STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
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

Commission Case No. 25371
Order No. R-24080

APPLICATION FOR REHEARING

Coterra Energy Operating Co. ("Coterra"), pursuant to NMSA 1978, Section 70-2-25 and 19.15.4.25 NMAC, hereby submits it Application for Rehearing with respect to Order No. R-24080 ("Order"), which the Oil Conservation Commission ("OCC") issued on October

16, 2025, granting Permian Resources, Inc.'s applications in the above referenced matter and denying Coterra's applications. A copy of Commission Order No. R-24080 is attached hereto as Exhibit A.

A. Introduction

1. The Order is unlawful because it fails to account for the geologic reality presented in this case—namely, the lack of a physical confining layer separating the Third Bone Spring Sand and the Upper Wolfcamp interval.[1] Because of this fact, the Oil Conservation Division ("OCD" or "Division") acknowledged that the two formations constitute a common source of supply and designated it the Wolfbone Pool. The OCD also found that the hydrocarbon reserves in the pool predominately reside in the Bone Spring. Notably, no evidence was offered in this matter to rebut and the Commission made no finding that contradicts the OCD's conclusions. Because ownership differs between the two intervals comprising the Wolfbone Pool, both common sense and the law dictate that spacing of the Wolfbone Pool and the allocation of production therefrom must account for these two OCD findings so as to protect correlative rights, a mandatory duty of the Commission. This Application is being filed to respectfully request that the Commission correct this error.

2. Permian's plan of development violates the mandate of the New Mexico Oil and Gas Act, NMSA 1978 Sections 70-2-1, *et seq.* (the "Oil and Gas Act") that the correlative rights of owners be protected. Its plan blithely ignores (a) the absence of a baffle between the Bone Spring and Wolfcamp intervals, (b) the purpose for creating the Wolfbone Pool, and (c) the fact that its eight (8) proposed Bone Spring wells will produce hydrocarbons from the Wolfcamp,

[1] For sake of brevity, the Third Bone Spring Sand will be referred to herein as the "Bone Spring" and the Upper Wolfcamp interval, which consists of the Wolfcamp XY and Wolfcamp A, will be referred to herein as the "Wolfcamp."

while its eight (8) proposed Wolfcamp wells will produce hydrocarbons from the Bone Spring. By approving this plan, the Commission has abrogated its duty under the Oil and Gas Act.

3. Coterra's proposal to complete eight (8) wells in the Wolfbone Pool—and its allocation formula that fairly, justly, and equitably allocates production from the pool—accomplishes this mandate. Permian's proposal does not, as it is predicated on an artificial and arbitrary construct that treats the Bone Spring and the Wolfcamp formations as physically separate merely because a man-made horizontal depth severance bisects them. According to Permian, this severance necessitates a separate spacing unit for each formation within the pool. Permian argued, and the Commission agreed, that given this severance, the only permissible allocation method under NMSA 1978, § 70-2-17 is based solely on surface-acreage. When properly construed, however, Section 70-2-17 does not reduce the Commission's role to such an artificial construct. Instead, the statute as a whole it imposes a duty - and grants the corresponding authority - to allocate production using alternative methods to achieve the most fair, just, and equitable result. Permian failed to propose an allocation formula other than one based on surface acreage, adhering to the mistaken premise that Section 70-2-17 "mandates" it.

4. Conversely, to ensure the protection of correlative rights, Coterra proposed a practicable allocation formula that accounts for the disproportionate distribution of oil reserves between the Bone Spring and the Wolfcamp. The Commission erred in rejecting Coterra's proposed formula by applying an unreasonably exacting standard inconsistent with its own precedent. Furthermore, the Commission abdicated its fundamental duty to protect correlative rights by failing to either (1) use its expertise to develop an allocation formula that safeguards the correlative rights of all owners within the Wolfbone Pool, or (2) make a factual finding that the amount of recoverable hydrocarbons in the Bone Spring and Wolfcamp cannot be practicably

determined—a finding that would directly contradict the OCD's conclusion that the hydrocarbons in the Wolfbone Pool are predominately located in the Bone Spring.

