



Ohio Department of Natural Resources

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Division of Oil and Gas Resources Management

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ORDER BY THE CHIEF

April 1, 2024

ORDER NO. 2024-89

TO: EAP Ohio, LLC
5847 San Filipe, Suite 400
Houston, TX 77057

RE: Application for Unitization
Toot CR MON North Unit
Carroll County, Ohio

**SUBJECT: Order for Unit Operations of the Utica shale and Point Pleasant Formation
for the Toot CR MON North 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 EAP Ohio, LLC’s (“EAP”) Application for Unit Operations for the Toot CR MON North Unit:

DEFINITIONS:

As used in this order:

- 1) “Person” has the same meaning as in R.C. § 1509.01.
- 2) “Application” means the application of EAP Ohio, LLC for Unit Operation of the Toot CR MON North Unit signed on November 30, 2023, and includes all updates, amendments, and supplements to it.
- 3) “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.
- 4) “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.

- 5) “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.
- 6) “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. At the time of this order, the unleased mineral owners identified by EAP include those listed on Exhibit A.
- 7) “Consenting working interest owner” means any working interest owner who enters into an agreement with EAP pertaining to the operation of the Toot CR MON North Unit.
- 8) “Non-consenting working interest owner” means a working interest owner who does not enter into an agreement with EAP pertaining to the operation of the Toot CR MON North Unit. At the time of this order, the non-consenting working interest owners identified by EAP include those listed as leased on Exhibit A with a 0.000% consenting working interest percentage.
- 9) “Gas” has the same meaning as in R.C. § 1509.01.
- 10) “Oil” has the same meaning as in R.C. § 1509.01.
- 11) “Unit Area” means all of the lands, oil and gas leases and/or oil and gas interests of the tracts as shown in Exhibit A totaling 590.249 acres located in Monroe Township and Harrison Township, Carroll County, Ohio as shown in Exhibit B.
- 12) “Unit Participation” means the ratio of the surface acreage of a specific tract in the unit area to the total surface acreage of the unit area as that total surface acreage is specified in paragraph one of the Plan for Unit Operations of this order.
- 13) “Gross Proceeds” means a share of the gross production of oil, gas, condensate, and natural gas liquids free of any and all cost of producing, gathering, storing, separating, treating, dehydrating, compressing, processing, transporting, marketing, or pipeline construction and maintenance.
- 14) “Net Proceeds” means the share of gross production of oil, gas, condensate, or natural gas liquids after payment of all costs of producing, gathering, storing, separating, treating, dehydrating, compressing, processing, transporting, and marketing and taxes.

BACKGROUND:

- 1) EAP filed the application pursuant to R.C. § 1509.28 to conduct unit operations.
- 2) Pursuant to R.C. § 1509.28, the Division held a hearing on February 1, 2024. The hearing was held to consider the need for the operation as a unit of an entire pool or part thereof. EAP representatives provided testimony on the application and answered questions from Division staff.
- 3) The unit operations will occur at an approximate true vertical depth located from the top of the Utica shale to the base of the Point Pleasant Formation.

FINDINGS:

- 1) Based on the application and testimony by EAP's representatives, the Chief finds that EAP has established that it is the "owner," as that term is defined in R.C. § 1509.01(K), of greater than 65% of the land area overlying the pool in the Toot CR MON North Unit as required by R.C. § 1509.28(A).
- 2) Based on the application and testimony by EAP's representatives, the Chief finds that the operation of the Toot CR MON North Unit is reasonably necessary to increase substantially the ultimate recovery of oil and gas.
- 3) Based on the application and testimony by EAP's representatives, the Chief finds the value of the estimated additional recovery of oil or gas from the Toot CR MON North Unit exceeds the estimated additional cost incident to conducting the operation of the Toot CR MON North Unit.

