

Division Rule 303.B(4)(d)(iii)

(i) In general. Where there is diversity of ownership, the division may grant an exception to the requirements of Subsection A of 19.15.5.303 NMAC to permit surface commingling of production from different leases, pools or leases and pools only after notice and an opportunity for hearing as provided in Subparagraph (d) of Paragraph (4) of Subsection B of 19.15.5.303 NMAC.

(ii) Application. An application 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 (hereinafter called "interest owners") 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 interests in kind) and a method of allocating production to ensure the protection of correlative rights.

(iii) Notice. Notice shall be given to all interest owners in accordance with Subsection A of 19.15.14.1207 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, and 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 interest owners, or if no such owner has 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 interest owners after exercising reasonable diligence, 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 that 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 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 after publication, or the division may approve the application.

(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, 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

Burlington's Exhibit 8
to

Case 13314, August 8, 2004