5. Another reason to rehear the case is that the Commission, after having adopted the OCD's finding that the "common source of supply [is] located predominately in the Third Bone Spring Sand" as "uncontested,"[2] cannot merely reject Coterra's proposed allocation formula as not being more just and fair than Permian's pure surface acres formula. Instead, having found that the Bone Spring is the predominate source of hydrocarbons in the Wolfbone Pool, the Commission was obligated to determine whether an allocation formula could be practicably determined based on geologic and reservoir engineering considerations found in the subject lands. *See* Paragraphs 38-42, below. On this basis alone, the Commission should grant this Application and rehear the case.

6. Moreover, the fact the Commission adopted the OCD's finding that the Bone Spring and Wolfcamp constitute a common source of supply located predominately in the Bone Spring necessitates a spacing of the Wolfbone to account for this finding. As shown by *Santa Fe Exploration Co. v. Oil and Gas Conservation Comm'n*, 1992-NMSC-044, 835 P.2d 818 (NM 1992), the New Mexico Supreme court recognizes that individual spacing units must NOT be established pursuant to arbitrary vertical severances between tracts when there is open communication among the tracts but must be consolidated into a single-spacing unit. *See id.* at ¶ 29 (upholding the consolidation of three tracts into a single-spacing unit pursuant to an allocation formula for the protection of correlative rights). This basic principle of conservation law must also apply to horizontal severances to account for hydrocarbons produced from above and below a severance by each wellbore drilled in the Wolfbone pool. In OCD Order No. R-24080, the

[2] Order at ¶ 71, citing to OCD Order R-23089, para. 6.

Commission failed to apply this basic principle for the protection of correlative rights. *See, e.g.,* the Amicus Brief submitted for filing on September 16, 2025, stating the legal necessity for an allocation formula in the Wolfbone pool.

7. Furthermore, with respect to the seven factors used to determine which applicant presented the superior development plan, the Commission committed several errors. For example, the Commission improperly awarded a significant advantage under the Risk and Development factor to Permian, based on the assumption that Permian would fulfill its promise to develop all of its forty-eight (48) proposed wells—a commitment Permian has repeatedly failed to honor in the recent past with respect to its two nearby Batman and Robin developments. In addition, under the Working Interest factor, the post-OCD Order shift in support from Coterra to Permian reflects pragmatic alignment with the presumptive operator rather than a merit-based endorsement of Permian's plan.

8. In its Application for a Hearing *De Novo*, Coterra requested a hearing before the full Commission. In accordance with this request, it was the full Commission who granted Coterra's motion to stay, finding that Coterra was likely to succeed on the merits. However, at the hearing on the merits, two of the three Commissioners who decided that Coterra was likely to prevail on the merits were not present at the hearing on the merits and did not participate in the decision -- Commissioner Bloom and Commissioner Dr. Ampomah, who holds an MS and PhD in Petroleum Engineering being the Commissioner with the highest level of technical expertise necessary to properly evaluate Coterra's allocation formula. Given that the issues addressed by the present case will permanently shape the landscape of proceedings before the OCD and OCC; determine future duties and obligations of the OCD and OCC with respect to the protection of correlative rights, prevention of waste, and the drilling of unnecessary wells; and determine what

constitutes an unconstitutional taking of production, both the Division and Commission would benefit from the Commission's full participation in Coterra's request for a rehearing of these critical issues.

9. Before delving into the legal arguments, some background regarding horizontal depth severances provides context for the issues at hand. Horizontal severances are entirely human constructs, created in assignments from one party to another that limit the working interest assigned or reserved is limited in depth to the top or base of a formation (or frequently to 100 feet below the base of the deepest depth drilled). In many instances, this artificial severance corresponds with a geologic barrier physically separating two formations. Under these circumstances, a formula allocating production on a purely surface-acreage basis is appropriate.

