

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

**APPLICATIONS OF WPX ENERGY PERMIAN, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case Nos. 25204 & 25205

**APPLICATIONS OF 3R OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case Nos. 25123 & 25124

WPX'S CLOSING ARGUMENT

WPX Energy Permian, LLC ("WPX"), through its undersigned attorneys, hereby files its Closing Argument for the above-referenced cases that the Oil Conservation Division ("Division" or "OCD") heard on April 29-30, 2025.

In support of its case-in-chief, WPX states the following:

I. Procedural history and background:

1. On November 12, 2024, 3R Operating, LLC ("3R") sent well proposals on behalf of Ridge Runner Resources II ("RRR II")¹ for its Crystal N 33 32 Fed Com wells to working interest owners in the Wolfcamp formation underlying Sections 33 and 32, Township 23 South, Range 26 East, NMPM, Eddy County, New Mexico ("Subject Lands"). Because 3R only owned interest in the Wolfcamp formation underlying the Subject Lands, it proposed to develop only the Wolfcamp formation. In comparison, on December 4, 2024, WPX sent well proposals for its Fronter 33-32 Fed Com, proposing to develop both the Wolfcamp and Bone Spring formations underlying the Subject

¹ Three R (3R) is the designated operator for RRR II -- RRR II having only been in existence about 1.5 years, since August of 2023. *See* Tr. (April 29, 2025), 110: 5-6. The current 3R team with RRR II only operates 3 wells in the area of interest, which are in the Rena development; other wells RRR II/3R attempts to claim were drilled by other companies. *See id.*, 270: 7-12; 161: 13-15; *see also* Exhibit 3R 000065, 3R Hearing Packet, p. 66. Three R (3R) claims extensive experience in the area of interest but actually only operates three (3) wells in the Rena prospect.

Lands. Because WPX owns working interest in the Wolfcamp and Bone Spring, it is in a position to develop both the Wolfcamp and Bone Spring formations underlying the Subject Lands.

2. Thus, on February 10, 2025, WPX filed pooling applications in Case Nos. 25200 – 25203 to pool mineral owners in the Bone Spring formation underlying the Subject Lands. The applications were heard without objection by affidavit on March 13, 2025, and the Division issued pooling Order Nos. R-23798 through R-23801 on May 7, 2025, approving WPX's applications and development plan for the Bone Spring formation underlying the Subject Lands.

3. Three R (3R) filed on January 8, 2025, its applications in Case Nos. 25123-25124, for pooling the mineral owners in the Wolfcamp formation underlying the Subject Lands. WPX filed on February 10, 2025, applications in Case Nos. 25204-25205 that competed against 3R's applications for operation of the Wolfcamp formation.

4. On April 29-30, 2025, the competing applications were heard by the Division. Also, on April 30, 2025, the Bureau of Land Management ("BLM") issued a notification that the BLM approved the suspension of Federal Lease NMNM 134858, so the lease will no longer expire on September 30, 2025/October 1, 2025, but its term will be extended to allow whoever is awarded operatorship sufficient additional time to obtain APDs from the BLM and develop the Subject Lands without concern over the loss of the lease.

II. Based on the Division's Seven (7) Factors for Evaluating Competing Development Plans, WPX's Plan is Superior to 3R's Plan.

1. When evaluating competing development plans, the Division bases its determination of which plan best satisfies the Division's statutory obligation to ensure that proposed oil and gas operations prevent waste, protect correlative rights, and the avoid of the costs and risks associated with drilling unnecessary wells through the application of the following seven (7) factors, as described in OCD Orders such as No. R-21834, among others.