ORDER:

IT IS HEREBY ORDERED:

Pursuant to R.C. § 1509.28, EAP is authorized to conduct operations within the Toot CR MON North Unit in accordance with all of the following:

Plan for Unit Operations

- 1) The unit area is comprised of the tracts totaling 590.249 acres in Monroe Township and Harrison Township, Carroll County, Ohio as shown on Exhibit B.
- 2) EAP proposes to drill two wells in the Toot CR MON North Unit for the purpose of recovering oil and gas. EAP shall drill at least one well to total measured depth as specified in the application in the unit area within 12 months from the date of approval of this Order as prescribed in Paragraph 10 of this order. If EAP fails to drill at least one well to total measured depth as specified in the application in the unit area within 12 months from the

date of approval of this Order as prescribed in Paragraph 10 of this order, the Chief may revoke this order. In order to achieve the stated goal of substantially increasing the ultimate recovery of oil and gas from the Utica shale and Point Pleasant Formation within the unit area, EAP shall produce from two wells no later than three years after the date of approval of this order. If EAP fails to drill, complete, and produce at least two wells in the unit area, the Chief may amend or revoke this order. Any additional wells permitted by the Chief for the Utica shale and Point Pleasant Formation in the unit area are subject to this order.

- 3) Information from EAP for the Toot CR MON North Unit establishes that the Utica shale and Point Pleasant Formation uniformly underlies the unit area. Therefore, the allocated share of production to each tract shall be equal to that tract's unit participation.
- 4) Except as provided in Paragraph 9(d) of this order, all charges and credits made for investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the Toot CR MON North Unit operations shall be allocated among the working interest owners of each tract based on the unit participation. The proportionate share of the expenses attributable to tracts of the unleased mineral owners shall be allocated to EAP and the working interest owners.
- 5) All unit operation expenses, including capital investment, shall be charged to, and paid by, EAP and working interest owners in amounts based on the unit participation plus their proportionate share of the expenses attributable to the tracts of unleased mineral owners. All unit operation expenses concerning wells and operating equipment shall be just and reasonable.
- 6) If necessary, EAP and the consenting working interest owners shall carry, or otherwise finance, any non-consenting working interest owners who are unable to meet their financial obligations in connection with the unit operations. EAP and all other consenting working interest owners' reasonable interest charge for carrying or financing the non-consenting working interest owners shall be determined by the terms of EAP's Unit Agreement and Model Form Operating Agreement for the Toot CR MON North Unit. Once a specific cost is charged to the initial well, that same cost cannot be charged to subsequent wells in the unit area.
- 7) EAP shall supervise and conduct all unit operations. Each working interest owner shall have a voting interest equal to its Unit Participation. Approval of unit operations shall be subject to the terms of EAP's Unit Agreement and Model Form Operating Agreement for the Toot CR MON North Unit.

- 8) Unit operations may commence as of 7:00 a.m. on the day following the date of approval of this order as prescribed in Paragraph 10 of this order. Once the initial well is placed into production, operations within the Toot CR MON North Unit may continue as long as hydrocarbons are produced from any well in the unit area without a cessation of more than 90 days, unless otherwise approved by the Chief in writing or as prescribed in Paragraph 8(a) of this order.
 - a) Except as provided otherwise in Paragraph 8(b) of this order, after the initial well is placed into production in the Toot CR MON North Unit, if EAP ceases production of hydrocarbons from all wells in the Toot CR MON North Unit for more than 90 days, but not more than 260 days, and has never ceased production of hydrocarbons from all wells in the Toot CR MON North Unit for more than 90 days previously, operations in the Toot CR MON North Unit may continue so long as EAP pays each unleased mineral owner a monthly "delay in production" payment calculated as set forth in Paragraph 8(a)(i) through (iii) of this order until production resumes from at least one well in the Toot CR MON North Unit:
 - i. For each 30-day period, beginning at day 91 and ending on day 180 that EAP does not produce hydrocarbons from the Toot CR MON North Unit, EAP shall pay each unleased mineral interest owner a payment in an amount equal to 15% of the average of the payments made to that unleased mineral owner pursuant to Paragraph 9(c) of this order for the three months immediately preceding the date that the production of hydrocarbons ceased in the Toot CR MON North Unit. These payments are in addition to any payments that may be owed under paragraph 9 of this order.
 - ii. For each 30-day period, beginning on day 181 and ending on day 260 that EAP does not produce hydrocarbons from the Toot CR MON North Unit, EAP shall pay each unleased mineral owner a payment in an amount equal to 20% of the average of the payments made to that unleased mineral owner pursuant to Paragraph 9(c) of this order for the three months immediately preceding the date that the production of hydrocarbons ceased in the Toot CR MON North Unit. These payments are in addition to any payments that may be owed under paragraph 9 of this order.
 - iii. Payments to unleased mineral owners under this Paragraph shall be prorated to account for any changes in ownership of the unleased mineral interest and any resumption of production during a 30-day period.

