

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION**

**IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION FOR
THE PURPOSE OF CONSIDERING:**

**APPLICATIONS OF CIMAREX ENERGY CO.
FOR A HORIZONTAL SPACING UNIT
AND COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

CASE NOS. 23448-23455

**APPLICATIONS OF CIMAREX ENERGY CO.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

CASE NOS. 23594-23601

**APPLICATIONS OF READ & STEVENS, INC.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.**

CASE NOS. 23508-23523

**APPLICATION OF READ & STEVENS,
INC. FOR THE CREATION OF A
SPECIAL WOLFBONE POOL IN
SECTIONS 4, 5, 8 AND 9, TOWNSHIP 20
SOUTH, RANGE 34 EAST, NMPM, LEA
COUNTY, NEW MEXICO.**

CASE NO. 24528

**APPLICATION OF CIMAREX ENERGY CO.
FOR THE CREATION OF A SPECIAL POOL, A
WOLFBONE POOL, PURSUANT TO ORDER NO.
R-23089 AND TO REOPEN CASE NOS. 23448 –
23455, 23594 – 23601, AND 23508 – 23523, LEA
COUNTY, NEW MEXICO.**

**CASE NO. 24541
ORDER NO. R-23089
ORDER NO. R-23089-A**

OCC CASE NO. 25371

RESPONSE IN OPPOSITION TO MOTION FOR STAY OF DIVISION ORDER R-24541

Read & Stevens, Inc. and Permian Resources Operating, LLC (collectively “Permian Resources”), respectfully file this response in opposition to Coterra Energy Operating Co.’s (“Coterra”) Motion for a Stay. For the reasons outlined below, the Motion should be denied.

INTRODUCTION

Coterra’s proposed plan contravenes the express mandate of the Oil and Gas Act, impairs the correlative rights of owners in the Wolfcamp portion of the Wolfbone Pool, is now devoid of working interest owner support, and will demonstrably result in waste by stranding Wolfcamp reserves and failing to produce incremental reserves stimulated through co-development of the two target intervals.

Given the substantial positive results from Permian Resources’ offsetting production, and eager to see the subject acreage finally developed and producing, several working interest owners have switched support from Coterra to Permian Resources. Before Order No. R-23089-A, Permian Resources had approximately 36.75% working interest control in the Bone Spring and 44.42% in the Wolfcamp. Permian Resources now has approximately 57.87% working interest control in the Bone Spring and 64.6% in the Wolfcamp. In comparison, Coterra has an ownership interest of 29.12% in the Bone Spring and 21.63% in the Wolfcamp and no active support from any owner. The difference in working interest control is now substantial and exceeds 25% across all proposed spacing units and zones.

There is no risk of imminent harm under Order No. R-23089-A to Coterra or any mineral interest owner. Permian Resources’ plan will instead prevent waste and protect correlative rights. Coterra’s Motion should be denied.

BACKGROUND

Permian Resources' plan to simultaneously co-develop two hydrocarbon-rich geologic intervals (the lower basal Third Bone Spring and Upper Wolfcamp) within the Wolfbone pool in these competing pooling cases is the only proposal before the Commission that will protect the correlative rights of all owners and prevent waste. *See* Order No. R-23089-A, ¶ 44 ("OCD finds Read's proposal will result in a higher recovery of hydrocarbons and will produce the Wolfcamp portion of the Wolfbone which will prevent waste and protect the correlative rights of the interest owners who own interest in the Wolfcamp portion."). Contrary to Coterra's assertions, the Upper Wolfcamp in this area is a "sweet spot" that is a viable and valid independent target for development. *See* **Exhibit C**. Because no frac baffles or barriers exist between the Upper Wolfcamp and basal Third Bone Spring intervals, these zones within the Wolfbone pool must be developed together to maximize recovery and avoid potential parent-child depletion effects. *See id.*

These intervals are also found on either side of an ownership depth severance within the Wolfbone pool. *See* **Exhibit B**. While the geologic targets are thick enough to require a vertically staggered and stacked "wine-rack" pattern to effectively and efficiently drain them, separately targeting these benches is also necessary to protect the correlative rights of mineral owners on both sides of the depth severance. *See* Order No. R-23089-A, ¶ 44; *see also* Exhibit B. Coterra targets only the basal Third Bone Spring interval and contends that co-development will be "financially wasteful." Permian Resources provided extensive legal and factual justification at the hearing demonstrating that co-development is necessary. The Division agreed. Order No. R-23089-A.

Targeting only the basal Third Bone Spring, as Coterra intends, will not effectively or efficiently drain the available reserves. *See* Exhibit C. And returning to drill the Upper Wolfcamp later, as Coterra might do, will be substantially less effective due to documented parent-child depletion effects within the Wolfcamp. Both outcomes under Coterra's plans will strand reserves and cause waste. In contrast, Permian Resources' proposal to co-develop both targets within the Wolfbone pool is supported by updated offsetting production, demonstrating that co-development of the two intervals results in substantially improved production in both zones compared to developing the basal Third Bone Spring interval alone. *See* Exhibit C. Co-development is the only way to afford owners in both pools an opportunity to access their just and equitable share of production in each pool.

ARGUMENT

I. Coterra's Motion Fails to Meet the Stringent Requirements Demonstrating a Stay is Necessary.

Coterra has made no evidentiary showing that a stay is necessary and therefore fails to meet the threshold standard required for the Commission to grant a stay. Coterra simply re-argues the case it presented to the Division below.

Coterra tells the Commission that its motion is intended "to preserve the status quo and thereby prevent immediate and irreparable harm to affected parties and to the State of New Mexico." Mot. at 2. In this way, Coterra's motion is akin to a request for a preliminary injunction under the Rules of Civil Procedure.¹ Courts and this Commission have recognized preliminary injunction as extraordinary relief, the issuance of which requires the moving party to show that:

¹ While the Commission may make appropriate order in the exercise of its statutory power, it is doubtful that the Commission enjoys statutory authority to issue a preliminary injunction merely for the purpose of preserving the status quo pending a determination of an application on the merits.

(1) the plaintiff will suffer irreparable injury unless the injunction is granted; (2) the threatened injury outweighs any damage the injunction might cause the defendant; (3) issuance of the injunction will not be adverse to the public's interest; and (4) there is a substantial likelihood plaintiff will prevail on the merits.

Labalbo v. Hymes, 1993-NMCA-010, ¶ 11, 850 P.2d 1017.

Similarly, under the Commission's regulations, a party seeking a stay is required to demonstrate "the stay is necessary to prevent waste, protect correlative rights, protect public health or the environment or prevent gross negative consequences to an affected party." 19.15.4.23.B NMAC (emphasis added). Under Commission precedent, parties seeking a stay also must show "they are likely to prevail on the merits" and that the party requesting a stay will be irreparably harmed unless a stay is granted. *See* Order No. R-14300-A ¶¶ 5-6 (quoting and adopting the standard for an administrative stay in *Tenneco Oil Co. v. N.M. Water Quality Control Comm'n*, 1986-NMCA-033, ¶ 10), attached as **Exhibit A**.

A "showing" under a motion for stay therefore requires a proffer of evidence on all these elements. *See id.* ¶ 7; *see also* Black's Law Dictionary (8th Ed.) ("Showing, n. The act or an instance of establishing through evidence and argument; proof <a prima facie showing>." (emphasis added)). "Mere allegations of irreparable harm are not, of course, sufficient. A showing of irreparable harm is a threshold requirement in any attempt by applicants to obtain a stay." *Tenneco Oil Co. v. N.M. Water Quality Control Comm'n*, 1986-NMCA-033, ¶ 12, 736 P.2d 986 (emphasis added). As noted in *Tenneco Oil*, the applicant for a stay must make a showing as to each of the elements necessary for a stay. *Id.* Coterra has not made the required showing for even one element.

A. The Balance of Harms Cuts Against a Stay.

Coterra's motion makes no effort to establish that the injury it will allegedly suffer in the absence of a stay outweighs the injury that the relief sought would inflict on Permian Resources or its partners. Nor would such an argument even be colorable. Coterra's motion alleges there will be "immediate and irreparable harm" without a stay but presents no evidence in support of those bare assertions. Coterra also makes no effort to show harm, or even proffer any actual evidence, that failure to issue a stay would cause Coterra, or the harm a stay would cause Permian Resources or its partners.