10. In other instances, such as here, the artificial severance bisects a common source of supply where no physical barrier exists. Yet the rule the Commission adopted in this matter dictates that, even under such circumstances, subsection 70-2-17(C) requires allocation strictly on a pure surface-acreage basis. The result is that spacing units must be horizontally stacked (one unit above and one below the artificial severance line), regardless of the actual distribution of reserves within the pool. As explained elsewhere in this Motion, subsection 70-2-17(C) does not require allocation based solely on a surface acreage basis in every case. By holding otherwise, the Commission effectively abrogates its duty to protect the correlative rights of parties when the volumes of producible reserves are significantly different above and below the horizontal boundary.

B. Permian's Proposed Development Plan is Fatally Defective Because It Violates the Correlative Rights of All Owners in the Wolfbone Pool in the Subject Lands

11. The Commission should not have granted Permian's applications because its development plan for the Wolfbone Pool violates the core purpose of the compulsory pooling statute to prevent the violation of correlative rights.

12. It is undisputed that:

a) There is a difference in the ownership in the Bone Spring vis-à-vis the Wolfcamp created by depth severances in certain assignments of working interests in these two intervals;[3]

b) Permian's eight (8) wells to be completed in the Bone Spring will produce hydrocarbons from the Wolfcamp and its eight (8) wells to be completed in the Wolfcamp will produce hydrocarbons from the Bone Spring;[4]

c) Permian will allocate all of the production from its eight (8) Third Bone Spring wells exclusively to owners in the Bone Spring, even though its Bone Spring wells will produce hydrocarbons from the Wolfcamp;[5] and

d) Permian will allocate all of the production from its eight (8) Wolfcamp wells exclusively to owners in the Wolfcamp, even though its Wolfcamp wells will produce hydrocarbons from the Bone Spring. [6]

13. Thus, on its face, Permian's proposed Wolfbone Pool development would violate the correlative rights of owners within the Wolfbone Pool by allocating production from the Bone Spring to Wolfcamp owners and production from the Wolfcamp to Bone Spring owners. It is difficult to imagine a more blatant violation of correlative rights than what Permian has proposed.

[3] Order at ¶ 58, citing to OCD Order R-23089-A, ¶ 34.

[4] Tr. 60:9-11 (September 19, 2025 (Testimony of Ira Bradford, Permian's Geologist).

[5] Tr. 86:19-25 (September 19, 2025 (Testimony of Mr. Bradford).

[6] *Id*.

14. The Commission's conclusion that Permian's plan does not violate the correlative rights of the owners in the Wolfbone Pool rests on an incorrect interpretation of NMSA 1978, Section 70-2-17. The Commission relied on *State v. Arellano*, 1997-NMCA-074, cited for the proposition that "a more specific state controls over a more generally worded statute", to conclude that one sentence in subsection 70-2-17(C) controls over 70-2-17(A) (and, for that matter, all other parts of Section 70-2-17) because that sentence is more specific than the rest (Order at ¶ 83). This conclusion is incorrect on several grounds.

15. As an initial matter, reliance on *Arellano* is misplaced. That case involved two distinct criminal statutes, one being a general statute prohibiting criminal damage to property (Section 66-3-506), and the other being a specific statute prohibiting injury to or tampering with a vehicle (Section 30-15-1). The Court held that the specific statute controlled over the general statute.

16. Here, by contrast, subsections 70-2-17(A) and (C) are two provisions within the same section of the same statute. Under these circumstances, an entirely different canon of statutory construction applies. NMSA 1978, § 12-2A-18(A) provides that statutes must be construed, where possible, to give effect to their objective and purpose, give effect to the entire text, and avoid unconstitutional, absurd, or unachievable results. The Supreme Court of New Mexico has held that a subsection of a statute cannot be considered "in a vacuum" but must be read in relation to the statute as a whole. *See State v. Smith*, 2004-NMSC-032, ¶ 10, 136 N.M. 372. Similarly, the Supreme Court of New Mexico has long required that statutory provisions be read in harmony, not as adversaries. *See Martinez v. Research Park, Inc.*, 1965-NMSC-146, ¶ 6, 74 N.M. 672 (a statute must be construed to give effect to all provisions so one part does not destroy another); *See also* State ex rel. Maloney v. Neal, 1969-NMSC-095, ¶ 9, 80 N.M. 460

(courts must reconcile statutory language "where possible," rather than treat one part as taking priority over another).

