

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

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**IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF HEARING:**

**APPLICATION OF APACHE CORPORATION FOR
APPROVAL, RETROACTIVELY, FOR SURFACE
COMMINGLING AND EXCEPTION TO THE
METERING REQUIREMENTS OF DIVISION
RULE 19.15.12.10(C)(1), NMAC
LEA COUNTY, NEW MEXICO**

CASE 14994⁴

HEARING BRIEF

Apache Corporation ("Apache") submits the following Hearing Brief in support of its Application for Surface Commingling and Exception to Division Rule 19.15.12.10(C)(1) NMAC in the above-referenced case.

INTRODUCTION AND BACKGROUND

Apache is the operator of 34 wells located on its Hawk B-1 federal oil and gas lease comprised of the E/2 SW/4 and SE/4 of Section 8 and the E/2 NW/4 and S/2 of Section 9, Township 21S, Range 37E in Lea County, New Mexico. During an internal review of its operations on the Hawk B-1 lease, Apache determined that through prior acquisitions it had obtained wells in which surface commingling has been already occurring but it is unclear whether Division approval was obtained. To correct the problem, it filed the present Application seeking approval of surface commingling, retroactively, pursuant to Division Rule 19.15.12.10 NMAC.

Twenty-five of the wells, referred to in Apache's Application as "normal wells," have common ownership and are produced from either or both the Penrose Skelly-Grayburg Pool and/or the East Hare San Andres Pool. Production from these wells is taken to and stored on lease at the Hawk B-1 Tank Battery located in Unit K of Section 9.

The Hawk B-1 lease also contains six "leaseline" wells located at approved unorthodox well locations near the outer boundaries of the lease. These 6 wells were drilled, completed and produced in accordance with Cooperative Well Agreements between the United States Bureau of Land Management ("BLM") and the working interest owners. The Cooperative Well Agreements provide for the allocation of production and authorize commingling of production, allowing for each well to be drilled at an NSL within a 40-acre spacing unit within the Hawk B-1 lease with the sharing of production among a diverse set of owners of offsetting leases that might be affected by that well's production. Production from the 6 leaseline wells is also taken and stored on lease at the Hawk B-1 Tank Battery located in Unit K of Section 9.

Thirty-two of the Hawk B-1 wells that are the subject of Apache's Application are currently producing from either or both the Penrose Skelly-Grayburg (50350) and/or East Hare-San Andres (96601) Pools. Production from these wells is being processed, stored and commingled at the Hawk B-1 Tank Battery located in Unit K of Section 9. Apache seeks surface commingling approval, retroactively to the date the wells were first commingled, for the 32 wells producing from either or both the Penrose Skelly-Grayburg and East Hare-San Andres Pools on the Hawk B-1 Lease and an exception to the metering requirements of Division Rule 19.15.12.10(C)(1) to allow allocation of production from diversely-owned wells to be measured by means of monthly well tests.

Two other wells, the Hawk B-1 No. 69 and 70 well are producing from the Wantz-Abo Pool (62700). Production from the Hawk B-1 No. 69 is metered before being surface commingled and is processed, stored and commingled at the separate Hawk Federal B-1 Tank Battery also located on the lease in Unit K of Section 9. Apache seeks surface commingling approval, retroactively to the date the wells were first commingled, for these 2 wells producing from the Wantz-Abo Pool and an exception to the metering requirements of Division Rule 19.15.12.10(C)(1) to allow allocation of production from these to be measured by means of monthly well tests.

Additionally, Apache seeks Division approval to commingle production from future wells drilled on the Hawk B-1 Lease which may include wells drilled to the Penrose Skelly-Grayburg, East Hare-San Andres Pool, or other producing pools in this

area utilizing the same allocation method and testing currently being employed for the wells that are the subject of Apache's Application.

A. The Division's Requirements for Surface Commingling Have Been Met.

Under Division Rule 19.15.12.10 NMAC the Division may approve the surface commingling of oil or gas in common facilities from two or more pools, two or more leases or combinations of pools and leases where three conditions are met: (1) the Division approves the method the applicant uses to allocate the production to the various leases or pools to be commingled; (2) where state or federal lands are involved, the operator has notified the state land office or BLM, as applicable, of the proposed commingling; and (3) the operator has met the other applicable requirements in Rule 19.15.12.10.

1. Apache's method for measuring and allocating production is accurate.

As demonstrated in Apache's Application, its method for measuring and allocating production accurately accounts for production from wells that produce into the Hawk B-1 Battery and Hawk B-1 Federal battery. Under Apache's Monthly Allocation Method:

1. Each day, two wells are tested for a 24-hour period through one of two test separators that measure oil, water, and gas production. Oil is metered and then sent through the heater-treater prior to storage in one of the two 500 BBL storage tanks. Periodically, the oil is then sold through the LACT meter at the battery. Water is metered and then sent to one of two 500 BBL water tanks prior to pumping to disposal. Gas is metered through a meter run with an orifice plate prior to flowing through one of two gas sales meters.
2. All other wells (that are not in test on that day) are directed through the pool line to the free water knock out and the heater treater in order to separate the oil and gas for sales, and water for disposal.
3. Oil and gas production volumes are then allocated back to each individual well based on the well tests that were recorded each month in proportion to the monthly oil and gas sales that were attributed to the Hawk B-1 battery.