- a. A comparison of geological evidence presented by each party as it relates to the proposed well location and the potential of each proposed prospect to efficiently recover the oil and gas reserves underlying the property.**

6. In 2018, WPX was at the forefront (prior to other parties) of testing the geology of the Subject Lands, which represent “the western extent of the basin,” that being, the “more peripheral areas of the basin.” *See* Transcript (“Tr.”) (April 29, 2025), 265: 20-24; 266: 1-2 (WPX’s geologist explaining the purpose and reason for the Frontier 431H² one mile well as an early test well in the area). The Fronter 431H well, which 3R describes as an underperforming well, was an early test well, drilled as a one mile well to limit the risks and costs of the test. *See id.* In contrast, 3R, who has drilled only nine (9) wells in New Mexico, did not consider the Subject Lands as an area of interest until November 2023, when it began discussing the lands with WPX/Devon, and did not acquire interest in the Subject Lands until November 2024. *See* 3R Exhibit 000097, p. 99; *see also* Tr. (April 29, 2025), 110: 20-23 (Exhibit 3R 000054 claiming its team has drilled 111 wells in New Mexico, but under cross, 3R’s Engineer acknowledging 3R had only drilled 9 wells in New Mexico).

7. It was WPX’s early investment in the 431H test well that provided WPX with data and a better understanding of how to develop the Subject Lands. *See* Tr. (April 29, 2025), 266: 2-7 (WPX’s Geologist explaining that WPX was being efficient in drilling the 431H well, as a one mile well, in its an effort to learn “from a good test.”). Based on its early experience and operating more wells than 3R in its type curve area, WPX will be targeting and fully developing the Wolfcamp XY as its main landing zone. *See id.* at 266: 22-24.

8. WPX views the XY as “the more prolific zone to drill wells in,” and therefore, WPX has committed to “drilling four XY wells across” the sections. *See id.* at 267: 5-9. WPX’s commitment to four (4) wells in the XY is a major difference from 3R’s plan, which has committed

² In his testimony, WPX’s Geologist mistakenly referred to the Fronter 431H Well as the 434H Well. The correct designation of this well drilled as a test well is the Frontier 431H Well.

only to three (3) wells in the Wolfcamp XY. *See* Exhibit 3R 000045, 3R Hearing Packet, p. 46 (showing 3R's commitment to drill only the 701H, 702H, and 703H as initial wells and holding off on a fourth well in the XY). In comparison, WPX commits to drilling a fourth well in the XY near the existing 431H well, which will be the WPX's Frontier 604H well positioned to produce hydrocarbons from the void left by 3R's lack of commitment to a fourth well. *See* Tr. (April 29, 2025), 266: 8-13 (WPX's geologist explaining that WPX tried to be as prudent as possible in the location of its fourth well, the 604H, offset to the Frontier 431H well in a manner that minimizes depletion from the 431H).

9. Thus, 3R fails to maximize the development potential of the XY, considered the more prolific zone in this area of the Subject Lands. *See* Tr. (April 29, 2025), 269: 7-24 (WPX Geologist showing that the Wolfcamp XY is the more prolific and sought after zone: Inside the type curve that 3R used to show production in the area, 3R included 41 wells that WPX/Devon drilled and operated. Twenty-four of the WPX/Devon wells are Wolfcamp XY wells, while only four are Wolfcamp B wells. Furthermore, WPX's Geologist also points out that in 3R's type curve, 3R claims 24 wells that were drilled by its predecessors, of which 15 of the 24 are Wolfcamp XY-A wells and only four of the 24 are Wolfcamp B wells. The Division should note that although 3R claims that it has experience operating the 24 wells because they are wells associated with what 3R views as predecessor companies, in actuality, 3R and its team only operate three (3) of these 24 wells included in its type curve. *See id.* at 270: 7-11. Thus, despite what 3R claims it operates, WPX's XY wells on average outperform 3R's XY wells by about 135 MBO. *See* WPX Rebuttal Exhibit R-7, Hearing Packet p. 141.

10. Instead of fully developing the Wolfcamp XY, 3R is proposing four wells for the development of the Wolfcamp B. WPX/Devon has extensive experience in the nine-township range, the area 3R uses to project potential production, and consequently, has acquired "a lot of information

on the Wolfcamp B.” *See id.* at 269: 19-25; 270: 1-6. WPX/Devon does consider that there is some “prospectivity” in the Wolfcamp B. *See id.* at 267: 10-17. However, WPX’s Geologist and Reservoir Engineer both view 3R representations of the potential EUR for the Wolfcamp B as inaccurate. *See id.* WPX’s Reservoir Engineer further explains that 3R’s type curve area for the Wolfcamp B was expanded to introduce “a new fluid window” up towards the northeast “that’s more of a volatile oil area,” and therefore not applicable to recovery from the Wolfcamp B underlying the Subject Lands, which would be lower. *See id.* at 284: 18-24. Consequently, 3R overestimates the potential of the Wolfcamp B, as the history of development in this area shows that it is not sought after as a primary zone for development. *See, e.g.,* at 269: 7-24.

