

**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. 15664
ORDER NO. R-14370**

**APPLICATION OF XTO ENERGY INC. FOR A NON-STANDARD SPACING
AND PRORATION UNIT, AND COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on March 30, 2017, at Santa Fe, New Mexico, before Examiner Phillip R. Goetze.

NOW, on this 10th day of August, 2017, 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) Cases No. 15663 and No. 15664 were consolidated at the hearing for the purpose of testimony; however, separate orders will be issued for each case.

(3) In Case No. 15664, XTO Energy Inc. (the "Applicant" or "XTO") seeks approval of a non-standard, 320-acre oil spacing and proration unit and project area (the "Unit") in the Bone Spring formation (Willow Lake; Bone Spring, Southeast Pool (Pool code 96217)) consisting of the W/2 W/2 of Section 8 and the W/2 W/2 of Section 17, both in Township 25 South, Range 29 East, NMPM, in Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Bone Spring formation.

(4) The Unit will be dedicated to Applicant's Corral Canyon Federal Com. Well No. 13H (the "proposed well"; API No. 30-015-43493), a horizontal well to be drilled from a surface location 190 feet from the South line and 520 feet from the East line (Unit P) of Section 6, Township 25 South, Range 29 East, NMPM, to a terminus 200 feet from the South line and 355 feet from the West line (Unit M) of Section 17, Township 25 South, Range 29 East, NMPM. The completed interval of the proposed well will be orthodox.

(5) The proposed well is within the Willow Lake; Bone Spring, Southeast Pool. Spacing in this pool is governed by Division Rule 19.15.15.9(A) NMAC, which provides for standard 40-acre units, each comprising a governmental quarter-quarter

section. The proposed Unit and project area consists of eight adjacent quarter-quarter sections.

(6) Applicant appeared at the hearing through counsel and presented land and geologic evidence to the effect that:

- (a) the Bone Spring formation in this area is suitable for development by horizontal drilling;
- (b) the proposed well is to be completed in the lower portion of the 2nd Bone Spring sand at an approximate true vertical depth of 8545 feet;
- (c) the proposed orientation of the horizontal well North to South is appropriate for the Unit;
- (d) all standard units to be included in the Unit are expected to be productive in the Bone Spring, so that formation of the Unit as requested will not impair correlative rights; and
- (e) Applicant provided notice of this application to all affected persons for creation of the non-standard proration (NSP), and to uncommitted interest owners within the Unit to whom notice is required for compulsory pooling, by certified mail, return receipt requested, and by publication in a local newspaper from whom return receipts were not received.

(7) Additionally, the Applicant identified four producing wells located in the S/2 of Section 8, Township 25 South, Range 29 East, NMPM, that are assigned to the same Bone Spring pool. These four horizontal wells are as follows:

- (a) the Slider 8 Federal Well No. 1H (API No. 30-015-38242) drilled from a surface location 2326 feet from the South line and 1575 feet from the East line (Unit J) of Section 8, Township 25 South, Range 29 East, NMPM, to a terminus 2223 feet from the South line and 330 feet from the West line (Unit L) of Section 8, Township 25 South, Range 29 East, NMPM;
- (b) the Slider 8 Federal Well No. 2H (API No. 30-015-38281) drilled from a surface location 1690 feet from the South line and 1385 feet from the East line (Unit J) of Section 8, Township 25 South, Range 29 East, NMPM, to a terminus 1664 feet from the South line and 330 feet from the West line (Unit L) of Section 8, Township 25 South, Range 29 East, NMPM;
- (c) Slider 8 Federal Well No. 3H (API No. 30-015-38272) drilled from a surface location 1640 feet from the South line and 1385 feet from the East line (Unit J) of Section 8, Township 25 South, Range 29 East, NMPM, to a terminus 1049 feet from the South line and 330 feet from the West line (Unit M) of Section 8, Township 25 South, Range 29 East, NMPM; and
- (d) Slider 8 Federal Well No. 4H (API No. 30-015-38243) drilled from a surface location 225 feet from the South line and 1868 feet from the East line (Unit O) of Section 8, Township 25 South, Range 29 East, NMPM, to a terminus 417 feet from the South line and 330

feet from the West line (Unit M) of Section 8, Township 25 South, Range 29 East, NMPM.

All four horizontal wells (the "Devon wells") are operated by Devon Energy Production Company, LP ("Devon").