B. The Public Interest Counsels Against Granting Coterra's Relief.

Considerations of the public interest, which lie at the heart of the Commission's remit, also counsel against granting Coterra's requested relief. Here, granting a stay without an actual showing of evidence in support of Coterra's allegations is contrary to the Commission's rules and the caselaw governing administrative stays. Such an outcome would be exceptionally detrimental to the public interest and should be resisted.

D. Coterra Has Not Shown a Likelihood of Success on the Merits of Its Underlying Applications.

Finally, Coterra has failed to make a showing it is likely to succeed on the merits of its allegations, especially when it just re-hashes arguments presented to the Division below that were already rejected.

The merits of Coterra's arguments rest on technical and fact-specific evidence, all of which the Commission will consider at a de novo hearing. Yet Coterra's motion offers no indication it is likely to succeed on the merits of those claims. In its motion, Coterra simply reargues the case and the points it presented to the Division previously, without making the necessary evidentiary showing. It merely contends the Division, after

weighing evidence and testimony presented over a three-day hearing in 2023, got it wrong. Coterra has presented nothing more than “mere allegations” of irreparable harm. *See* Mot. at 2. Coterra attaches no affidavits or new data to support its allegations. It just cites to the evidentiary record that was already weighed and considered by the Division below. Without proof supporting Coterra’s allegations, there is no prima facie showing and no basis for entry of a stay.

In contrast, Permian Resources provides substantial evidentiary support opposing the claimed basis for a stay. *See* Self-Affirmed Statement of Travis Macha, attached as **Exhibit B** (summarizing differences in development plans and updated working interest control); *see also* Self-Affirmed Statement of Carlos Sonka, attached as **Exhibit C** (demonstrating benefits of co-development).

II. Coterra’s Motion Does Not Meet the Procedural Requirements for a Stay.

The regulation governing issuance of stays requires that an applicant “shall attach a proposed stay order to the motion.” NMAC 19.15.4.23.B. Coterra has not met this mandatory procedural requirement, thereby subjecting the motion to immediate denial.

III. Coterra’s Plan Violates the Oil & Gas Act, Impairs Correlative Rights, Lacks Working Interest Support, and Will Result in Waste.

Coterra’s proposed plan contravenes the express mandate of the Oil and Gas Act, impairs the correlative rights of owners in the Wolfcamp portion of the Wolfbone Pool, is devoid of working interest owner support, and will demonstrably result in waste by stranding Wolfcamp reserves and failing to produce incremental reserves stimulated through co-development of the two target intervals.

Coterra’s proposed development, with a proposed allocation formula, would violate the requirement of the Oil and Gas Act to allocate production under compulsory

pooling orders among owners “to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit.” NMSA 1978 § 70-2-17(C). Because of the ownership depth severance, which makes mineral ownership across the entire special Wolfbone oil pool non-uniform, it is impossible under Coterra’s plan to allocate production and costs across all owners in the proposed special pool on an “acreage basis” as required by statute. *See* Exhibit B. Under Coterra’s plan, Wolfcamp owners would not be allocated production in accordance with their ownership percentages in the Wolfcamp but would be instead apportioned only approximately 27.2% of the production. *See id.* In contrast, Permian Resources’ proposal complies with the Oil and Gas Act mandate to allocate production under compulsory pooling orders among owners on a surface acreage basis. *Id.* Coterra’s proposed violation of an express mandate of the Oil and Gas Act gives rise to a per se impairment of the correlative rights of Wolfcamp owners.

Permian Resources’ offsetting Batman co-development appraisal confirms Coterra’s plan will materially impair not just Wolfcamp owners, but Bone Spring owners, as well. *See* Exhibit C. Co-development of the two target intervals is confirmed to be necessary to obtain incremental reserves that would otherwise remain stranded and unrecovered in both intervals within the Wolfbone. *See* Exhibit C. Permian Resources’ updated analysis of its co-development proposal against stand-alone Third Bone Spring development that Coterra proposes is dispositive—Coterra’s proposed development will cause waste.

Given the substantial positive results from Permian Resources’ offsetting production, and eager to see the subject acreage finally developed and producing, several

working interest owners have switched support from Coterra to Permian Resources. Before the Division issued Order No. R-23089-A, Permian Resources had approximately 36.75% ownership interest and working interest support through commitments to a joint operating agreement in the Bone Spring and 44.42% in the Wolfcamp. *See* Exhibit B. Permian Resources now has approximately 57.87% ownership interest and working interest support through commitments to a joint operating agreement in the Bone Spring and 64.6% in the Wolfcamp. In comparison, Coterra has an ownership interest of 29.12% in the Bone Spring and 21.63% in the Wolfcamp and no active support from any owner. *Id.* The difference in working interest control is now substantial and exceeds 25% across all proposed spacing units and zones.

There is no risk of imminent harm under Order No. R-23089-A to Coterra or any mineral interest owner. Permian Resources' plan will instead prevent waste and protect correlative rights. Coterra's Motion should be denied.


CONCLUSION

For the foregoing reasons, Permian Resources respectfully requests that the Commission deny Coterra's Motion.

DATED: May 21, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2025, I served a copy of the foregoing document to the following counsel of record via Electronic Mail:

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EXHIBIT A

**STATE OF NEW MEXICO
ENERGY MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION**

**APPLICATION OF MEWBOURNE OIL COMPANY
TO REVOKE THE INJECTION AUTHORITY
GRANTED UNDER SWD-744 FOR THE WILLOW
LAKE WELL NO. 1 OPERATED BY PYOTE WELL SERVICE, LLC,
EDDY COUNTY, NEW MEXICO**

**CASE NO. 15519
ORDER NO. R-14300-A**

ORDER ON MOTION TO STAY

This matter having come before the Oil Conservation Commission ("Commission") on the Motion to Stay Order No. R-14300 ("Motion") filed by David Baker, Receiver for the benefit of Pyote Water Solutions LLC and Pyote SWD II LLC ("Receiver"), and on the Joint Objection to Motion to Stay Order R-14300, filed by Mewbourne Oil Company, Oxy USA, Inc. and Kaiser-Francis Oil Company (collectively, "Objectors"). The Chair having considered the filings and the Order below, enters the following findings and Order:

1. The Oil Conservation Division entered Order No. R-14300 ("Division Order") on February 21, 2017. The Receiver filed an Application for Hearing De Novo with the Commission on March 22, 2017.

2. The Division Order found that: "Any disposal into the Bone Spring formation through perforations in the subject SWD well is causing waste of oil and associated gas in the surrounding wells and surrounding, undrilled sands." (Order R-14300 ¶19). The Division revoked the authority to inject previously granted by Order No. SWD-744, dated May 11, 1999 and ordered injection to cease by April 1, 2017.

3. Receiver argues that the termination of injection authority will cause the loss of revenues to the Receiver and the well owners, and will cause significant disruption for water haulers and producing operators in this area.

4. Objectors, who are operators of wells in the formation where injection is occurring, argue that the Motion did not provide anything to rebut the findings in the Division Order, and that no operator in the area has opposed the revocation of authority to inject.

5. The test for granting a stay of an order issued by an administrative agency was set forth in Tenneco Oil Company v. New Mexico Water Quality Control Comm'n, 105 N.M. 708, 736 P.2d 986 (Ct. App. 1986):

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Order No. R-14300-A
Page 2

These conditions involve consideration of whether there has been a showing of: (1) a likelihood that applicant will prevail on the merits of the appeal; (2) a showing of irreparable harm to applicant unless the stay is granted; (3) evidence that no substantial harm will result to other interested persons; and (4) a showing that no harm will ensue to the public interest.
105 N.M. at 710.

6. The Commission's Rules provide that the Director may grant a stay "if the stay is necessary to prevent waste, protect correlative rights, protect public health or the environment or prevent gross negative consequences to an affected party." 19.15.4.23(B) NMAC.

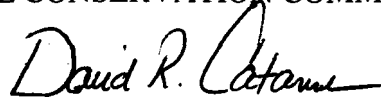
7. The Commission finds that the Motion has not provided a showing that the continued disposal through the well will not cause waste of oil and gas as determined in the Division Order. The Motion does not show that no substantial harm will result to other interested persons or to the public interest. Therefore, the Motion fails to meet the standards in the Tenneco test and in the Commission rule.