11. Thus, WPX is the more prudent operator by fully developing the XY with four wells, and then based on its experience with, and analysis of, the Wolfcamp B, viewing the Wolfcamp B as “a viable target to come back to.” *See id.* at 285: 21-18, *see also* WPX’s Exhibit C-3. WPX’s more prudent approach avoids drilling unnecessary wells and economic waste. *See* WPX’s Exhibit C, ¶ 10, Hearing Packet, p. 73. Furthermore, 3R’s own geologist confirms the Wolfcamp XY and the Wolfcamp B are two separate zones and sources of supply, especially since the two zones are separated by a third zone, Wolfcamp A, situated between the Wolfcamp XY and Wolfcamp B. *See* 3R Exhibit 000046, Hearing Packet, p. 47; *see also* Tr. (April 29, 2025), 71: 25 through 72: 1-7 (3R Geologist confirming that the Wolfcamp XY and B are separate zones and separate sources of supply). Therefore, the hydrocarbons in Wolfcamp XY and Wolfcamp B are preserved as separate sources of supply and not subject to negative impacts from parent/child concerns. *See* WPX Rebuttal Exhibit R-2, Hearing Packet, p. 136. Thus, it is not necessary that the two zones be drilled simultaneously, and the prudent operator would drill and produce the prolific XY zone first and then, based on data from production, evaluate the Wolfcamp B as a prospective zone in order to prevent economic waste and avoid drilling unnecessary wells. *See* Tr. (April 29, 2025), 285:11-19 (WPX’s

Reservoir Engineer's noting that the best approach would to be to return to the Wolfcamp B after developing the Wolfcamp XY, based on WPX's experience with "the Pliny Elder Wolfcamp XY wells" which were drilled in 2019 with the Wolfcamp B wells being successfully drilled and produced three years later once the economic viability of the Wolfcamp B had been determined); *see also* WPX's Exhibits C, ¶ 10, Hearing Packet, p. 73.

12. By developing the Wolfcamp XY with four wells, preserving the development of the Wolfcamp B until it can be thoroughly evaluated, and preparing the Bone Spring formation underlying the Subject Lands for development pursuant OCD Order Nos. R-23798 through R-23801, WPX is in the best position for developing the full spectrum of geological resources underlying the Subject Lands -- both the Wolfcamp and Bone Spring formations. Because of inaccuracies in 3R's inflated type curve, WPX shows that 3R can only expect approx 8.3 MMBOE from its development plan in comparison to 11.5 MMBOE from WPX's plan. *See* WPX Rebuttal Exhibit R-2, Hearing Packet, p. 136.

b. A comparison of the risk associated with the parties' respective proposal for the exploration and development of the property.

13. Granting operatorship to 3R creates substantial risk that the full potential of the Subject Lands will not be developed. Three R (3R) owns interest only in the Wolfcamp formation and owns no interest in the Bone Spring formation. *See* Tr. (April 29, 2025), 217: 13-21; 218: 22-24; 229: 11-17. Thus 3R would only develop the Wolfcamp formation underlying the Subject Lands and having proposed only three initial wells for the XY, 3R would only partially develop the most prolific part of the Wolfcamp, that being the XY. *See* Paragraph 9, *supra*. Because the XY is the most productive and economic zone, it is highly doubtful that an operator would develop the Bone Spring independently from the Wolfcamp XY because building separate infrastructure for development of the Bone Spring, without development of the XY, is uneconomical. *See, e.g.,* Tr. (April 29, 2025), 229: 18-25; 239: 1-2; *see also* WPX Exhibit D, ¶¶ 6-8, Hearing Packet, p. 84. Full

development of the Wolfcamp formation and the Bone Spring formation would require consolidated infrastructure – drilling pads, pipelines, and water access. Consolidated infrastructure for development of both formations is what WPX's plan provides and what 3R's plan does not. *See id.*