17. Applying this canon of construction to the case at hand, subsections 70-2-17(A) and 70-2-17(C) must be viewed as component parts of one legislative prerogative and, thus, read together to give effect to both. Though the Commission makes no mention of the first sentence in subsection 70-2-17(C) in its Order, it is vital to an understanding of the Commission's duty in allocating production in a pooling order. It states that "[a]ll orders effecting such pooling…shall be **just and reasonable** and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense **his just and fair share….**" (Emphasis added.) Subsection 70-2-17(A) reinforces this mandate, stating that pooling orders "[s]o far as it is **practicable** to do so, afford to the owner of each property in a pool the opportunity to produce his **just and equitable** share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as such can be practicably obtained without waste, substantially in the proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool." (Emphasis added). Both of the above-quoted provisions contemplate that the Commission do more than just mechanistically apply a rigid and simplistic formula based on surface acreage if the facts of a given case require it.

18. Here, the facts dictate an allocation formula based on geology, not geography. The Division has already determined that "[t]he lands proposed for drilling by both parties lacks natural barriers that would prevent communication between the Bone Spring and Upper Wolfcamp, thereby creating a single reservoir or common source of supply located predominantly in the Bone Spring." OCD Order No. R-23089 at ¶ 6. The pool is not severed by

any physical barrier but rather by a man-made horizontal depth severance. As such, this is not a garden-variety pooling situation to which a simple surface-acreage allocation can be applied because, to do so, would result in a violation of the correlative rights of the owners on both sides of the imaginary line bisecting the common source of supply. Something more must be done to ensure that the correlative rights of owners in each formation are protected. This is not to say that a basic surface-acreage allocation is dispensed with; rather, surface acreage must be used as the starting point in the application of a proper allocation formula, as Coterra's proposed formula does. Once each tract's contribution to the unit is calculated (based on surface acreage), then an additional step must be taken—one that accounts for the geological reality—to address the inequality of hydrocarbon contribution of each horizontally severed zone. Without this additional step, the surface-acreage allocation of production in this horizontally severed common source of supply will result in a grave violation of correlative right, a result clearly antithetical to the Oil and Gas Act's mandate to protect correlative rights.

19. In sum, an interpretation of the Oil and Gas Act that prioritizes one sentence in 70.2.17(C) over subsection 70.2.17(A) and the rest of subsection 70.2.17(C): a) contravenes long-established New Mexico law governing statutory construction; b) nullifies an essential part of the Oil and Gas Act which requires allocation of production to be just, reasonable and fair; and c) significantly limits the Commission's otherwise broad authority to equitably allocate production by unnecessarily forcing it to apply, regardless of the facts of the case, a rigid and simplistic formula that ignores other essential factors which would allow it to more fairly allocate production and protective correlative rights, particularly in cases like this one where there exists an arbitrary man-made severance in a common source of supply. To this last point, no language in the Oil and Gas Act circumscribes the Commission's authority such that it must

only allocate production on a surface acreage basis. Rather, the language of the subsections 70-2-17(A) and 70-2-17(C), when read as a whole, vest the Commission with broad authority to allocate production using methods that ensure fairness, so long as they are practicable.