THEREFORE, the Motion to Stay Order No. R-14300 is hereby denied.

DONE at Santa Fe, New Mexico on this 7th day of April, 2017.

SEAL

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



DAVID R. CATANACH, Chair

EXHIBIT B

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED
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CASE NOS. 23448-23455

APPLICATIONS OF CIMAREX ENERGY CO.
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APPLICATIONS OF READ & STEVENS, INC.
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SPECIAL WOLFBONE POOL IN
SECTIONS 4, 5, 8 AND 9, TOWNSHIP 20
SOUTH, RANGE 34 EAST, NMPM, LEA
COUNTY, NEW MEXICO.

CASE NO. 24528

APPLICATION OF CIMAREX ENERGY CO.
FOR THE CREATION OF A SPECIAL POOL, A
WOLFBONE POOL, PURSUANT TO ORDER NO.
R-23089 AND TO REOPEN CASE NOS. 23448 –
23455, 23594 – 23601, AND 23508 – 23523, LEA
COUNTY, NEW MEXICO.

CASE NO. 24541
ORDER NO. R-23089
ORDER NO. R-23089-A

OCC CASE NO. 25371

SELF-AFFIRMED STATEMENT OF TRAVIS MACHA

1. My name is Travis Macha. I work for Permian Resources Operating, LLC (“Permian Resources”) as New Mexico Land Lead. Read & Stevens, Inc. (“Read & Stevens”) was the applicant in these cases. It is a subsidiary of Permian Resources.

2. I have previously testified before the New Mexico Oil Conservation Division (“Division”) as an expert witness in petroleum land matters. My credentials as a petroleum landman have been accepted by the Division and made a matter of record.

3. I am familiar with the applications filed by Read & Stevens and Cimarex Energy Co. (now “Coterra”) in these cases, and I am familiar with the status of the lands in the subject area. I am also familiar with Coterra’s Motion to Stay Division Order No. R-23089-A.

4. For the reasons outlined in my statement below, I believe Coterra is unable to establish the factual basis necessary to support the issuance of a stay. Its motion should be denied.

BACKGROUND

5. Read & Stevens, Inc. (“Read & Stevens”) is the applicant in these cases and is a wholly owned subsidiary of Permian Resources (collectively referred to as “Permian Resources”).

6. Under Order No. R-23089-A, the Division awarded Permian Resources an order pooling all uncommitted mineral owners in each of its spacing units within Sections 4-5 and 8-9, within Township 20 South, Range 34 East, NMPM, Lea County, New Mexico (the “Subject Acreage”). *See* Order No. R-23089-A, ¶¶ 3, 57.

7. At the Division hearing, one set of compulsory pooling applications was filed by Cimarex under Case Nos. 23448-23455 and 23594-23601. Permian Resources filed a second set of competing compulsory pooling applications targeting the same acreage under Case Nos. 23508-23523.

8. Cimarex's applications proposed drilling four wells per section with all eight wells being distributed solely within the Lower Bone Spring formation intervals within the Subject Acreage with no wells drilled or completed in the Upper Wolfcamp. Permian Resources' applications proposed drilling eight wells per section distributed between the Lower Bone Spring formation and the Upper Wolfcamp formation intervals within the Subject Acreage in a vertically stacked "wine rack" pattern.

9. The Division subsequently created a special Wolfbone Pool within the Subject Acreage that includes the lower Bone Spring and Upper Wolfcamp intervals. *See* Order No. R-23751.

10. The Wolfbone oil pool within the Subject Acreage incorporates a depth severance created by ownership instruments that is located at the division between the base of the Bone Spring formation and the top of the Wolfcamp formation. *See* Cimarex's Closing Statement with Findings of Fact and Conclusions of Law ("Cimarex's Findings") in Case Nos. 23448-23455 and 23594-23601, ¶¶ 27-28;¹ Permian Resources' Proposed Findings and Conclusions ("Permian's Findings") in Case Nos. 23508-23523, ¶¶ 6-11.²

11. The ownership depth severance is found at the stratigraphic equivalent of approximately 10,876 feet, measured depth, as found in the five-inch Dual Lateral Micro Log SFL in the Matador 5 Federal #1 well (API No. 30-025-31056).

¹

https://ocdimage.emnrd.nm.gov/Imaging/FileStore/santafe/cf/20230922/23448_09_22_2023_10_42_33.pdf.

²

https://ocdimage.emnrd.nm.gov/Imaging/FileStore/santafe/cf/20230922/23448_09_22_2023_10_05_46.pdf.

12. Within the Subject Acreage, the Third Bone Spring Sand and Wolfcamp XY/A intervals are not separated by a frac baffle or natural barrier and, therefore, constitute a common source of supply or common reservoir within the Subject Acreage. *See* Cimarex Case Nos. 23594-23601, Tab 3, ¶ 21; *see also id.* Cimarex Ex. B-21.

13. Within the Subject Acreage, the Wolfcamp shale within Wolfcamp A is the primary source rock that contributes oil to the Third Bone Spring Sand/Wolfcamp XY/A common reservoir within the Subject Area. *See* Case Nos. 23448-23455 and 23594-23601, Hrg. Tr. Vol. 2, 81:1-4,³ dated 8/10/23; *id.* 197:12-20, 199:15-200:7.

COTERRA'S PROPOSED DEVELOPMENT

14. Coterra's proposed wells target only the Third Bone Spring Sand interval but, by design, would also partially drain the Wolfcamp XY/A interval within the Woolfbone Pool. *See* Cimarex's Findings in Case Nos. 23448-23455 and 23594-23601, ¶ 23. As a consequence, Wolfcamp owners under Coterra's plan would not be allocated production in accordance with their ownership percentages in the Wolfcamp (Permian Resources' Findings in Case Nos. 23508-23523, ¶¶ 12, 44, 46) or would be apportioned only approximately 27.2% of the production. *Id.* ¶¶ 47-48; *see also* Cimarex's Findings in Case Nos. 23448-23455 and 23594-23601, ¶ 23; Cimarex Application in Case No. 24541, ¶ 20.

15. Coterra's proposed development would violate the requirement of the Oil and Gas Act to allocate production under compulsory pooling orders among owners "to the respective tracts within the unit in the proportion that the number of surface acres

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https://ocdimage.emnrd.nm.gov/Imaging/FileStore/santafeadmin/cf/20230828/23448_08_28_2023_08_10_15.pdf.

included within each tract bears to the number of surface acres included in the entire unit.” NMSA 1978 § 70-2-17(C). In addition, and as explained in more detail in Permian Resources’ geology and reservoir engineering testimony in the underlying Division cases and in Carlos Sonka’s self-affirmed statement, Permian Resources disputes the technical justification for Coterra’s proposed allocation.

PERMIAN RESOURCES’ PROPOSED DEVELOPMENT

16. In contrast, Permian Resources’ proposed wells will allow for the simultaneous co-development of the Third Bone Spring Sand interval and Wolfcamp XY/A intervals within the Wolfbone pool. That is expected to stimulate production of incremental reserves substantially beyond what would be produced by targeting the Third Bone Spring Sand interval by itself, as Coterra proposes, thereby preventing waste. After weighing the evidence and testimony, the Division agreed. *See* Order No. R-23089-A, ¶ 44.

17. In addition, Permian Resources’ development also meets the requirements of the Oil and Gas Act—to protect correlative rights, prevent waste, and allocate production and costs under the terms of a compulsory pooling order on an acreage basis—as outlined in Order No. R-23089-A.

18. Permian Resources’ proposal complies with the Oil and Gas Act mandate to allocate production under compulsory pooling orders among owners on a surface acreage basis, NMSA 1978 § 70-2-17(C). Complying with this provision ensures that the correlative rights of owners in the Bone Spring and Wolfcamp formations are protected. And maximizing production by co-developing the Third Bone Spring with the Wolfcamp XY/A will prevent waste compared to Coterra’s plan.

COTERRA'S PLAN VIOLATES THE OIL & GAS ACT AND CORRELATIVE RIGHTS

19. The ownership difference between the Bone Spring and Wolfcamp intervals means that Coterra's proposal cannot be approved under the Commission's statutory or regulatory framework because it would impair Wolfcamp owners' correlative rights and contravenes the Oil and Gas Act and the Commission's regulations.

