



Ohio Department of Natural Resources

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ORDER BY THE CHIEF

September 8, 2023

ORDER NO. 2023-190

**TO: INR Ohio, LLC
2605 Cranberry Square
Morgantown, Ohio 26508**

**RE: Application for Unitization
Casper Unit
Carroll County, Ohio**

SUBJECT: Denial of Application for Unit Operations of the Utica shale and Point Pleasant Formation for the Proposed Casper Unit

Pursuant to Ohio Revised Code (“R.C.”) 1509.28, the Chief of the Division of Oil and Gas Resources Management (“Chief” or “Division”) makes the following Findings and issues the following Order with respect to INR Ohio, LLC’s (“INR”) Application for Unit Operations for the Proposed Casper Unit:

DEFINITIONS:

As used in this order:

- 1) “Person” has the same meaning as in R.C. 1509.01.
- 2) “Royalty interest owner” means a person or the estate of a person, other than a working interest owner, who owns the right to or interest in any portion of the oil and/or gas, or proceeds from the sale thereof, from a tract.
- 3) “Working interest” means an interest in oil and/or gas in the unit area by virtue of a lease, operating agreement, fee title, or otherwise, including a carried interest, the owner of which is obligated to pay, either in cash or out of production or otherwise a portion of the unit expense.
- 4) “Working interest owner” means a person or the estate of a person who owns an interest in oil and/or gas in the unit area by virtue of a lease, operating agreement, fee title, or

otherwise, including a carried interest, the owner of which is obligated to pay, either in cash or out of production or otherwise a portion of the unit expense. "Working interest owner" does not include an unleased mineral owner.

- 5) "Unleased mineral owner" means a royalty interest owner who owns oil and/or gas rights free of a lease or other instrument conveying all or any portion of the working interest in such rights to another.
- 6) "Consenting working interest owner" means any working interest owner who enters into an agreement with Gulfport pertaining to the operation of the proposed Casper Unit.
- 7) "Non-consenting working interest owner" means a working interest owner who does not enter into an agreement with Gulfport pertaining to the operation of the proposed Casper Unit.
- 8) "Gas" has the same meaning as in R.C. 1509.01.
- 9) "Oil" has the same meaning as in R.C. 1509.01.

BACKGROUND:

- 1) On May 15, 2023, INR submitted an application to the Division pursuant to R.C. 1509.28 to operate as a unit the Utica shale and Point Pleasant Formation in the proposed Casper Unit ("Application"). On May 18, 2023, the Application was supplemented.
- 2) Revised Code 1509.28(A) and (B) provide, in pertinent part, that "[a] person * * * may submit an application for the operation as a unit of the entire pool or part of a pool to the chief of the division of oil and gas resources management. * * * An applicant shall include with the application for unit operation both of the following: (1) A nonrefundable fee of ten thousand dollars; (2) Any additional information requested by the chief."
- 3) Revised Code 1509.28(E) states, in pertinent part, that when the Chief issues an order for unit operations, such order "shall include: (1) [a] description of the unitized area termed the unit area." Accordingly, in an application for unit operations, the Chief requires the proposed "pool or part of a pool" be identified by the applicant, including the total acreage for the unit area.
- 4) INR stated in its application that the proposed Casper Unit area would be comprised of the lands, oil and gas leases, and/or oil and gas interests totaling 2191.859 acres in Brown and Harrison Townships, Carroll County, Ohio.
- 5) Among other requirements, the Chief requires an application for unit operations to include the following:

- a) a list identifying all mineral owners and non-consenting working interest owners in the proposed unit;
 - b) a completed template affidavit of leasing efforts, which includes a statement that the applicant “has made diligent efforts to obtain * * * the commitment of each non-consenting working interest owner[;]”
 - c) documentation of the efforts to obtain a lease with each unleased mineral owner and the commitment of each non-consenting working interest owner in a template log; and
 - d) a list of all names and addresses of all mineral owners (leased and unleased) and all working interest owners, for the Division to mail notice to those persons of the upcoming hearing on the pending application.
- 6) Revised Code 1509.28(C)(1) provides, in pertinent part, that “[t]he chief shall hold a hearing regarding an application submitted under division (A)(1) of this section * * * not more than sixty days after the date the chief receives the application[.]”
 - 7) Pursuant to R.C. 1509.28, the Division scheduled the hearing on INR’s application, and any supplements to it, for July 11, 2023. In the weeks leading up to July 11, 2023, the Division mailed notice of the hearing to those persons listed on the mailing list provided by INR in its application.
 - 8) On July 10, 2023, INR supplemented its application. Included in the supplement was an updated non-consenting working interest owner list and a mailing list that included for the first time five non-consenting working interest owners not previously listed in its application. The Division did not mail notice of the hearing to those non-consenting working interest owners not previously listed in INR’s application. INR’s lease attempt log listed the first attempts for several non-consenting working interest owners in late June 2023. Additionally, INR had also altered the Division’s template affidavit of leasing efforts, to remove the statement that the applicant “has made diligent efforts to obtain * * * the commitment of each non-consenting working interest owner.”
 - 9) After business hours on July 10, 2023, R & S Operating, LLC contacted the Division identifying itself as a working interest owner in the proposed Casper Unit and informed the Division that it did not receive mailed notice from the Division of the July 11, 2023 hearing.
 - 10) In accordance with R.C. 1509.28, a hearing was held by the Division on July 11, 2023. During the hearing, INR stated it would supplement its application.
 - 11) On August 4, 2023, R & S Operating, LLC filed written comments objecting to the proposed Casper Unit application. In part, R & S Operating, LLC’s objections asserted that:

