

**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 TO CONSIDER:**

**CASE NO. 16177
ORDER NO. R-14769**

**APPLICATION OF DGP ENERGY, LLC FOR A NON-STANDARD SPACING
AND PRORATION UNIT AND COMPULSORY POOLING, LEA COUNTY, NEW
MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 31, 2018, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 9th day of July, 2018, 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 the subject matter.

(2) DGP Energy, LLC (the "Applicant") seeks approval of a 240-acre non-standard oil spacing and proration unit for oil and gas production from the Permo Upper Penn formation, Townsend; Permo Upper Penn Pool (Pool code 59847), comprising the E/2 E/2 of Section 19, Township 16 South, Range 35 East and the E/2 SE/4 of Section 18, Township 16 South, Range 35 East, NMPM, Lea County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Permo Upper Penn formation.

(3) The Unit will be dedicated to the following "proposed well" completed at a standard well location:

Gold Wolf Unit 1918 Well No. 1H, API No. 30-025-44658

SHL: 450 feet from the South line and 2560 feet from the West line,
(Unit N) of Section 19, Township 16 South, Range 35 East, NMPM.
BHL: 2650 feet from the South line and 330 feet from the East line

(Unit I) of Section 18, Township 16 South, Range 35 East, NMPM.

(4) The proposed well is within the Townsend; Permo Upper Penn Pool and subject to Subsection A of 19.15.15.9 NMAC, which provides for 330-foot setbacks from the unit boundaries and standard 40-acre units each comprising a governmental quarter-quarter section. The proposed Unit consists of six adjacent quarter-quarter sections oriented south to north.

(5) Applicant appeared through counsel and presented the following land and technical evidence:

- a. The Wolfcamp (or Permo Upper Penn) formation in this area is suitable for development by horizontal drilling.
- b. The proposed orientation of the horizontal well from south to north is appropriate for the Unit.
- c. Notice by certified mail was provided to all uncommitted interest owners in the proposed Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant when the Application was filed, and to heirs known to Applicant of deceased persons who appear as owners in such instruments.
- d. All affected parties were successfully contacted and provided with notice.
- e. The well was originally called the Golden Wolf 1918 Well No. 6H, but is within the Gold Wolf Unit and therefore the name was changed to conform to standard naming convention of the Division for wells located in a unit.

(6) No other party appeared in this case or otherwise opposed this application.

The Division Concludes That

(7) Pursuant to rule amendments effective June 26, 2018 (see Order No. R-14689), the acreage dedicated to a horizontal well must consist of a "horizontal spacing unit," as defined in Subsection F of 19.15.16.7 NMAC, as amended, rather than a "project area." However, the project area proposed in this case has been previously approved. Pursuant to Paragraph (4) of Subsection E of 19.15.16.15, as amended, any project area approved for an existing or proposed well prior to June 26, 2018 remains in effect as a standard, or approved non-standard, horizontal spacing unit for the well(s) to which it was previously dedicated.

(8) The area defined above which was previously approved as a project area for purposes of drilling a horizontal well should be dedicated to the proposed well(s) as a standard horizontal spacing unit (the "Unit").

(9) 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.

(10) 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 described location.

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

(12) 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 a 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.

(13) DGP Energy, LLC (OGRID 372583) should be designated the operator of the proposed well and the Unit.

(14) To ensure protection of correlative rights, any pooled working interest owner whose address is known should be notified and have an opportunity to protest before the Division grants any extension of the time provided herein for commencing drilling.

(15) Infill wells within the Unit should be subject to Division Rules 19.15.13.9 NMAC through 19.15.13.10 NMAC, and to the terms and conditions of this order.

(16) Any pooled working interest owner who does not pay its share of estimated well costs of any well should have withheld from production from such well its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well.

(17) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7500 per month, per well, while drilling and \$750 per month, per well, while producing, provided that these rates should be adjusted annually pursuant to the overhead adjustment provision of the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT

(1) A 240-acre project area was previously established for oil and gas production from the Permo Upper Penn formation, Townsend; Permo Upper Penn Pool (Pool code 59847), comprised of the E/2 E/2 of Section 19, Township 16 South, Range 35 East and the E/2 SE/4 of Section 18, Township 16 South, Range 35 East, NMPM, Lea County, New Mexico. Said project area dedicated under previous rules for purposes of drilling a horizontal well is hereby declared a standard horizontal spacing unit (the "Unit") under existing rules.