20. Coterra targets the Third Bone Spring interval but, by design, would also partially drain the Wolfcamp XY/A within the special pool. *See* Coterra's Findings in Case Nos. 23448-23455 and 23594-23601, ¶ 23. The Oil and Gas Act, however, requires allocation of production and costs under compulsory pooling orders among owners "to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit." NMSA 1978 § 70-2-17(C). Because of the ownership depth severance, which makes mineral ownership across the entire special Wolfbone oil pool non-uniform, it is impossible under Coterra's plan to allocate production and costs across all owners in the proposed special pool on an "acreage basis" as required by statute.

21. That allocation problem is not an issue under Permian Resources' plan because Permian Resources proposes to drill and complete wells on both sides of the ownership depth severance and separately dedicate spacing units to each side of the depth severance. This approach maintains uniform ownership within each spacing unit thereby allowing allocation to be on an "acreage basis," as required. That has been the only solution to ownership depth severances within a single pool that has been recognized by the Division in horizontal well compulsory pooling proceedings because that is the only way to comply with the statutory mandate.

22. Coterra's approach therefore has two fatal infirmities. First, it violates the mandate of the Oil and Gas Act and will impair correlative rights because it does not allocate on an acreage basis. Second, it will result in substantial waste by failing to effectively and efficiently drain the Wolfcamp XY/A interval.

WORKING INTEREST CONTROL NOW FAVORS PERMIAN RESOURCES

23. In addition to the foregoing factors, which weigh heavily against granting Coterra's requested stay, a clear majority of the working interest owners now support Permian Resources' development plan over Coterra's plan.

24. Before the Division issued Order No. R-23089-A, Permian Resources had approximately 36.75% ownership interest and working interest support through commitments to a joint operating agreement in the Bone Spring and 44.42% in the Wolfcamp. Following issuance of Order No. R-23089-A, several working interest owners have switched support from Coterra to Permian Resources. *See, e.g., Exhibit B-1*. Permian Resources now has approximately 57.87% ownership interest and working interest support through commitments to a joint operating agreement in the Bone Spring and 64.6% in the Wolfcamp. In comparison, Coterra has an ownership interest of 29.12% in the Bone Spring and 21.63% in the Wolfcamp and no active support from any owner.

25. Permian Resources also expects to obtain additional interest support in the Wolfcamp in the coming weeks or months through additional commitments to a joint operating agreement or commitment letters supporting their development over Coterra.

26. Even without this expected additional support, Permian Resources currently has more than 28% greater working interest control in the Bone Spring and more than 42% greater working interest control in the Wolfcamp than Coterra. While the difference in working interest

control at the time Order No. R-23089-A was deemed to be not significant—between approximately 2% and 16%—the difference in working interest control is now substantial (greater than a 25% interest difference). *See* Order No. R-23089-A, ¶ 37.

27. It is worth highlighting that the only two interest owners that previously supported Coterra's plan that also own a larger interest in the Bone Spring formation than the Wolfcamp formation (Similar to Coterra itself), now support Permian Resources' development plan and have committed to its development through a joint operating agreement.

28. Lastly, not counting Permian Resources itself, 8 of the 16 owners (50%) that are subject to a depth severance have issued support favoring Permian Resources' development plan. No third party supports Coterra's plan.

CONCLUSION

29. Permian Resources' development will prevent waste and protect correlative rights. It will result in greater production from both the Bone Spring and Wolfcamp intervals. And a substantial percentage of working interest owners on both sides of the depth severance within the Wolfbone Pool in the Subject Acreage now clearly support Permian Resources' development over Coterra's plan.

30. I affirm under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct. I understand that this self-affirmed statement will be used as written testimony in these cases. This statement is made on the date next to my signature below.



Travis Macha

5/21/2025

Date

EXHIBIT B-1

JAVELINA PARTNERS & ZORRO PARTNERS LTD

6 16 TEXAS STREET
FORTWORTH, TX 76102
(817) 336-7109

May 15, 2025

New Mexico Oil Conservation Division
1220 South St Francis Drive
Santa Fe, NM 87505

Re:

**Application of Read & Stevens, Inc.
for Compulsory Pooling, Lea County,
New Mexico**

Case Nos. 23508 - 23523

**Application of Read & Stevens, Inc.
for the Creation of a Special Wolfbone
Pool in Sections 4, 5, 8 and 9, Township
20 South Range 34 East, NMPM, Lea
County, New Mexico**

Case No. 24528

Case No. 24541

**OCC Case No. 25371
Order No. R-23089
Order No. R-23089-A**

Ladies and Gentlemen,

Javelina Partners and Zorro Partners LTD ('Javelina and Zorro') own leasehold rights in lands subject to the referenced Cases and Orders covering all of sections 4, 5, 8 & 9 of Township 20 South Range 34 East, Lea County, New Mexico ('the Acreage'), such rights being a portion of the approximately 120,000 gross acres Javelina and Zorro own rights under in Eddy County and Lea County.

Since January 2020, Javelina and Zorro have participated as working interest owners in the drilling and completion of over 200 horizontal Bone Spring and Wolfcamp wells in Eddy County and Lea County, with nine different operators.

Javelina's and Zorro's total working interest in the proposed Bone Spring and Wolfcamp wells subject to Oil Conservation Commission ("OCC") Division Order R-23089-A varies from approximately 13% to 22%.

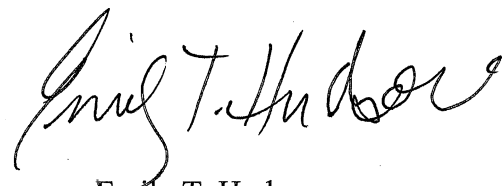
Coterra Energy Operating Co. (Coterra), formerly named Cimarex Energy Co. (Cimarex), has filed a Motion to Stay OCC Division Order R-23089-A.

Despite having supported Coterra previously, after careful consideration, Javelina and Zorro agree with the OCC that Division Order R-23089-A, with Read & Stevens, Inc., a wholly owned subsidiary of Permian Resources Operating, LLC ("Permian") operating, represents the best path forward for the development of the Bone Spring and Wolfcamp Formations on the Acreage.

We respectfully request that the OCC deny Cimarex's Motion to Stay OCC Division Order R-23089-A.

Sincerely,

— — —
E. Randall Hudson III
Javelina Partners
Managing Partner



Emily T. Hudson
Zorro Partners LTD
Managing Partner

MOORE & SHELTON COMPANY, LIMITED

P.OBOX3070
GALVESTON, TEXAS 77552
moresheltonco@gmail.com

May 14, 2025

To Whom it May Concern,

Moore & Shelton ("M&S") is a present working interest owner in sections 4, 5, 8 & 9 of Township 20 South, Range 34 East, Lea County, NM (the "Subject Lands"). Whereas M&S had patiently observed the contested hearing between Cimarex Energy Co. ("Cimarex") and Read & Stevens, Inc., a wholly owned subsidiary of Permian Resources Operating, LLC ("Permian") which took place in August 2023 and resulted in the Oil Conservation Division (the "OCD") issuing order R-23089-A on April 1, 2025 (the "Order").

The purpose of this letter is to provide a statement of support for Permian as the operator of the Subject Lands. In light of Cimarex's request for de novo and their motion for a stay of the Order, M&S is hereby opposing Cimarex's actions. M&S considers the OCD's interpretation and issuance of the Order as the correct decision and development plan for the respective Bone Spring and Wolfcamp formations to best protect correlative rights and prevent waste.

M&S respectfully requests the OCD accept this letter and take in consideration in its decisions moving forward.

Thank you,

Kathy Moore Pattillo

General Partner for Moore & Shelton Company, Ltd.