14. Furthermore, WPX/Devon has a history of prudent operatorship over the life of its wells. Wells drilled and produced by WPX/Devon typically remain in its inventory, under WPX/Devon's management allowing WPX to maintain its responsibility and obligations for the life of the wells, including any liability for spills and clean-up obligations. *See, e.g.* WPX Exhibit D, ¶ 18, Hearing Packet, p. 25 (showing WPX/Devon's history of growing and maintaining over 2,500 wells in its New Mexico inventory); *see also* Tr. (April 29, 2025), 41: 17-25; 42: 1-25. In contrast, RRR II, for which 3R is the operator, is a company that came into existence only 1 ½ years ago for the purpose of developing a package of wells that it will operate only until the assets are sold. *See id.* at 115: 18-25; 116: 1-5; *also see id.* at 160: 20-25; 161: 1-15 (describing the wells and assets sold to other operators after drilling); 3R Exhibit 0000054, Hearing Packet, p. 55 (listing wells and assets sold by operator as operator exits operatorship after each closing). Thus, the Division will not have the opportunity to review the history or track record of the new operator who purchases the wells and 3R will no longer be obligated to be a prudent operator after the wells are sold. The risks of this comparison weigh in favor granting operatorship WPX who has a history of prudently operating its wells, including wells in the Purple Sage Wolfcamp,³ for the long term.

c. A review of the negotiations between the competing parties prior to the applications to force pool to determine if there was a "good faith" effort.

³ Three R's (3R's) current team demonstrates its inexperience with, and lack of knowledge of, the Purple Sage-Wolfcamp pool underlying the Subject Lands by its incorrect statement that the formation is governed by Statewide Rules instead of Order No. R-14262 and its corresponding use of the Statewide 660' lateral setbacks for gas pools to establish well locations on its C-102s instead of the 330' setbacks prescribed by the special rules for the Purple Sage-Wolfcamp pool. *See* 3R Exhibit 000011-12, ¶ 4, and 3R Exhibit 000077-000089, Hearing Packet, pp. 12-18 and pp. 78-91.

15. Three R (3R) did not receive interest in the Subject Lands until November 2024. Before that date, WPX did not consider 3R to be in a position to negotiate for development of the lands. After 3R acquired interest in the Subject Lands, WPX entered into good-faith negotiations that has led to a promising trade option, which would have resolved the contested matter and which the parties are still in the process of working to finalize. *See* Tr. (April 29, 2025), 218: 16-22. The October 1, 2025, expiration date of Federal Lease NMNM 134858 appears to have raised concerns with 3R that it needed to proceed with a pooling hearing, and as a result, the parties participated in the contested hearing. However, the BLM has issued on April 30, 2025, notification that suspends the termination date of this Federal Lease so that it no longer expires on October 1, 2025, but has been extended to provide sufficient time for an operator to develop the Subject Lands without concern over losing the lease. Since loss of the lease is no longer a concern, the Division has time to thoroughly evaluate the competing plans on the merits alone.

d. *A comparison of the ability of each party to prudently operate the property and, thereby, prevent waste.*

16. WPX has a long history of drilling and producing wells in New Mexico. *See, e.g.*, WPX Exhibit D, ¶ 18, Hearing Packet, p. 25. Furthermore, WPX drills wells with the intent to maintain and operate the wells as part of its inventory for the life of the wells. *See id.* This intent requires WPX to meet its long-term obligations for any remediation or clean-up of the wells. Three R (3R) only operates three (3) wells in the area of interest represented by 3R's type curve which includes 3R's sample of wells for the area. *See* WPX Rebuttal Exhibit R-7. WPX/Devon's Wolfcamp XY wells included in 3R's own type curve outperform both the wells 3R currently operate and the wells 3R claims to have drilled but under different companies, the wells having since been sold to other operators. *See id.* Thus, as shown by the graph in Rebuttal Exhibit R-7, WPX/Devon wells consistently out-perform and out-produce 3R wells, thereby preventing waste of underground hydrocarbons and achieving optimal production in the area of interest. *See id.*

