

**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. 20231
ORDER NO. R-20543**

**APPLICATION OF PERCUSSION PETROLEUM OPERATING, LLC FOR
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 February 7, 2019, at Santa Fe, New Mexico, before Examiner Scott A. Dawson.

NOW, on this 17th day of May, 2019, 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) Percussion Petroleum Operating, LLC (the "Applicant or Percussion") seeks approval of a standard 320.00-acre (more or less), horizontal spacing unit (the "Unit") in the Yates Seven Rivers formation, N. Seven Rivers; Glorieta-Yeso Pool (Pool code 97565), comprising the E/2 of Section 23, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Yates Seven Rivers formation, N. Seven Rivers; Glorieta-Yeso Pool (Pool code 97565).

(3) The Unit will be dedicated to the following "proposed wells". The completed interval for the proposed wells within the Unit will be standard:

Shelby 23 Well No. 2H ("2H Well"), API No. 30-015-Pending

SHL: 680 feet from the South line and 1490 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.

BHL: 20 feet from the South line and 1817.4 feet from the East line,
(Unit O) of Section 23, Township 19 South, Range 25 East, NMPM;

Shelby 23 Well No. 3H ("3H Well"), API No. 30-015-Pending

SHL: 680 feet from the South line and 1470 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.
BHL: 20 feet from the South line and 1392.5 feet from the East line,
(Unit O) of Section 23, Township 19 South, Range 25 East, NMPM;

Shelby 23 Well No. 4H (“4H Well”), API No. 30-015-Pending

SHL: 680 feet from the South line and 1450 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.
BHL: 20 feet from the South line and 1242.5 feet from the East line,
(Unit P) of Section 23, Township 19 South, Range 25 East, NMPM; and

Shelby 23 Well No. 5H (“5H Well”), API No. 30-015-Pending

SHL: 680 feet from the South line and 1430 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.
BHL: 20 feet from the South line and 767.6 feet from the East line
(Unit P) of Section 23, Township 19 South, Range 25 East, NMPM.

(4) The proposed wells will be drilled horizontally and completed in the Yates Seven Rivers formation [N. Seven Rivers; Glorieta-Yeso Pool]. Said pool is subject to Division Rule 19.15.15.9(A) NMAC, which provides for standard 40-acre spacing and proration units each comprising a governmental quarter-quarter section.

(5) No other party appeared or otherwise opposed this application.

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

- (a) The Yates Sevn Rivers formation in this area is suitable for development by horizontal drilling.
- (b) The proposed orientation of the horizontal well or wells from north to south is appropriate for the Unit.
- (c) Applicant requests that participating tracts be incorporated into the Unit, creating a 320.00-acre (more or less) Unit.
- (d) The first take point for the 2H Well is expected to be 100 feet from the North line and 1826.8 feet from the East line (Unit B) of Section 23, and the final take point is located 100 feet from the South line and 1817.4 feet from the East line (Unit O) of Section 23, Township 19 South, Range 25 East.
- (e) The first take point for the 3H Well is expected to be 100 feet from the North line and 1401.9 feet from the East line (Unit B) of Section 23, and the final take point is located 100 feet from the South line and 1392.5 feet from the East line (Unit O) of Section 23, Township 19 South, Range 25 East.

- (f) The first take point for the 4H Well is expected to be 100 feet from the North line and 1251.9 feet from the East line (Unit A) of Section 23, and the final take point is located 100 feet from the South line and 1242.5 feet from the East line (Unit P) of Section 23, Township 19 South, Range 25 East.
- (g) The first take point for the 5H Well is expected to be 100 feet from the North line and 777 feet from the East line (Unit A) of Section 23, and the final take point is located 100 feet from the South line and 767.6 feet from the East line (Unit P) of Section 23, Township 19 South, Range 25 East
- (h) Incorporating the proximity tracts, the completed interval of the proposed wells will be orthodox
- (i) All quarter-quarter sections to be included in the Unit are expected to be substantially productive in the Yates Seven Rivers formation, so that the Unit as requested will not impair correlative rights.
- (j) Applicant seeks to compulsory pool unleased mineral interest owners and non-participating royalty interest owners.
- (k) 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.
- (l) those potentially affected parties whose whereabouts could not be ascertained were noticed by publication as provided in Rule 19.15.4.12.B NMAC.

The Division Concludes That

(7) The application in this case was filed, and the Well[s] were permitted, on or after the June 26, 2018 date on which amendments to 19.15.16.7 and 19.15.16.15 NMAC (prescribing new spacing rules for horizontal wells) became effective (see Order No. R-14689). Hence the Well[s] must be spaced, permitted and drilled pursuant to 19.15.16.15 NMAC, as amended effective June 26, 2018.