(8) The Applicant offered testimony and evidence concerning the Devon wells to the effect that:

- (a) the Devon wells were completed between 2010 and 2011, and have perforated intervals within the upper Bone Spring formation (also referred to as the Avalon Shale) with a range of approximate true vertical depths from 7000 feet to 7250 feet;
- (b) the two 40-acre, governmental quarter-quarter section spacing units which overlap both the Devon wells and the proposed well are located in the W/2 SW/4 of Section 8, Township 25 South, Range 29 East, NMPM;
- (c) Devon and XTO have negotiated an agreement regarding assignment of mineral interests that addresses the overlapping spacing units;
- (d) the Applicant stated that if the Unit were approved, the allowable for the Unit would have to be reduced based on the production of the existing Devon wells; and
- (e) the Applicant provided notification of this application and the hearing to Devon.

(9) Following the hearing, the Applicant provided a copy of an assignment and conveyance instrument that details the agreement between Devon and XTO for the leases covering the south half of Section 8.

(10) No other party appeared at the hearing, or otherwise opposed the granting of this application. COG Operating LLC filed an Entry of Appearance through counsel, but did not appear at hearing.

The Division concludes as follows:

(11) Approval of the proposed non-standard Unit will enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights.

(12) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(13) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

(14) There are interest owners in the Unit that have not agreed to pool their interests.

(15) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to

recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.

(16) XTO should be designated the operator of the proposed well and the Unit.

(17) The proposed Unit overlaps two 40-acre spacing units containing horizontal wells with a different operator and producing from the same pool. The Devon wells are producing from a distinct and separate interval in the Willow Lake; Bone Spring, Southeast Pool that is not in communication with the Bone Spring target of the proposed well and will not impact correlative rights.

(18) 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.

(19) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,500 per month while drilling and \$750 per month while producing, provided that these rates should be adjusted annually pursuant to the Overhead section of the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) A non-standard 320-acre oil spacing and proration unit and project area (the "Unit") is hereby established for the Bone Spring formation (Willow Lake; Bone Spring, Southeast Pool (Pool code 96217)) consisting of the W/2 W/2 of Section 8 and the W/2 W/2 of Section 17, both in Township 25 South, Range 29 East, NMPM, Eddy County, New Mexico.

(2) Pursuant to the application of XTO Energy Inc., all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to Applicant's **Corral Canyon Federal Com. Well No. 13H** (the "proposed well"; API No. 30-015-43493), a horizontal well to be drilled from a surface location 190 feet from the South line and 520 feet from the East line (Unit P) of Section 6, Township 25 South, Range 29 East, NMPM, to a terminus 200 feet from the South line and 355 feet from the West line (Unit M) of Section 17, Township 25 South, Range 29 East, NMPM. The completed interval of the proposed well will be orthodox.

(4) The operator of the Unit shall commence drilling the proposed well on or before June 30, 2018, and shall thereafter continue drilling the proposed well with due diligence to test the Bone Spring formation.

(5) In the event the operator does not commence drilling the proposed well on or before June 30, 2018, Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(6) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the Unit and project area created by this order shall terminate, unless operator

appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not completed in all of the spacing units included in the proposed Unit within 120 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Unit so that it includes only those spacing units in which the well is completed.

(7) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled Unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(8) XTO Energy Inc. (OGRID 5380) is hereby designated the operator of the well and the Unit.

(9) Pursuant to Division Rules 19.15.15.12(A) and 19.15.16.14(B) NMAC, the operator shall consult with the supervisor of the Artesia District office to determine the allowable for the Unit in regard to the four referenced Devon wells completed in the two standard 40-acre units (governmental quarter-quarter sections) common with the Unit:

- (a) NW/4 SW/4 of Section 8, Township 25 South, Range 29 East, NMPM: the Slider 8 Federal Well No. 1H (API No. 30-015-38242) and the Slider 8 Federal Well No. 2H (API No. 30-015-38281).
- (b) SW/4 SW/4 of Section 8, Township 25 South, Range 29 East, NMPM: the Slider 8 Federal Well No. 3H (API No. 30-015-38272) and Slider 8 Federal Well No. 4H (API No. 30-015-38243).

The operator shall also be required to conform with the limiting gas-oil ratio as established in Division Order No. R-13247 [*Special Rules and Regulations for the Southeast Willow Lake-Bone Spring Pool*].

(10) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this Order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(11) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(12) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within

the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(13) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(14) The operator is hereby authorized to withhold the following costs and charges from production attributable to each non-consenting working interest owner from each well:

- (a) the proportionate share of reasonable well costs attributable to each such owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(15) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(16) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,500 per month while drilling and \$750 per month while producing, provided that these rates shall be adjusted annually pursuant to the Overhead section of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(17) Except as provided in Paragraphs (14) and (16) above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 7-8A-31, as amended).

(18) Any unleased mineral interests shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this Order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(19) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this Order, this Order shall thereafter be of no further effect.

(20) The operator of the well and the Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this Order.

(21) 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



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