Under Rule 19.15.12.10, where ownership is identical and the wells being commingled are marginal or incapable of producing the top proration unit allowable for

their respective pools, the division “shall permit commingling without separately measuring the production from each pool or lease.” Under these circumstances, the rule provides that “the operator may determine the production from each well and from each pool or lease from well tests conducted periodically, but no less than annually.” The Rule further provides that the “subtraction method” may be used if production from all except one of the pools or leases to be commingled is separately measured. Under that method, the net oil production from the unmetered pool or lease is the difference between the net pipeline runs with the beginning and ending stock adjustments and the sum of the net production of the metered pools or leases. For gas, the net production from the unmetered pool or lease is the difference between the volumes recorded at the sales meter and the sum of the volumes recorded at the individual pool or lease meters. Additionally, an operator can determine production from each pool or lease to be commingled by other methods the division has specifically approved prior to commingling.”

Apache’s allocation method is consistent with allocation methods specified in Rule 19.15.12.10 and others approved by the Division and will prevent waste and promote conservation by utilizing the existing tank battery equipment to process oil and gas, thereby reducing the footprint caused by oil and gas development and incremental investment capital that would be needed to install separate metering vessels for each well with diverse interests. The reduction in capital investment and lease operating expense associated with the maintenance of individual test separators necessary for all wells with diverse ownership will extend the life of the wells and recover the maximum amount of reserves from the wells located on the Hawk B-1 lease.

B. All Interest Owners Have Been Notified and No Party Has Filed a Prehearing Statement Opposing the Application.

Notice of Apache’s Application was provided to all of the working interest, overriding royalty and royalty owners in accordance with 19.15.12.10 (C) NMAC. No interest owner entered an appearance or filed a prehearing statement opposing Apache’s Application, although the BLM apparently wrote to the Division on January 11, 2013 stating that “it will object to the approval.” Under Rule 19.15.12.10, such protest letter is an insufficient basis for denying the Application:

The division shall include protests and requests for hearing it receives in the case file; provided however, the division shall not consider the protest as evidence. If the protesting party does not appear at the hearing, the division may grant Application without receiving additional evidence in support of the Application.

The time for filing a prehearing statement reserving the right to present evidence concerning Apache's Application has passed. See Rule 19.15.4.10(C) ("A party who has not entered an appearance at least one business day prior to the pre-hearing statement filing date ... shall not be allowed to present technical evidence at the hearing unless the commission chairman or the division examiner, for good cause, otherwise directs.").

As noted in Apache's Application, the BLM previously consented to the commingling of production from lease line wells when it entered into the Cooperative Well Agreements for the wells. It has not withdrawn the consent granted by those agreements which were entered into in accordance with federal regulations and Orders governing the measurement of federal minerals. See 43 C.F.R. § 3162.7-3 ("All gas production shall be measured by orifice meters *or other methods acceptable to the authorized officer* on the lease pursuant to methods and procedures prescribed in applicable orders and notices.") Under 43 C.F.R. § 3162.7-3, "[o]ff-lease measurement *or commingling with production from other sources prior to measurement may be approved by the authorized officer.*" (Emphasis added.) Onshore Oil and Gas Order No. 5, 54 Fed. Reg. 8100 (Feb. 24, 1989) controls the measurement of gas on federal leases. Section I.B. of Order No. 5 provides that a request by a lessee to use an alternative measurement system shall be approved if the alternative method meets or exceeds the objectives of the applicable minimum standards or does not adversely affect royalty income or production accountability. *Id.*¹ Since the BLM has approved commingling through the execution of Well Cooperation Agreements for the lease line wells, the BLM's letter to the Division does not rescind the prior approval. Apache will demonstrate to the Division that its well test method has accurately accounted for

¹ For reasons that are unclear, the BLM notified the Division by letter that it "will object" to Apache's Application. However, until the BLM withdraws its consent to commingling granted under the Cooperative Well Agreements and Communitization Agreements, it cannot require a different method for measuring and allocating production. See *Robert R. Bayless*, IBLA 94-398, 94-714, 96-51 (February 21, 1997); *Devon Energy Production Co.*, 176 IBLA 396 (February 20, 2009) (While BLM may rescind previous approval of surface commingling if it determines that commingling has resulted in under-reporting of volumes of gas, it cannot rescind its consent retroactively).

production and does not adversely affect royalty income or production accountability. Once Apache receives approval from the Division it will file appropriate sundries, if any, required to re-confirm BLM's consent for commingling as set forth in the Division's order approving Apache's Application.

CONCLUSION

Because Apache's request for commingling meets the requirements of Rule 19.15.4.10 and previous Division precedent and no party has filed a prehearing statement opposing the Apache's Application or calling into question Apache's allocation method, it should be granted administratively.

Respectfully submitted,

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& SISK, P.A.

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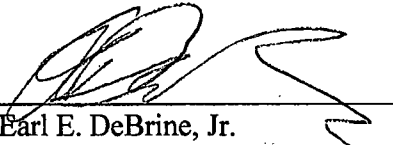
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WE HEREBY CERTIFY that a true
and correct copy of the foregoing
pleading was e-mailed to David Brooks,
Attorney for OCD, this 22nd day of January, 2013.

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By: 
Earl E. DeBrine, Jr.

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