(8) If the location of any of the proposed wells is unorthodox when any of the wells are completed under the spacing rules then in effect and applicable to the well, the operator must obtain a non-standard location approval prior to producing the well.

(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) Applicant is asking for inclusion of offsetting quarter-quarter section equivalents (proximity tracts) located to the west (W/2 E/2), resulting in a 320.00-acre (more or less) horizontal oil spacing unit, pursuant to Subparagraph (b) of Paragraph (1) of Subsection B of 19.15.16.15 NMAC. Based on the completed interval of the 3H and 4H Wells, the proposed Unit should be allowed.

(13) Applicant should be allowed a one-year period after commencing drilling of the Well(s), provided Applicant shall provide a sundry notice no later than 10 days after the Proposed Well has been drilled that each tract comprising the Unit has been penetrated by one or more wells capable of producing oil or gas. If the Applicant does not meet this requirement, then this Order should be null and void.

(14) 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.

(15) Percussion Petroleum Operating, LLC (OGRID 371755) should be designated the operator of the proposed well and the Unit.

(16) 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.

(17) 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.

(18) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7000 per month, per well, while drilling and \$700 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) All uncommitted interests, whatever they may be, in the oil and gas within the following described spacing unit ("the Unit") are hereby pooled:

A Horizontal Spacing Unit comprising 320.00 acres (more or less) within the N. Seven Rivers; Glorieta-Yeso Pool (Pool code 97565) and all other pools hereafter defined within the Glorieta-Yeso formations in the E/2 of Section 23, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico.

(2) The Unit shall be dedicated to the following “proposed wells”. The completed interval of the proposed well will be standard:

Shelby 23 Well No. 2H (“2H Well”), API No. 30-015-Pending

SHL: 680 feet from the South line and 1490 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.
BHL: 20 feet from the South line and 1817.4 feet from the East line
(Unit O) of Section 23, Township 19 South, Range 25 East, NMPM.

Shelby 23 Well No. 3H, API No. 30-015-Pending

SHL: 680 feet from the South line and 1470 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.
BHL: 20 feet from the South line and 1392.5 feet from the East line
(Unit O) of Section 23, Township 19 South, Range 25 East, NMPM.

Shelby 23 Well No. 4H, API No. 30-015-Pending

SHL: 680 feet from the South line and 1450 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.
BHL: 20 feet from the South line and 1242.5 feet from the East line
(Unit P) of Section 23, Township 19 South, Range 25 East, NMPM.

Shelby 23 Well No. 5H, API No. 30-015-Pending

SHL: 680 feet from the South line and 1430 feet from the East line,
(Unit O) of Section 14, Township 19 South, Range 25 East, NMPM.
BHL: 20 feet from the South line and 767.5 feet from the East line
(Unit P) of Section 23, Township 19 South, Range 25 East, NMPM.

(3) If any of the Well[s] is complete at an unorthodox location under applicable rules in effect at the time such well is completed, the operator shall provide notice and apply administratively for a location exception prior to producing the well.

(4) The operator of the Unit shall commence drilling the proposed well on or before May 31, 2020 and shall thereafter continue drilling the proposed well with due diligence to test the Yates Sevn Rivers formation.

(5) In the event the operator does not commence drilling the proposed well on or before the date provided in the foregoing paragraph, the compulsory pooling provision of this order shall be of no effect, unless the operator obtains a written time extension from the Division Director pursuant to a written request stating its reasons for such extension and attaching satisfactory evidence.

(6) If any of the Well[s] is not completed within one-year commencement of drilling operations pursuant to this order, then the compulsory pooling provisions of this order shall be of no further effect as to such well unless operator obtains a written time extension from the Division Director pursuant to a written request stating its reasons for such extension and attaching satisfactory evidence.

(7) The operator shall provide a copy of any request for extension of time to drill or complete any well filed with the Director pursuant to this order to each pooled working interest owner who has elected to participate in the drilling of any well that is the subject of the request. Such copy shall be sent at the same time the request is sent to the Director.

(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) Percussion Petroleum Operating, LLC (OGRID 371755) is hereby designated the operator of the proposed wells 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 \$7000 per month, per well, while drilling and \$700 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) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs for such well.

(20) 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).

(21) 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.

(22) 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.

(23) 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.

(24) 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.



S E A L

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in blue ink, appearing to read 'ASandoval', written over the printed name.

ADRIENNE SANDOVAL
Director