17. Moreover, WPX will fully develop the most prolific zone of the Wolfcamp formation – the Wolfcamp XY – by its commitment to drill four (4) wells per section in this zone, while 3R has committed to drilling only 3 wells in the XY. *See id.* Three R (3R) lists a fourth well in the XY as a possible infill well that may or may not be drilled at some undetermined date in the future. *See id.* Furthermore, WPX has operating rights to the Bone Spring underlying the Subject Lands while 3R, lacking operating rights in the Bone Spring, would not develop the Bone Spring formation underlying the Subject Lands. Thus, unlike 3R, WPX is in a position to develop the Wolfcamp XY, the Wolfcamp B formation after WPX's prudent evaluation of its prospectivity, and the Bone Spring formation. *See* Paragraph 12, *supra*. And, WPX would be able to develop all three zones by consolidating surface infrastructure, minimizing surface disturbance and costs, and thereby further preventing waste. *See* Paragraph 13, *supra*.

e. A comparison of the differences in well cost estimates (AFEs) and other operational costs presented by each party for their respective proposals.

18. WPX had to amend its AFE to accurately reflect the completion costs. *See* Tr. (April 29, 2025), 282: 12-20 (WPX's Reservoir Engineer stating that the higher completion costs will result in about a \$400,000 increase in costs per well.); Tr. (April 30, 2025), 32: 5-14 (WPX's Completion engineer describing the increase in cost per well to reflect WPX's design change). Nonetheless, even with the increase, WPX's costs at about \$8 million per well are still "very competitive." *See* Tr. (April 30, 2025), 32: 5-14; *see also* AFEs in WPX's Exhibit A-3. Furthermore, WPX's AFEs are still lower than 3R's AFEs which range from about \$10.4 - \$10.6 million per well. *See* 3R Exhibit 000111-116, Hearing Packet, p. 108.

f. An evaluation of the mineral interest ownership held by each party at the time the application was heard.

19. The amount of mineral interest owned by WPX and 3R in the Subject Lands are comparable. In the N/2 of the Subject Lands, WPX owns 50% working interest; 3R owns 43.75%

working interest; and Marathon Oil Permian, LLC, owns 6.25% working interest. In the S/2 of the Subject Lands WPX owns 50% working interest, and 3R owns 50% working interest. *See* WPX Exhibit A-2, Hearing Packet, p. 40-43.

g. A comparison of the ability of the applicants to timely locate well sites and to operate on the surface (the “surface factor”).

20. WPX is the only party in the unique position to develop both the Wolfcamp formation and the Bone Spring formation using the same drilling pads and surface infrastructure thereby minimizing the surface disturbance and costs. *See* WPX Exhibit D, ¶ 6, Hearing Packet, p. 83. Three R (3R) owns no interest in the Bone Spring, and therefore, if 3R is granted operatorship of the Wolfcamp formation, the Bone Spring would be more difficult, costly and wasteful to develop. *See* Paragraphs 12 and 13, *supra*. The most prolific and economic zone for development is the Wolfcamp XY, and it is the successful development of the XY that would motivate and incentivize an operator with rights in both formations to develop both the Wolfcamp and the Bone Spring. WPX is the only party with operating rights in the Bone Spring and a consolidated surface plan for developing both the Wolfcamp and the Bone Spring underlying the Subject Lands.

21. Under 3R's plan, not only would 3R's pipelines serve only Wolfcamp production, but currently there are no lines in place to serve the Subject Lands, as the majority of 3R's system has not been developed and is only proposed for 3R's Crystal wells. *See* 3R Exhibit 000069, Hearing Packet, p. 76; *see also* Tr. (April 29, 2025), 166: 6-15. Thus, 3R only has rights to develop the Wolfcamp formation whose development under 3R's plan would be pursuant to incomplete surface operations.

III. Conclusion:

WPX respectfully submits that the Division's seven (7) factors for granting operatorship weigh heavily in favor of WPX. As a result, WPX requests that the Division approve its applications and development plan and deny 3R's applications and development plan.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record via electronic mail on May 21, 2025:

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