20. In addition to the errors summarized above, the Commission also erred in holding that Permian's allocation formula was "fair to the correlative rights of all owners" because it complied with subsection 70-2-17(C). Calling the provision a "statutory default," as opposed to what Permian frequently termed a "mandate", the Commission concedes that a formula allocating production on a pure surface acreage basis need not always be strictly adhered to and that in certain circumstances an enhanced formula such as the one proposed by Coterra could be used. However, the Commission implies that such circumstances are limited to those situations when a different allocation formula is "proposed by the prevailing applicant, without adversarial record" but not to those situations where, as here, a strict surface acreage allocation falls far short of satisfying the dictates of subsection 70.2.17(A). In other words, the Commission would create a rule that paradoxically allows for its departure from the "default" when the parties are able to agree to something different, even if unfair to certain working interest owners, but not when it is necessary in a contested hearing to protect correlative rights, as should be the case.

21. The Commission also wrongly infers that Permian's allocation formula is fair because other working interest owners supported it. This inference presupposes that the working interest owners chose to lend their support to Permian's plan because they thought it fair. However, no evidence was offered at hearing to prove the motivations influencing the owners' decisions to support Permian's plan. Furthermore, in determining that Permian's plan is fair, the Commission completely ignores the harm done to the correlative rights of Coterra and Magnum

Hunter, which together own about one-third of the working interest in the Bone Spring. Subsection 70.2.17(A) requires that the allocation protect the correlative rights of **all** owners. The acquiescence of certain working interest owners to Permian's plan does not somehow rectify, render irrelevant or counterbalance the loss of rights of those who chose to oppose it.

C. Coterra's Proposed Allocation Formula Provides a Practicable Method to Distribute Production Equitably, Justly, Reasonably, and Fairly.

22. The New Mexico Supreme Court has long held that, in compulsory pooling cases, the Commission is charged with "two fundamental powers and duties": (1) to protect correlative rights; and (2) to prevent economic waste. *Continental Oil Co. v. Oil Conservation Comm'n,* 1962-NMSC-062, ¶ 26, 373 P.2d 809, at 817.

23. NMSA 1978, § 70-2-17—aptly titled "Equitable Allocation of Allowable Production; Pooling; Spacing"—provides at Subsection (A) that, in order to protect correlative rights and prevent economic waste, the Commission must:

> So far as it is **practicable** to do so, afford to the owner of each property in a pool the opportunity to produce his **just and equitable** share of the oil or gas, or both, in the pool, being an amount, **so far as can be practically determined**, and so far as such can be practicably obtained without waste, substantially in the proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool. (Emphasis supplied.)

24. Subsection (C) further provides that:

> All orders effecting such pooling . . . shall be upon such terms and conditions as are **just and reasonable** and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his **just and fair share** of the oil or gas, or both. (Emphasis supplied.)

25. Thus, the touchstone of any pooling order is that it must be practicable, just, equitable, reasonable, and fair—so far as the Commission can practically determine.

26. These two subsections of the pooling statute make clear that the protection of correlative rights is grounded in geological and engineering considerations, not on geographic

ones such as a pure surface-acreage determination. The Commission's adoption of Permian's approach, which relies solely on geography, therefore conflicts with both the language and the intent and purpose of the statute.

27. The Commission failed to fulfill its statutory duty in two fundamental respects. First, as detailed above, the Commission granted Permian's applications despite their blatant failure to ensure a just, equitable, reasonable, and fair allocation of production. Permian's proposed Bone Spring and Wolfcamp wells will all produce from the Wolfbone pool—a single common source of supply that the OCD expressly found to be located predominately in the Third Bone Spring Sand. OCD Order No. R-23089 at ¶ 6. The Commission adopted this finding as "uncontested." Order at ¶ 71. This finding is supported by the real-world history of development showing that operators have targeted the Bone Spring much more than the Wolfcamp. *See* Coterra Exhibit B at ¶ 20 and Exhibit B-12 (histogram demonstrating that operators have completed many more wells in the Bone Spring than the Wolfcamp). Thus, the Commission did not disturb the OCD's finding for good reason. Second, as explained below, the Commission abdicated its responsibility to make a practical geological determination regarding how production from the Wolfbone Pool could be practicably allocated in an equitable, just, reasonable, and fair manner.