EXHIBIT C

**IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION FOR
THE PURPOSE OF CONSIDERING:**

**APPLICATIONS OF CIMAREX ENERGY CO.
FOR A HORIZONTAL SPACING UNIT
AND COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

CASE NOS. 23448-23455

**APPLICATIONS OF CIMAREX ENERGY CO.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

CASE NOS. 23594-23601

**APPLICATIONS OF READ & STEVENS, INC.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.**

CASE NOS. 23508-23523

**APPLICATION OF READ & STEVENS,
INC. FOR THE CREATION OF A
SPECIAL WOLFBONE POOL IN
SECTIONS 4, 5, 8 AND 9, TOWNSHIP 20
SOUTH, RANGE 34 EAST, NMPM, LEA
COUNTY, NEW MEXICO.**

CASE NO. 24528

**APPLICATION OF CIMAREX ENERGY CO.
FOR THE CREATION OF A SPECIAL POOL, A
WOLFBONE POOL, PURSUANT TO ORDER NO.
R-23089 AND TO REOPEN CASE NOS. 23448 -
23455, 23594 - 23601, AND 23508 - 23523, LEA
COUNTY, NEW MEXICO.**

**CASE NO. 24541
ORDER NO. R-23089
ORDER NO. R-23089-A**

OCC CASE NO. 25371

SELF-AFFIRMED STATEMENT OF CARLOS SONKA

1. My name is Carlos Sonka. I work for Permian Resources Operating, LLC ("Permian") as its New Mexico reservoir engineering manager. Read & Stevens, Inc. ("Read & Stevens") is the applicant in these cases. It is a subsidiary of Permian Resources.

2. I have previously testified before the New Mexico Oil Conservation Division ("Division") as an expert witness in reservoir engineering matters.

3. I am familiar with the applications filed by Read & Stevens, Inc. ("Read & Stevens") and Cimarex Energy Co. (now "Coterra") in these cases, and I have conducted an engineering study of the lands in the subject area.

4. I am also familiar with Coterra's Motion to Stay Division Order No. R-23089-A.

5. For the reasons outlined in my statement below, I believe Coterra is unable to establish the factual basis necessary to support the issuance of a stay. Its motion should be denied.

COTERRA'S MISREPRESENTATIONS ABOUT PERMIAN RESOURCES' DEVELOPMENT AND COTERRA'S ALLOCATION FORMULA

6. In its Motion, Coterra makes numerous misstatements regarding Permian Resources' development plan and Coterra's proposal to allocate production between the Bone Spring and Wolfcamp owners. Two are noteworthy.

7. The first misstatement is that Permian Resources' plan was "premised on the erroneous assumption that the formations were geologically distinct and constituted two separate pools[.]" See Mot. at 12,

8. Whether the targeted zone is one pool or two pools, the geologic targets are thick enough to require a vertically staggered and stacked "wine-rack" pattern to effectively and efficiently drain them. See Permian Resources Closing Argument at p. 4, Case Nos. 23508-23523. Given the thickness of the targets, co-development is necessary to increase the stimulated rock

volume and the complexity of the fracture network, leading to production of increased reserves. *See* Permian Resources, Finding of Fact 64 ("FOF") Case Nos. 23508-23523.

9. Permian Resources, therefore, did not plan its development on the premise that there were two separate Division-designated pools-the Bone Spring and Wolfcamp. It designed a co-development plan across two productive benches to avoid parent-child depletion effects, increase the stimulated rock volume, and maximize ultimate recovery in both targets. *See id.* FOF 59, 68.

10. The fact that an ownership depth severance happens to bifurcate the productive benches Permian Resource targets in this acreage is pure happenstance. As outlined above, and explained throughout Permian Resources' testimony in the related Competing Pooling Cases, Permian Resources proposes to simultaneously co-develop the Third Bone Spring and Wolfcamp XY/A intervals together as the best way to most effectively and efficiently drain them without waste. It just so happens that fully developing the benches on both sides of the ownership depth severance is also necessary to comply with the statutory mandate and fully protect correlative rights. *See* Permian Resources Closing Argument at p. 4, Case Nos. 23508-23523.

11. The second misstatement goes to Coterra's claim that its proposed allocation formula will "protect correlative rights by ensuring equitable distribution of hydrocarbons between formation owners." *See* Mot. at 13. Coterra contends its proposed PhiHt formula "equitably distributes production" and by "ensuring that each owner receives their 'just and equitable' share of production(.)" *Id.* at 14 (referring to its "geologic analysis" that is based on PhiHt).

12. In fact, using PhiHt for the purpose of allocating production is anything but "equitable." PhiHt is not actually a direct measurement of reserves and is not a direct measurement of production; it is a measurement of total storage in the subsurface. PhiHt

says nothing about what is actually stored in the pore space and nothing about what is being produced. PhiHt is not correlated with production in the Third Bone Spring in this acreage. PhiHt is not accurate enough, therefore, to fairly or equitably allocate production in a way that is protective of correlative rights.

13. **Exhibit C-1** is a simple scatter plot with an R-squared regression curve confirming how poorly suited PhiHt is in this area for that purpose. In some wells with a relatively low PhiHt in the Third Bone Spring, cumulative production is high-among the highest in the study area. In other wells with the largest measured PhiHt, production is among the lowest. The R-squared values displayed indicate that 0% of the variability in 12-month oil production and 10% of the variability in 12-month total fluid production is explained by variability in PhiHt.

14. That means Coterra's assumption that a strict allocation based on a simple ratio of PhiHt between the Bone Spring and Wolfcamp intervals within the proposed Wolfbone pool will accurately, and equitably, allocate production between them is terribly flawed. The factors influencing production are numerous and the vast majority of them are not accounted for in a PhiHt calculation.

PERMIAN RESOURCES' OFFSETTING PRODUCTION CONFIRMS CO-DEVELOPMENT WILL RESULT IN HIGHER PRODUCTION FOR BOTH BONE SPRING AND WOLFCAMP TARGETS

15. Permian Resources' offsetting Batman project is where Permian Resources appraised the co-development of the Third Bone Spring Sand ("TBSG") interval with the Wolfcamp XY/A ("WFMP"). In **Exhibit C-2**, we see just how crucial co-development of the two formations is. The top left chart shows cumulative oil production for each of the individual Batman wells and is colored by formation and development approach where the co-developed TBSG wells are represented in orange and the associated codeveloped WFMP is in green, and the non-co-

developed TBSG wells are depicted in brown. The chart on the right side of the exhibit shows the total cumulative oil production for each of the two appraised developments with co-development of the TBSG and WFMP in blue and the TBSG only wells in red. The tables underlying the graphs contain the cumulative oil produced and 100% WI net cashflows to date. The co-development of the TBSG and WFMP has yielded materially increased production, reserves, and economics that will benefit owners on both sides of the ownership depth severance relative to Coterra's proposal.

16. **Exhibit C-3** serves to further emphasize this point. The Batman project provides real-world results on which to vet the impact of co-developing the TBSG with the WFMP without a PhiHt allocation formula vs. developing the TBSG only with Coterra's proposed allocation methodology. The center of the exhibit contains the Batman gun barrel diagram and is the same configuration and coloring scheme as is represented on the previous slide. Overlaid on the gun barrel diagram are two dashed box outlines, one surrounding the co-developed TBSG/WFMP Batman 131H, 132H and 201 H on the left, and the other surrounding the TBSG-only Batman 133H and 134H on the right. The tables and commentary below the respective boxed outlines represent these associated development configurations. The tables represent the same data represented in Exhibit D-2 but the data has been grouped by development approach and associated allocation methodology.

17. For the TBSG/WFMP co-development represented by the Batman 131H, Batman 201 H, and Batman 132H, owners in the TBSG receive the production and revenue from the Batman 131H and Batman 132H, and owners in the WFMP receive the production and revenue from the Batman 201H, under Permian Resources' approach, summarized in the table on the left.

18. The right side of the exhibit represents the approach to development and allocation that Coterra is proposing. The Batman 133H and the Batman 134H were developed as TBSG only

at an equivalent spacing of 4 wells per section. The table represents the production and operating metrics from the actual Batman133H and Batman 134H; however, the production and revenue for these wells has been allocated based on Coterra's proposed arbitrary PhiHt methodology such that 72.8% is allocated to the owners in the TBSG and 27.2% is allocated to the WFMP owners. See Mot. at ¶ 13. Owners in both the TBSG and the WFMP suffer from Coterra's TBSG-only development and their proposed methodology for allocating production to both TBSG and WFMP owners.

19. Coterra's proposed method for allocating production between formations is problematic for numerous reasons, but ultimately no method of allocating production across a depth severance can avoid harming at least one set of owners when the proposed development itself is flawed as Coterra's is. The WFMP A cannot be sufficiently produced by developing the TBSG at the exclusion of the WFMP A. This is seen clearly in the Batman results and is affirmed by Coterra's own testimony.