- b) If EAP ceases production of hydrocarbons from all wells in the Toot CR MON North Unit for more than 360 days, unless otherwise approved by the Chief in writing, the Chief may revoke this Chief's Order.
 - c) The Toot CR MON North Unit may be terminated if working interest owners owning at least 51% of the working interest in the unit area determine that the unit operations are no longer warranted. If the unit operations are so terminated, EAP shall provide written notice of the termination to the Division and to all unleased mineral owners. In addition to the notice of termination, EAP shall provide an affidavit to the Division attesting to the basis of the termination and all dates applicable to that basis. If termination of unit operations occurs prior to drilling and completing for production of two wells in the Toot CR MON North Unit, the Chief may amend this order.
- 9) The following additional provisions are found to be appropriate:
- a) No activity associated with the drilling, completion, or operation of the Toot CR MON North Unit shall be conducted on the surface of any unleased property without the prior written consent of the owner of the surface rights of the unleased property.
 - b) Unleased mineral owners shall not incur liability for any personal or property damage associated with any drilling, testing, completing, producing, operating, or plugging and restoration activities within the Toot CR MON North Unit.
 - c) Each unleased mineral owner shall receive a monthly cash payment equal to a one-eighth share of the gross proceeds from production. Allocation of the one-eighth share shall be based on the unit participation of each unleased mineral owner's tract. EAP shall make monthly cash payments to all unleased mineral owners at the same time the royalty interest owners are paid.
 - d) In addition to the cash payment specified in paragraph 9(c) of this Order, each unleased mineral owner shall receive a monthly cash payment equal to a seven-eighths share of the net proceeds from production. Allocation of the seven-eighths share shall be based on the unit participation of each unleased mineral owner's tract. After EAP recovers 200% of the cost of drilling, testing, and completing the initial well, EAP shall begin making the monthly payments to the unleased mineral owners for that well. For each additional well drilled in the unit area, EAP shall begin making monthly payments equal to seven-eighths share of net proceeds from production to each unleased mineral owner once the working interest owners have recovered 150% of the cost of drilling, testing, and completing each additional well. Once a specific cost is charged to the initial well, that same cost cannot be charged to subsequent wells in the unit area.

