiction—that Beall does not own property rights in the S/2 N/2 Tract. Permian has further asked the Division to revoke Beall's right to participate as a party of record, based on that impermissible adjudication. *See Permian's Motion to Strike*, at 1-2.

21. To protect the Division from adjudicating matters outside its jurisdiction and to avert grave constitutional problems, V-F respectfully requests that, if the Division proceeds with the hearing on April 10, 2025, it limits the scope of the hearing to matters within its jurisdiction. Specifically, V-F requests that the Division restrict testimony to the location of the depth severance at 9,397 – 9,400 feet and exclude Permian's Opinion Letter and all related testimony concerning Beall's title and ownership. Such evidence does not describe or address the requested depth severance and was submitted solely to prompt the Division to adjudicate Beall's title in an effort to revoke her right to be a party of record.

22. Furthermore, if the Division denies this motion and proceeds with allowing Permian to present its Opinion Letter and title-related testimony in an effort to persuade the Division to rule on whether Beall owns interest in the S/2 N/2 Tract, V-F respectfully requests that the Hearing Examiner issue a written order of record explaining the legal basis for the Division's decision to adjudicate Beall's title and ownership. The Hearing Examiner previously denied V-F's request for a

written order following an adverse decision by citing to Rule 19.15.4.16C NMAC and asserting that there is nothing in the rule “that talks about an order having to be in writing.” Tr. (2-27-25), 61: 18-23.

23. However, the corollary of that assertion is equally true: there is nothing in the rule that states the order should be issued verbally. While the rule provides that notice of a motion hearing shall be given in writing or orally, 19.15.4.16C NMAC does not speak to the means by which the ruling itself is communicated. Accordingly, the magnitude and legal significance of the decision should guide whether a ruling is delivered verbally or in writing. A decision that on its face contravenes legal precedent and poses grave constitutional problems should warrant a written order explaining its legal reasoning. *See Akel v. N.M. Human Servs. Dep’t*, 1987-NMCA-154, ¶11, 106 N.M. 741, 749 P.2d 1120, 1122 (stating that “the decisions of administrative agencies must meet certain standards. Among these standards is the requirement that the hearing officer’s decision adequately reflect the basis for his determination and the reasoning used in arriving such determination”); *see also Atlixco Coalition v. Maggiore*, 1998-NMCA-134, ¶11, 125 N.M. 786, 965 P.2d 370, 377 (citing *Motor Vehicle Mfrs.. Ass’n.*, 463 U.S. 29, 43) (stating that “one of the purposes of requiring a statement of reasons is to allow for meaningful judicial review...”) A decision authorizing the Division to exceed its jurisdiction by adjudicating title should be accompanied by a clearly written rationale subject to review.

III. Conclusion

For the foregoing reasons, V-F respectfully requests that the Division grant this Motion and limit the scope of the April 10, 2025, hearing to matters within its jurisdiction by excluding all testimony and opinions that address or imply a determination of Beall’s property rights or ownership.

The Division should permit only testimony that describes, confirms, or locates the depth severances around 9,397 – 9,400 feet, as originally requested by the Technical Examiner.

Respectfully submitted,

ABADIE & SCHILL, PC

/s/ *Darin C. Savage*

Darin C. Savage

William E. Zimsky
Andrew D. Schill
214 McKenzie Street
Santa Fe, New Mexico 87501
Telephone: 970.385.4401
Facsimile: 970.385.4901
darin@abadieschill.com
bill@abadieschill.com
andrew@abadieschill.com

Attorneys for V-F Petroleum Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record via electronic mail on April 4, 2025:

Michael H. Feldewert – mfeldewert@hollandhart.com
Adam G. Rankin – agrankin@hollandhart.com
Paula M. Vance – pmvance@hollandhart.com
**Attorneys for Read & Stevens, Inc. and
Permian Resources Operating, LLC**

Kaitlyn A. Luck - luck.kaitlyn@gmail.com
Attorney for Carolyn Beall

/s/ *Darin C. Savage*
Darin C. Savage

EXHIBIT
1

From: **Tschantz, Freya, EMNRD** <Freya.Tschantz@emnrd.nm.gov>
Date: Fri, Feb 14, 2025 at 10:11 AM
Subject: Permian Resources Operating, LLC Response to Beall NOI
re: Permian Case Nos. 24941-24942 & 25145-25148 & V-F
Petroleum Case Nos. 24994-24995 & 25115-25117
To: Kaitlyn Luck <luck.kaitlyn@gmail.com>, Paula M. Vance
<PMVance@hollandhart.com>
CC: Darin Savage <darin@abadieschill.com>, Andrew Schill
<andrew@abadieschill.com>, Bill Zimsky <bill@abadieschill.com>,
Adam Rankin <AGRankin@hollandhart.com>, Kari D. Perez
<KDPerez@hollandhart.com>

Good morning:

The Hearing Examiner is granting Carolyn Beall's intervention in 25145-25146 citing to:

**NMAC 19.15.4.11 ADJUDICATORY PROCEEDING
INTERVENTION:**

C. The division examiner or the commission chairman may strike a notice of intervention on a party's motion if the intervenor fails to show that the intervenor has standing, **unless the intervenor shows that the intervenor's participation will contribute substantially to the prevention of waste, protection of correlative rights or protection of public health or the environment.**

Based on the testimony provided at the January 28th hearing, there is an issue regarding correlative rights.

Therefore, the Division wants additional evidence offered on this

matter.

Respectfully,

Freya Tschantz, Law Clerk

EMNRD-Oil Conservation Division