20. Coterra's geology expert witness testified that when developing the TBSG "there will be incidental drainage from the upper WFMP. I don't think the Bone Spring wells will drain the Wolfcamp A1 shale." See Case Nos. 23508-23523, Hrg. Tr. Vol. 1, 177:4-9 (emphasis added). She further highlighted that Coterra may eventually return to develop the resource left behind in the WFMP A, stating that "[i]f we were to come back later on and develop the WFMP A shale, then we would land probably 250 feet-ish below our Third Sand landing to make sure that those wells have minimal interaction between each other." *Id.*, Tr. 206:14-18 (emphasis added). The WFMP A shale and a target 250 feet below Coterra's proposed TBSG wells are firmly in the new Wolfbone pool. Coterra's testimony makes clear that the proposed pool cannot be sufficiently produced from wells landed in the TBSG.

21. **Exhibit C-4** provides a comparison between Permian Resources' Batman results and the single well Coterra has developed in the area in more than five years. The map on the left side of the exhibit depicts the subject acreage in a red box, Permian Resources' offset co-developed Batman TBSG wells in orange, Permian Resources' Batman WFMP appraisal in green, Permian Resources' non-codeveloped Batman TBSG wells in brown, and Coterra's Mescalero Ridge 21-28 Federal Com 002H TBSG in blue. Coterra developed the Mescalero Ridge as a single TBSG well in early 2023. Despite targeting the TBSG at the exclusion of the WFMP, as Coterra erroneously contends is the only appropriate way to develop the proposed pool, Coterra's TBSG only Mescalero Ridge 002H materially underperforms Permian Resource's TBSG and WFMP results in the Batman unit further supporting the conclusion that maximizing value and preventing waste requires co-developing the TBSG and WFMP.

CONCLUSION

22. Coterra's proposed allocation using PhiHt is not a fair or equitable methodology to allocate production because it is demonstrated to be an unreliable predictor of actual production.

23. In my opinion Permian Resources' plan to co-develop horizontal laterals across the Bone Spring and Wolfcamp formations using a stacked and staggered "wine-rack" spacing pattern with simultaneous completions-and in particular, co-developing the Third Bone Spring and Wolfcamp A together-is in the best interests of conservation, the prevention of waste, and protection of correlative rights.

24. Coterra has not shown-and cannot show-that either Order No. R-25371 or Permian Resources' development plan will cause waste, impair correlative rights, or result in immediate irreparable harm. The Division should, therefore, deny Coterra's Motion.

25. **Exhibits C-1 through C-4** were either prepared by me or compiled under my direction and supervision.

26. I affirm under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct. I understand that this self-affirmed statement will be used as written testimony in these cases. This statement is made on the date next to my signature below.

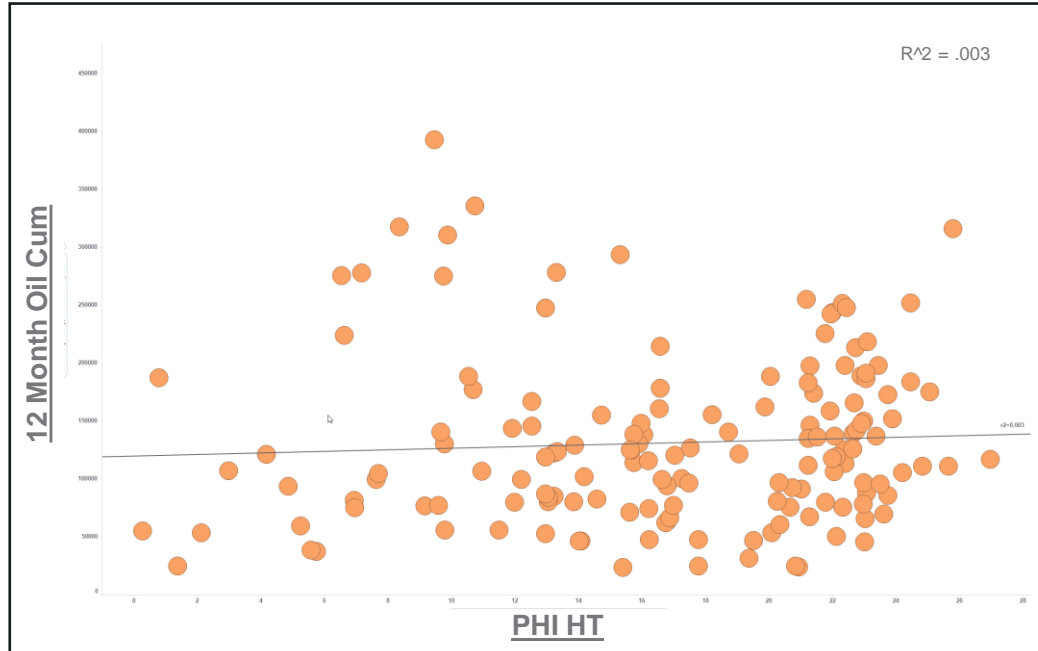

David Carlos Sonka

5/21/2025



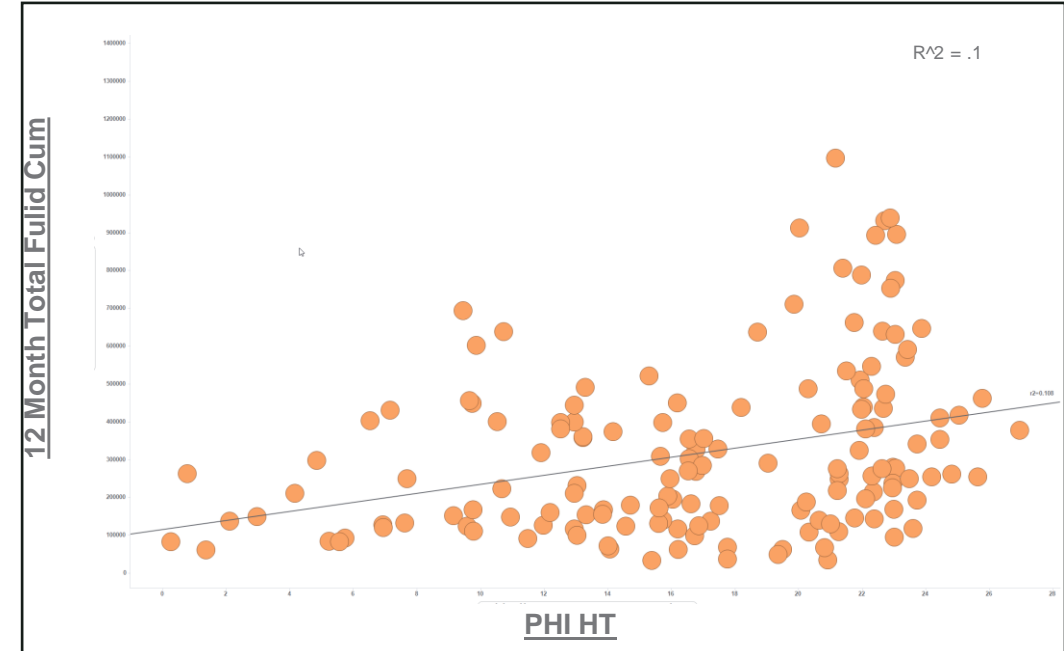
PhiHt is not an appropriate tool for determining oil allocation

12 Month Oil Cum vs PhiHt



- No correlation between oil production and PhiHt in the Third Bone Spring Sand
- This is due to the fact the Sw is variable and PhiHt is a measure of the total storage space in a rock, not what is in the storage space

12 Month Total Fluid Cum vs PhiHt



- PhiHt vs Total Fluid has a stronger correlation than oil alone
- Correlation of these attributes is still poor due to other variables like frac size, frac vintage, flowback methodology, etc...
- Because of this, PR does not believe PhiHt is an appropriate tool for determining oil allocation

