

**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. 14522
ORDER NO. R-13405**

**APPLICATION OF APPROACH OPERATING
LLC FOR DESIGNATION OF A NON-
STANDARD SPACING AND PRORATION
UNIT, RIO ARriba COUNTY, NEW
MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on April 28, 2011, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 9th day of June, 2011, the Division Director, having considered the evidence, the record and the recommendations of the Examiner,

FINDS THAT:

- (1) Due notice has been given, and the Division has jurisdiction of the subject matter of this case.
- (2) Approach Operating LLC (Applicant) seeks approval of a non-standard 31.7-acre, more or less, wildcat oil spacing and proration unit in the Mancos formation, which it proposes to dedicate to its proposed Avella Sultemeier Well No. 2 [API No. 30-039-30857] (the proposed well), to be drilled at a non-standard oil well location 1662 feet from the South line and 6 feet from the West line (Unit L) of projected Section 21, Township 28 North, Range 4 East, NMPM, Rio Arriba County, New Mexico. The latitude and longitude of the proposed well location are 36.64231 degrees North and 106.52700 degrees West.
- (3) The non-standard location of the proposed well was previously approved by Administrative Order NSL-6212, issued on June 11, 2010.

(4) Applicant appeared at the hearing through counsel and offered land and geologic evidence by affidavit, as follows:

(a) The proposed well is located on private fee land in the Tierra Amarilla Grant, a Spanish land grant that has never been officially surveyed.

(b) Various possible projections of section lines from different proximate surveys produce discrepancies as great as one mile in some places.

(c) The proposed non-standard unit is configured by utilizing the western boundary of projected Section 21 as the western unit boundary, and irregular ownership boundaries as the northeastern and southeastern boundaries.

(d) Geologic evidence presented indicated that the proposed well location is prospective for production of hydrocarbons from the Mancos formation, and possibly other formations, but did not suggest any geologic basis for the configuration of the proposed unit.

(5) Although due notice of the filing of this application and of the hearing was provided to all adjoining owners, including owners of mineral fee interests, no other party entered an appearance in this case or notified the Division of any objection to the application.

(6) The size and configuration of units in this wildcat area are governed by statewide Rule 15.9 [19.15.15.9 NMAC], which provides that each well:

shall be located on a spacing unit consisting of approximately 40 contiguous surface acres, substantially in the form of a square that is a legal subdivision of the United States public land surveys and is a quarter-quarter section or lot,

(7) The proposed unit does not contain 40 acres, is not substantially in the form of a square, or even a rectangle, and is not a legal subdivision of the United States Public Land Survey.

(8) Division Rule 15.11.B(2) [19.15.15.11.B(2) NMAC] authorizes the Director to approve applications for non-standard spacing and proration units administratively in certain situations not applicable here. Applicant originally filed a request for administrative approval of the 31.7-acre unit proposed in this case. However, because its request did not meet the limiting circumstances provided by Rule 15.11.B(2) for administrative approval, the Division denied Applicant's request by Administrative Order NSP-1942, issued on June 11, 2010, without prejudice. Applicant subsequently filed this application.

The Division concludes that:

(9) The Division is authorized by NMSA 1978, Section 70-2-12.B(10) "to make rules, regulations *and orders*" [emphasis added] in order to "fix the spacing of

wells.” Accordingly Rule 15.11.B(2) limits only the circumstances in which non-standard units may be approved by administrative order, and does not preclude the Director from issuing orders after hearing approving non-standard spacing and proration units in other circumstances not addressed in that rule. *See generally, Rutter & Wilbanks Corporation v. Oil Conservation Commission*, 87 N.M. 286, 532 P.2d 582 (Sup. Ct. 1975).

(10) In this case, there is no persuasive reason to require spacing units to conform to projected survey lines since those lines are not official and may differ materially from lines that could be established in the event of a future official survey.

(11) Approval of non-standard spacing units configured primarily on the basis of ownership boundaries, although contrary to established New Mexico practice, will prevent waste by facilitating exploratory drilling in this wildcat area.

(12) Establishment of a materially smaller than standard spacing unit for no identified reason other than ownership boundaries implicates correlative rights. The correlative rights concern is allayed to some extent here because all adjoining owners have been notified of this application and have not protested.

(13) For the above reasons, the proposed unit should be approved, but well density within the proposed unit should be limited to three wells, in proportion to the reduced size of the unit unless the Division subsequently authorizes an exception.

(14) The plat admitted in evidence only generally depicts the boundaries of the proposed unit, and the record of this case does not contain sufficient data to precisely locate the unit boundaries. Accordingly, Applicant should be required to file a metes and bounds description of the proposed unit starting from an identifiable location.

IT IS THEREFORE ORDERED THAT:

(1) The application of Approach Operating LLC for approval of a non-standard 31.7-acre wildcat oil spacing and proration unit in the Mancos formation, located generally within the southwest quarter of projected Section 21, Township 28 North, Range 4 East, NMPM, Rio Arriba County, New Mexico, as depicted in Exhibit A to Exhibit 1 admitted in evidence in this case, is hereby approved, subject to the conditions hereinafter stated.

(2) The above described unit shall be dedicated to Applicant's Avella Sultemeier Well No. 2 [API No. 30-039-30857] (the proposed well), to be drilled at a previously approved, non-standard oil well location, 1662 feet from the South line and 6 feet from the West line (Unit L) of projected Section 21.

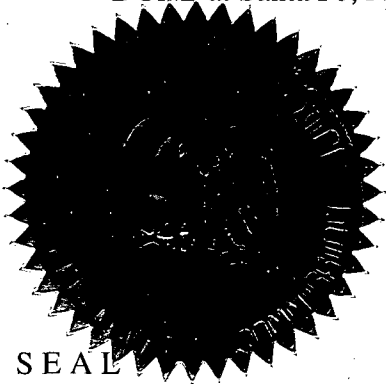
(3) The Division may authorize establishment of a like sized and configured non-standard unit by administrative order in any other formation from which the proposed well proves capable of producing hydrocarbons.

(4) Not more than three wells may be produced simultaneously from the same formation within the Unit authorized by this Order; provided that the Division may authorize exceptions to this requirement by administrative Simultaneous Dedication order.

(5) The approval granted by this Order shall not be effective until Applicant files with the Division's Aztec District Office a plat including a metes and bounds description of the horizontal boundaries of the proposed unit, starting from an identifiable point.

(6) 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

A handwritten signature in black ink, appearing to read "Jami Bailey".

JAMI BAILEY
Director