28. To protect the correlative rights of all owners in the Wolfbone Pool, Coterra proposed to allocate 70% of the production from its eight (8) Bone Spring Wells to the Bone Spring owners—the interval identified by the OCD as the predominate source of hydrocarbons in the Wolfbone Pool—and 30% of such production to Wolfcamp owners. *See* Testimony of Staci Frey, Coterra's Geologist, at Coterra Ex. B at ¶ 24 and Exhibit B-14.

29. Coterra's proposed allocation formula is based on three geologic factors: (1) PhiH porosity, essentially an acre-footage times porosity calculation (*id*. at ¶¶ 17-19 and Ex. B-11); (2) net pay calculated based on log character of primary reservoir targets within 4 miles (*id*. at ¶¶ 20-21 and Ex. B-12) and (3) oil saturation times porosity times height from sidewall cores approximately 1 mile west of the Subject Lands (*id*. at ¶¶ 22-23 and Ex. B-13).

30. In sum, Coterra's proposed allocation formula integrates three separate but complementary methods, each relying on relevant geological and engineering data culled from areas in close proximity to the Subject Lands.

31. The Commission rejected Coterra's proposed allocation formula on the grounds that each of the three methods produced a different allocation percentage, and the proposed 70/30 allocation did not precisely match any of the results produced individually by Ms. Frey's methods. Order ¶ 80.

32. The Commission's conclusion—that Coterra's use of three methods "suggests" it is not 'insofar as practicable' to determine with sufficient certainty what would constitute the most fair and equitable allocation formula—is misplaced. (Order ¶ 80). Coterra's use of three independent analytical methods, each yielding slightly different allocation ratios, merely reflects that all allocation formulas are estimates or approximations of actual production, not exact predictions. As discussed more fully below, the Commission itself has acknowledged, geological and engineering data can provide only estimates and approximations. The differing results among the three methods underscore the thoroughness of Coterra's analysis of reserve distribution, not any unreliability. Moreover, all three methods reach the same conclusion: more than 50% of the hydrocarbons in the Wolfbone Pool are located in the Bone Spring. This

conclusion is consistent with the OCD's finding that the hydrocarbons in the Wolfbone Pool are predominately located in the Bone Spring. *See* OCD Order No. R-23089 at ¶ 6.

33. The Commission's rejection of Coterra's proposed allocation is arbitrary, capricious, and erroneous because the reasoning underlying it effectively demands that an applicant provide an allocation method that results in an exact prediction—or, at minimum, one meeting a "beyond a reasonable doubt" standard—rather than a scientifically-based estimate supported by substantial evidence. The Commission's implied standard of proof is an impossible standard that will never be met when attempting to determine the amount of hydrocarbons a particular well will produce from two intervals in a common source of supply such as the Wolfbone Pool. This geologic and engineering reality is illustrated by the fact that in contested cases applicants rarely, if ever, agree on the quantity of hydrocarbons that will be produced from a common source of supply under their respective development proposals.

34. Rather than demanding proof beyond a reasonable doubt, the proper standard is one that requires a reasonable estimate of production. For example, in *Santa Fe Exploration Co. v. Oil and Gas Conservation Comm'n*, 1992-NMSC-044, 835 P.2d 818 (NM 1992), the New Mexico Supreme Court affirmed the Commission's allocation that was not based on a pure surface acreage calculation or a precise calculation, but was instead based on an estimated determination of the oil in place beneath each tract. *Id*. at ¶ 6. The amount of oil beneath each tract was determined by what the Supreme Court characterized as the "***estimated*** oil productive rock volume" that would be produced from each 160-acre tract. *Id*. at note 2 (emphasis supplied).