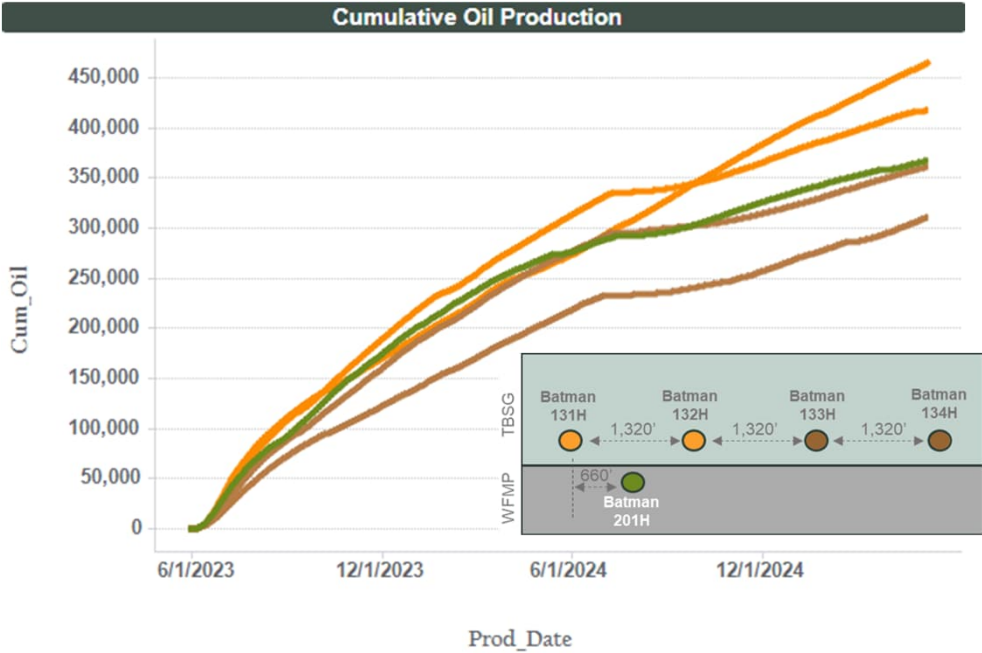
EXHIBIT C-2



Updated Batman Results

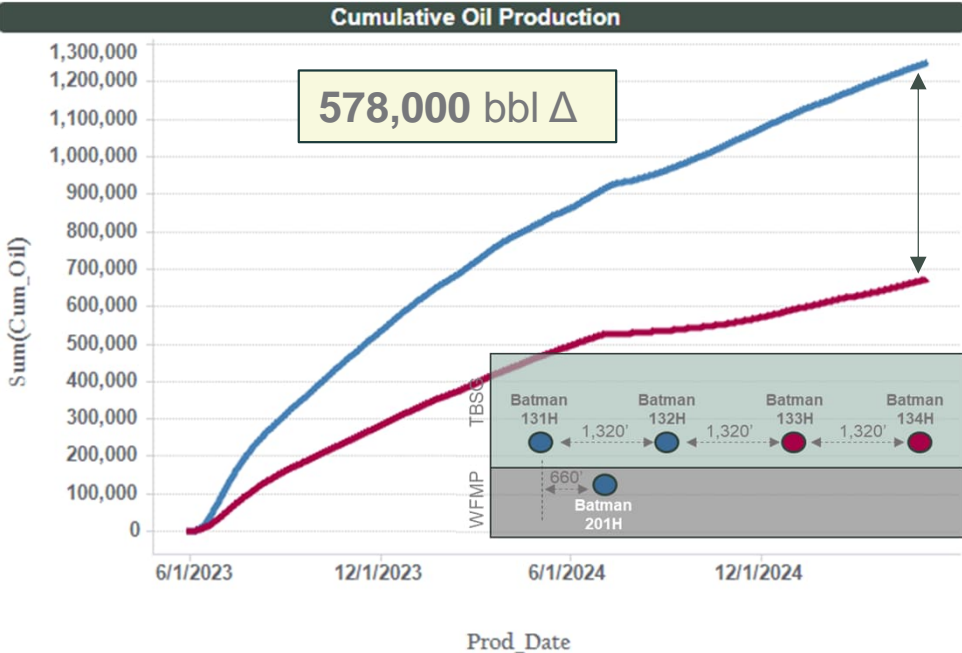
Co-Developed TBSG/WFMP_A Materially Outperforming Single-bench TBSG

Well Performance By Formation



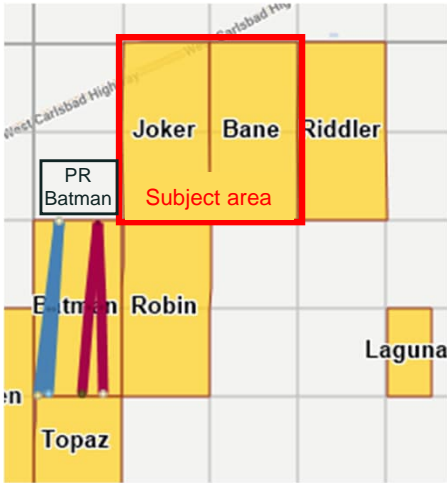
Well	Formation	Cumulative Oil to Date, bbls ¹	Cumulative Cashflow ²	Cumulative Production Taxes ²
Batman Fed Com 131H	TBSG	465,341	\$ 14,584,144	\$ 2,525,360
Batman Fed Com 201H	WFMP	367,984	\$ 8,528,622	\$ 2,044,941
Batman Fed Com 132H	TBSG	418,018	\$ 12,188,672*	\$ 2,385,790
Batman Fed Com 133H	TBSG	361,895	\$ 7,574,177	\$ 1,948,532
Batman Fed Com 134H	TBSG	311,468	\$ 4,113,910	\$ 1,635,259

Well Performance By Appraised Development



Project	Well Count	Cumulative Oil to Date, bbls ¹	Cumulative Cashflow ²	Cumulative Production Taxes ²
Batman Co-development	3	1,251,343	\$ 35,301,438*	\$ 6,956,091
Batman TBSG only	2	673,363	\$ 11,688,087	\$ 3,583,792
Co-development uplift	1	577,980	\$ 23,613,351	\$ 3,372,299

Map



Commentary

- Co-development of WFMP creates incremental reserves
 - WFMP well producing similar quantities as TBSG without reducing TBSG production

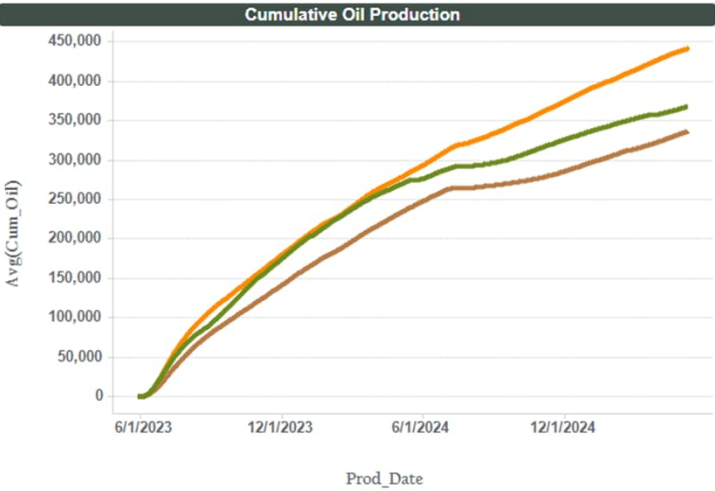
*Excludes capital related to pilot hole to better represent development cashflows
1 – Thru May 9th, 2025
2 – Thru April 1st, 2025, Grossed up to 100% WI

EXHIBIT C-3



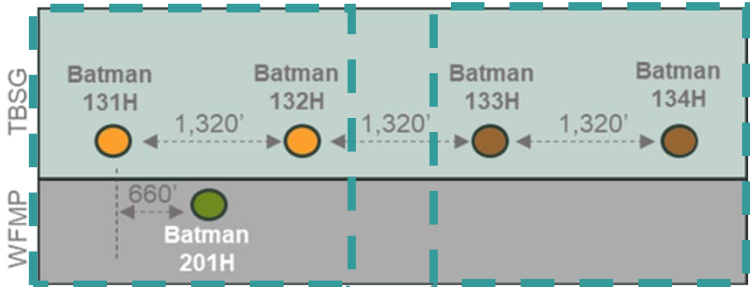
Batman Results by Allocation Method

Owners in Both Formations Harmed by Coterra’s Proposed Allocation Method



- PR’s Batman project provides a real-world example of how much damage and waste Coterra’s development plan and proposed allocation formula could cause