- e) Nothing in this order prohibits an unleased mineral owner from entering into a lease agreement with EAP or with any other person. An unleased mineral owner who enters into a lease of their mineral interests with any person after the issuance of this order is no longer an unleased mineral owner under this order as of the effective date of the lease. EAP shall notify the Division upon the execution of a lease agreement with any unleased mineral owner who is subject to this order.
- f) Except as provided in Paragraph 9(d) of this order, no expenses shall be paid by an unleased mineral owner for drilling, testing, completing, producing, or operating any well in the unit area. Moreover, unleased mineral owners are not responsible for any costs related to plugging any well or any restoration in the unit area.
- g) If requested in writing by any unleased mineral owner or by any non-consenting working interest owner, or in any manner by the Division, EAP shall provide, not later than 30 days after the request, any of the following:
 - i. A monthly statement of all costs incurred, together with the quantity of oil and gas produced, and the amount of proceeds realized from the sale of production during the preceding month; and
 - ii. Any authorization for expenditure (AFE) prepared by EAP; and
 - iii. A statement of all costs and expenses for purposes of Paragraphs 6, 8(a), and 9(d) of this order.
- h) EAP shall notify the Division of the assignment or transfer of any of its working interest in the Toot CR MON North Unit. If EAP assigns or transfers any of its working interest, the assignee or transferee shall comply with this order. Within 60 days of the notice of assignment or transfer, EAP shall file a copy of the notice with each applicable county recorder's office in the records of each of the tracts that are subject to this order and referenced in Exhibit B of this order. EAP shall submit a certification of the filing to the Division within 14 days of filing.
- i) EAP shall notify the Division within 30 days if a person that is leased by EAP, or any other consenting working interest owner, for purposes of operating the Toot CR MON North Unit becomes unleased. If a person becomes unleased, the person is an unleased mineral owner under this order and Paragraphs 8(a) and 9(a) through 9(g) of this order apply.

- j) EAP shall notify the Division if any consenting working interest owner revokes, rescinds, or otherwise terminates the agreement with EAP pertaining to the operation of the Toot CR MON North Unit. If a consenting working interest owner revokes, rescinds, or otherwise terminates the agreement with EAP, the working interest owner becomes a non-consenting working interest owner pursuant to this order. EAP also shall notify the Division if any consenting working interest owner assigns or transfers all or part of its working interest in the Toot CR MON North Unit. All such assignees or transferees are subject to this order.
 - k) EAP shall notify the Division if any non-consenting working interest owner enters into an agreement with EAP pertaining to the operation of the Toot CR MON North Unit. If a non-consenting working interest owner enters into an agreement with EAP, the non-consenting working interest owner becomes a consenting working interest owner pursuant to this order.
 - l) If at any point EAP and consenting working interest owners own less than 65% of the unit, the Chief may amend or revoke this order.
- 10) This order becomes effective on the date EAP provides the Chief with final written approval of the unit operations as prescribed in this order by EAP and consenting working interest owners, and also by the royalty interest owners or, with respect to unleased acreage, unleased mineral owners of 65% of the acreage to be included in the unit. Unit operations may commence as set forth in Paragraph 8 of this Order. If EAP fails to provide all required approvals by October 1, 2024, the order is revoked, and the Chief shall provide notice of the revocation to EAP and to all persons listed in Exhibit A to this order.
- 11) If this Chief's Order is appealed, the time periods specified in this order are tolled pending final determination of the appeal.
- 12) Within 21 days of this order becoming effective, EAP shall file a copy of this order with each applicable county recorder's office in the records of each of the tracts that are subject to this order and referenced in Exhibit B of this order. EAP shall submit a certification of the filing to the Division within 14 days of filing. The certification shall include a reference to the volume and page number corresponding to each record where the Chief's Order is recorded.
- 13) The Chief of the Division retains continuing jurisdiction over the Toot CR MON North Unit as is consistent with the Chief's powers and duties as established by R.C. Chapter 1509 and Ohio Admin. Code 1501:9. The Chief reserves the right to amend or revoke this Order subsequent to the commencement of unit operations within the unit area.
- 14) Except as specifically set forth in the terms of this order, nothing herein shall be construed as a release or waiver of any private right, obligation, duty, claim, or cause of action.

- 15) If there is a conflict between the terms of this Chief's Order and any part of EAP's application, the Chief's Order takes precedence.

April 1, 2024

Eric Vendel

Date

Eric Vendel, Chief
Division of Oil and Gas Resources Management

Addressee is hereby notified that this action is final and effective 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.

Enclosures: Exhibit A
 Exhibit B