- a) "INR's Affidavit of Leasing Efforts submitted with its July 10, 2023 supplemental Application does not attest that INR made diligent efforts to obtain the commitment of each non-consenting working interest owner in the unit. Rather, the specific language quoted above from the template affidavit is missing from INR's affidavit."
 - b) "R&S was not identified anywhere in INR's original Application or its first supplemental Application filed on May 16, 2023. [sic] R&S and its interests were not accounted for in INR's Application at all until INR's July 10, 2023 supplement, one (1) day before the unitization hearing."
- 12) On August 17, 2023, OWS Acquisition Co LLC contacted the Division to inform the Division that it had not received "proper notice" of the hearing on the application held "on Tuesday (July 10 [sic]) seeking a Statutory Unit." OWS Acquisition Co LLC stated that CGAS Appalachia, LLC, is a non-consenting working interest owner in the proposed Casper Unit and is a wholly owned subsidiary of OWS Acquisition Co LLC.
 - 13) Revised Code 1509.28 provides, in pertinent part, that "[t]he chief shall issue the order [providing for the unit operation of a pool or part thereof] not later than sixty days after the date of the hearing, unless the chief denies the application [] within that sixty-day period."
 - 14) On September 5, 2023, INR filed the supplement to its application requested at the Division's July 11, 2023 hearing. In the supplement, INR:
 - a) inconsistently listed the total acres in the proposed Casper Unit as both 2191.859 and 2237.691048;
 - b) inconsistently listed the total leased acres in the proposed Casper Unit as both 1653.98643 and 1671.601463;
 - c) failed to comply with the formatting instructions set forth in the Division's application process for the list of all mineral interest owners and working interest owners; and
 - d) failed to provide an updated mailing list despite changing the names of the mineral interest owners for certain tracts.

FINDINGS:

- 1) Based on the most recent supplement filed to the application, the Chief finds that INR failed to identify the acreage of the proposed Casper Unit with clarity in order for the Chief to comply with R.C. 1509.28's requirement to include a "description of the unitized area termed the unit area" in an order for unit operations.

- 2) Based on the application and supplements to it and the comments made to the application, the Chief finds that INR failed to provide to the Division “[a]ny additional information as requested by the Chief,” under R.C. 1509.28 when it failed to:
- a) submit the Division’s template affidavit of leasing efforts stating it had “made diligent efforts to obtain * * * the commitment of each non-consenting working interest owner[;]”
 - b) notify the Division through an application supplement of the five additional non-consenting working interest owners that had an interest in the proposed Casper Unit such that the Division could have mailed notice of the hearing to those non-consenting working interest owners;
 - c) consistently identify the total acreage of the proposed Casper Unit in its most recent September 5, 2023 version of its application; and
 - d) consistently identify the total leased acreage in the proposed Casper Unit in its most recent September 5, 2023 version of its application.

ORDER:

IT IS HEREBY ORDERED:

Pursuant to R.C. 1509.28, INR’s application for unit operations of the proposed Casper Unit is denied.

September 8, 2023

Date

Eric Vendel

/s/

Eric Vendel, Chief

Division of Oil and Gas Resources Management

Addressee is hereby notified that this action is final and may be appealed pursuant to Section 1509.36 of the Ohio Revised Code. If the Order is appealed to the Ohio Oil and Gas Commission, the appeal must be in writing and must set forth the Orders complained of and the grounds upon which the appeal is based. Such appeal must be filed with the Oil and Gas Commission, 2045 Morse Road, Building E-1, Office 103, Columbus, Ohio 43229-6693, within 30 days after the date upon which the person to whom the Order was issued received the order and, for all other persons adversely affected by the order, within 30 days after the date of the Order.

In addition, within three days after the appeal is filed with the Oil and Gas Commission, notice of the filing must be submitted to Eric Vendel, Chief, Division of Oil and Gas Resources Management, Ohio Department of Natural Resources, 2045 Morse Road, Building F, Columbus, Ohio 43229-6693.