- Permian Resources
- Formations developed discretely
 - No novel allocation method



- Coterra
- TBSG only
 - Allocated by PhiHt (72.8% TBSG)

Perspective	Cumulative Oil to Date, bbls ¹	Cumulative Cashflow ²
TBSG Owners	883,359	\$ 26,772,816*
WFMP Owners	367,984	\$ 8,528,622

Production and revenue “allocated” to formation in which the well is drilled and completed

Owners in **both** formations receive **increased production and cashflow**

Perspective	Cumulative Oil to Date, bbls ¹	Cumulative Cashflow ²
TBSG Owners (72.8%)	490,208	\$ 8,508,927
WFMP Owners (27.2%)	183,154	\$ 3,179,160

Production and revenue by Coterra’s proposed PhiHt allocation method

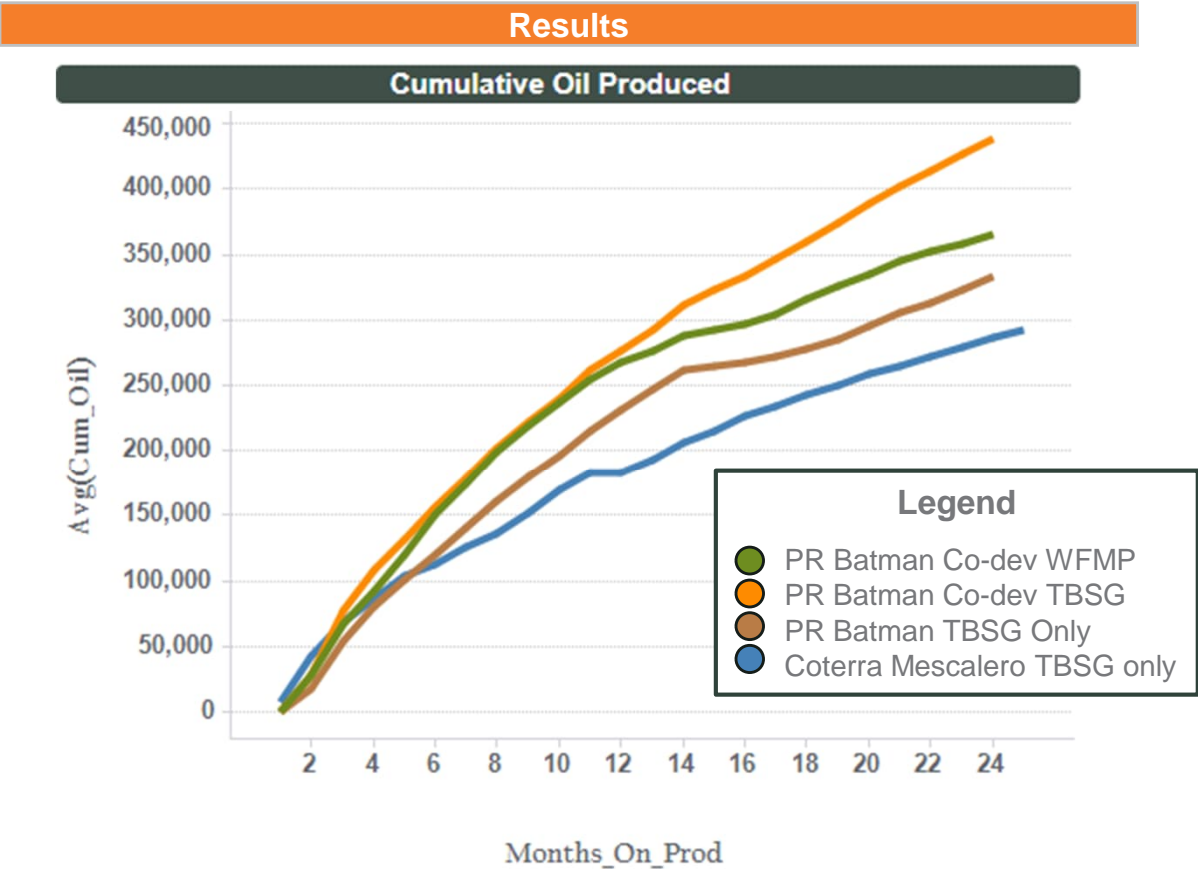
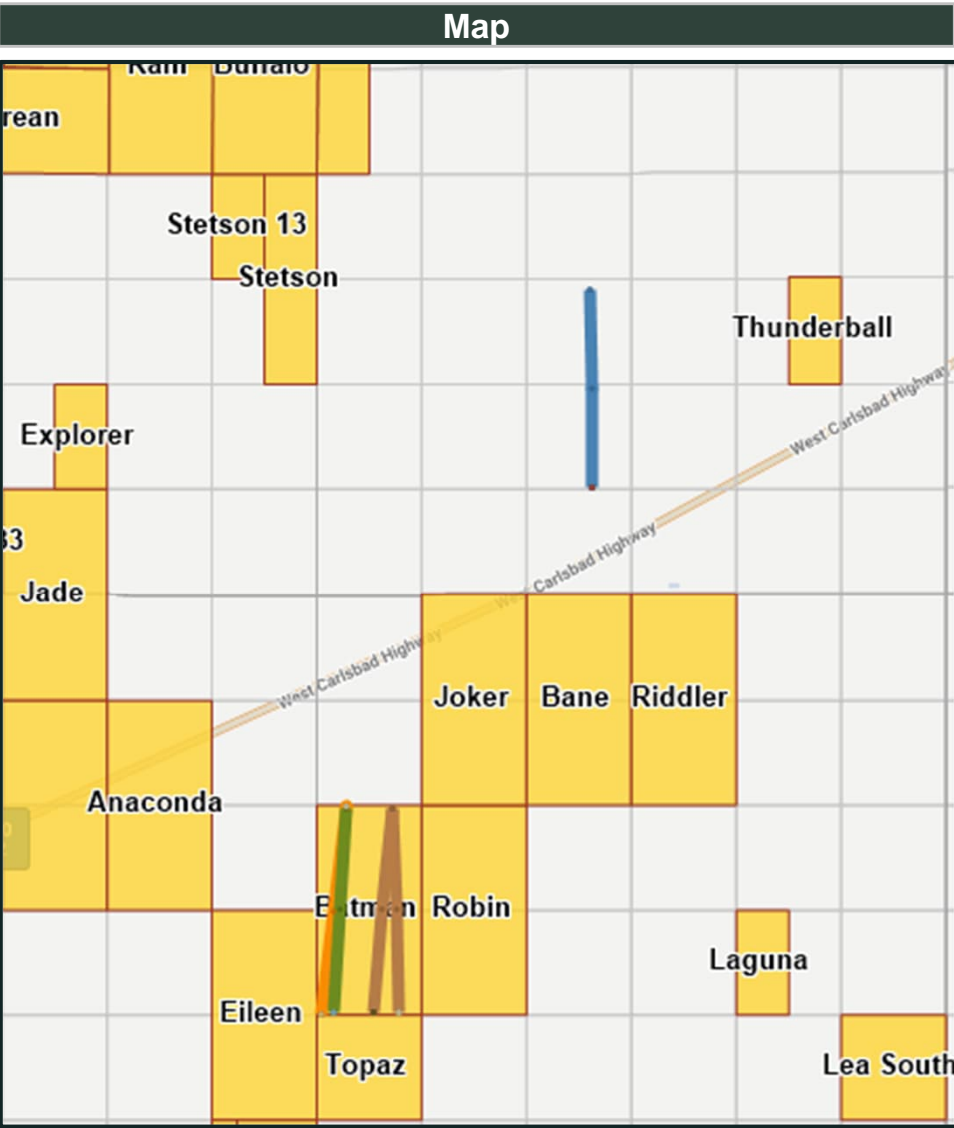
Owners in **both** formations receive **decreased production and cashflow**

*Excludes capital related to pilot hole to better represent development cashflows
1 – Thru May 9th, 2025
2 – Thru April 1st, 2025



Offset Results Update

Coterra's Lone Modern Development Underperforms



- The Mescalero Ridge 21-28 Federal Com 002H is the only well Coterra has drilled in the area in 5 years
 - It is a single TBSG only well (not co-developed with the WFMP)
- It is materially underperforming PR's Batman development