

**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 XTO DELAWARE BASIN, LLC
TO AMEND ORDER NO. R-20568, *ETC.*, EDDY
COUNTY, NEEW MEXICO.**

Case No. 20918

**APPLICATION OF XTO DELAWARE BASIN, LLC
TO AMEND ORDER NO. R-20249, *ETC.*, EDDY
COUNTY, NEEW MEXICO.**

Case No. 20919

MOTION TO DISMISS APPLICATIONS

Novo Oil & Gas Northern Delaware LLC (“Novo”), for its motion to dismiss, states:

I. INTRODUCTION.

Novo has obtained the following pooling orders from the Division:

(a) Order No. R-20568, dated May 29, 2019, pooling all mineral interests in the Bone Spring formation below 8773 feet subsurface in a horizontal spacing unit comprised of the N/2S/2 of Section 4 and the N/2S/2 of Section 5, Township 23 South, Range 29 East, NMPM. This order is the subject of Case No. 20918; and

(b) Order No. R-20249, dated November 27, 2018, pooling all mineral interests in the Wolfcamp formation in a horizontal spacing unit comprised of the S/2 of Section 4 and the S/2 of Section 5, Township 23 South, Range 29 East, NMPM. This order is the subject of Case No. 20918.

XTO Delaware Basin, LLC (“XTO”) seeks to amend the orders to exclude the N/2SE/4 of Section 4 from the pooling orders. That tract is within the Big Eddy Unit.

II. FACTS.

A. Novo began preparations to drill the wells which are the subject of these cases in November 2017, immediately after acquiring leasehold interests in the well units. Novo first contacted XTO about its well plans in late November 2017. XTO made no objection to the wells at that time.

B. The subject acreage is in the Oil-Potash Area. In January 2018 Novo proposed the Rana Salada Development Area (“DA”) to the Bureau of Land Management (“BLM”). The DA covers the S/2 of Section 4 and the S/2 of Section 5, Township 23 South, Range 29 East, NMPM. XTO was given written notice of the DA proposal. XTO did not object to the DA. The DA was subsequently approved by the BLM.

C. Novo proposed the subject wells in May 2018. Pooling applications were filed in June 2018, and proper notice to the parties being pooled was given under NMAC 19.15.4.9. During a telephone call on June 21, 2018 XTO’s representative stated XTO did not oppose the pooling applications.

D. Hearings on the Wolfcamp application occurred on July 12, 2018 and August 9, 2018. XTO did not enter an appearance in the case at either hearing.

E. Hearings on the Bone Spring application occurred on July 12, 2018, August 9, 2018, and February 21, 2019. XTO did not enter an appearance in the case at any of the hearings.

F. Novo and its leasehold interests are not subject to the Unit Agreement for the Big Eddy Unit.

G. The Wolfcamp well in the S/2 of Section 4 and the S/2 of Section 5, Township 23 South, Range 29 East, NMPM has been drilled and completed.

III. MOTION.

Under NMAC 19.15.4.10 XTO was entitled to enter an appearance and participate in Novo’s pooling applications (Case Nos. 16283 and 16286). It repeatedly failed to do so. If it had appeared in the cases, it could have filed *de novo* appeals of the orders issued therein under NMAC 19.15.5.23(A). It is now attempting to circumvent the clear appeal provisions and procedures of the Oil and Gas Act and the Division’s Rules by filing the applications in Case Nos. 20918 and 20919.

XTO hinges its applications on the fact that 80 acres of the subject land is in the Big Eddy Unit. That is irrelevant. The pooling statute allows pooling where interest owners in a well unit fail or refuse to join in a well. NMSA 1978 §70-2-17.C. The statute does not make an exception for unitized acreage.

Novo worked in good faith with XTO to pool and develop the subject acreage, and properly obtained the DA and pooling orders, as well as APDs. XTO was kept fully informed of Novo’s plans for developing the subject acreage beginning in November 2017. XTO did not object to the pooling applications. Thus, it is foreclosed from amending the pooling orders now, and the two applications must be dismissed.

This motion is opposed by XTO.

IV. NOVO'S REQUESTED RELIEF.

Based on the foregoing, Novo requests that the two cases be dismissed without the necessity of a hearing.

In addition, Novo has been informed that XTO will be moving to continue the cases to February 20, 2020 docket. Novo opposes the continuance request. As a result, Novo requests that the motion to dismiss be heard and decided on December 12, 2019.

Respectfully submitted,

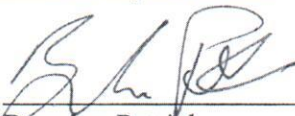

James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043
jamesbruc@aol.com

Attorney for Novo Oil & Gas Northern
Delaware LLC

VERIFICATION

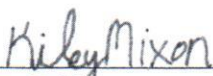
STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

Brandon Patrick, being duly sworn upon his oath, deposes and states that: He is the Land Manager for Novo Oil & Gas Northern Delaware, LLC; he is authorized to make this verification on its behalf; he has read Section II of the foregoing motion, and knows the contents thereof; and the same are true and correct to the best of his knowledge, information, and belief.


Brandon Patrick

SUBSCRIBED AND SWORN TO before me this 6th day of December, 2019 by
Brandon Patrick

My Commission Expires: 11/15/20

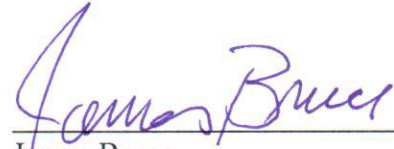

Notary Public



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 6th day of December, 2019 by e-mail:

Gary Larson
glarson@hinklelawfirm.com



James Bruce