(2) Pursuant to the application of DGP Energy, LLC, all uncommitted interests, whatever they may be, in the oil and gas in the Permo Upper Penn formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to Applicant's following "proposed well" to be completed at a standard well location:

Gold Wolf Unit 1918 Well No. 1H, API No. 30-025-44658

SHL: 450 feet from the South line and 2560 feet from the West line,
(Unit N) of Section 19, Township 16 South, Range 35 East, NMPM.
BHL: 2650 feet from the South line and 330 feet from the East line
(Unit I) of Section 18, Township 16 South, Range 35 East, NMPM.

(4) The operator of the Unit shall commence drilling the proposed well on or before July 31, 2019 and shall thereafter continue drilling the proposed well with due diligence to test the Permo Upper Penn (Wolfcamp) formation.

(5) In the event the operator does not commence drilling on or before July 31, 2019 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) The operator shall notify each pooled working interest owner for whom it has a valid address before it files with the Division any request for extension of the time to commence drilling and shall certify its compliance with this requirement in its request for extension. The Division may grant an extension at its discretion after 20 days from receipt of the request if no objection is received. Otherwise, the Division shall not grant the extension without a hearing.

(7) Unless the proposed well is drilled and completed within 120 days after commencement of drilling such well, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the Unit shall terminate unless operator requests in writing an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence and the Division issues written approval. If the proposed well is not completed in all of the standard spacing units or horizontal building blocks included in the proposed project area (or Unit) then the operator shall apply to the Division for an amendment to this order to contract the Unit so that it includes only those standard spacing units or horizontal building blocks in which a well is completed.

(8) 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 shall terminate, unless this Order has been amended to authorize further operations.

(9) Infill wells within the Unit shall be subject to Division Rule 19.15.13.9 NMAC and to the terms and conditions of this order.

(10) DGP Energy, LLC (OGRID 372583) is hereby designated the operator of the proposed well and the Unit.

(11) 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 a separate itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(12) Within 30 days from its receipt of the schedule of estimated well costs for any well, any pooled working interest owner shall have the right to pay its share of estimated well costs of such well 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 for any well shall remain liable for operating costs but shall not be liable for risk charges for such well. 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."

(13) 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 of each well 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.

(14) Within 60 days following determination of reasonable well costs for any well, any pooled working interest owner who has paid its share of estimated costs of such well or wells 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.

(15) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of production from each well:

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

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

(17) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$7500 per month, per well, while drilling and \$750 per month, per well, while producing, provided that these rates may, at the election of the operator, be adjusted annually pursuant to the overhead adjustment provisions of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from each pooled working interest owner's share of production from each well the proportionate share of both the supervision charges and the actual expenditures required for operating such well, not more than what are reasonable.

(18) During the cost recovery period, the operator shall furnish to the Division and to each known non-consenting pooled working interest owner, annually, and within 90 days after payout occurs, a schedule of all revenues attributable to each proposed well, and all charges for supervision and operating costs charged against such revenues. Operating costs shall include all reasonable costs incurred for the maintenance and operation of the well, except for "well costs" reported pursuant to requirements herein, that are properly chargeable to the joint account pursuant to COPAS procedures. If no objection to the operating costs is received by the Division, and the Division has not objected, within 45 days following receipt of any schedule, the costs shall be deemed to be the reasonable operating costs. If there is an objection to the accuracy or reasonableness of operating costs reported within the 45-day period, the Division will determine reasonable operating costs after public notice and hearing.

(19) Except as provided above, all proceeds of 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).

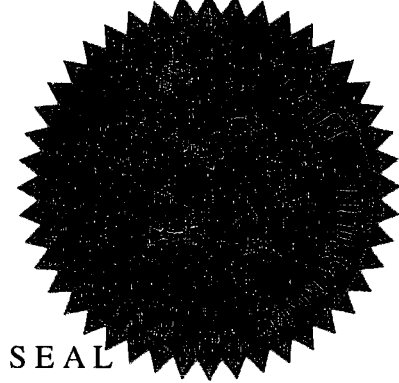
(20) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for allocating costs and charges under this Order. Any costs that are to be paid out of production shall be withheld only from the working interests' share of production,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

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

(22) The operator of the well and the Unit shall notify the Division in writing of the subsequent voluntary agreement of any party subject to the compulsory pooling provisions of this order.

(23) 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.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read 'Heather Riley'.

HEATHER RILEY
Director