35. This issue in the proceeding before the Commission, Case Nos. 9716 and 9670, involved, among other issues, the allocation of production from three 160-acre tracts. The Commission calculated an allocation formula based on oil-water content, a major fault that ran

through the subject lands, the rate of north dip, "and other geologic and engineering criteria" supplied by the parties and determined that "**approximately"** 21% of the total oil productive rock volume was located in the first tract, "**approximately"** 53% was located in the second tract, and "**approximately"** 26% was located in the third tract. (Emphasis supplied.) *See* Order No. R-9035 at ¶ 14. (A copy of Order No. R-9035 is attached for the Commission's convenience as Exhibit B.) Thus, the Commission integrated geological and engineering criteria supplied by the parties to develop an allocation formula that ***approximated*** the amount of oil found under each tract, which the New Mexico Supreme Court characterized as an "***estimated*** oil productive rock volume." (Emphasis supplied.) In other words, the historic and practical standard in developing allocation formulas is to provide and incorporate geologic and engineering data that allows for the calculation of an approximation of the amount of hydrocarbons that will be produced from a common source of supply such as the Wolfbone Pool. Although Permian criticized Coterra's methodology, its solution was to fall back on a surface-acreage allocation that is wholly inadequate to protect correlative rights in the present case.

36. The legal standard governing allocation and other conservation issues requires only that the Commission's order be supported by substantial and credible evidence. The method of allocation must only be a reasonable "estimate" or "approximation," the standard the New Mexico Supreme Court approved in *Santa Fe Exploration*, *supra*. This evidentiary threshold is vastly below the "beyond a reasonable doubt" burden implied by the exacting standard underpinning the Commission's reasoning here.

37. The Commission also relied on the testimony of Permian's geologist, who claimed that Ms. Frey's estimates undervalued the Wolfcamp A Shale portion of the Wolfbone Pool. *Id*. at ¶ 81. However, Permian never attempted to quantify the volume of hydrocarbons its

wells—or Coterra's wells—would produce from either of the two intervals comprising the common source of supply.

38. Even if one were to excuse Permian's failure to propose its own allocation formula, the same cannot be said for the Commission. After rejecting Coterra's scientifically grounded proposal, the Commission had an affirmative duty to protect correlative rights by exercising its technical expertise to analyze the geological and engineering data and to devise an allocation formula that fulfilled that duty. The Oil and Gas Act clearly establishes this responsibility.

39. In *Grace v. Oil and Gas Conservation Comm'n*, 1975-NMSC-001, the New Mexico Supreme Court rejected an appeal of a Commission decision in which the applicant argued that the Commission should have adopted its allocation formula to determine the amount of gas under various tracts. The Court premised its decision on the fact that the Commission made extensive factual findings in its Order establishing that due to the nature of the subject reservoir and other geological and engineering criteria, the amount of recoverable gas under each tract could not be practicably determined. *Id*. at ¶ 24, citing to Order No. R-1670-L at ¶¶ 70-77.

40. In stark contrast, the Commission in this case made no such findings. It merely rejected Coterra's allocation formula and defaulted to a pure surface-acreage allocation advocated by Permian. On this basis alone, rehearing is warranted so the Commission can make the factual determinations it failed to make in the first instance.

41. It bears emphasizing that the Legislature expressly empowered the Commission to carry out its statutory mandate under Section 70-2-17 by authorizing it "to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out the

purpose of this act, whether or not indicated or specified in any section hereof." NMSA 1978, § 70-2-11.

42. The Commission in the present case made no findings or conclusions that would have provided a "practicable" approach for implementing a proper allocation formula and thereby failed to protect the owners' correlative rights. In effect, the Commission merely rejected Coterra's allocation formula and defaulted to a pure surface-acreage allocation advocated by Permian, which directly violates correlative rights and creates an unconstitutional taking. However, the Commission had both the duty and the authority to devise its own allocation formula—as it did in the *Santa Fe Exploration* case—or determine, as it did in *Grace*, that no practicable method exists to estimate production between the two intervals in the Wolfbone Pool. On this basis alone, rehearing is warranted so the Commission can make, as required by *Grace*, the determinations it failed to make in the first instance and propose an allocation formula that protects correlative rights and prevents an unlawful taking of production.

D. Permian's Proposed Development Will Result in Economic Waste in Violation of NMSA 1978, Section70-2-3.

43. Under the Oil and Gas Act, when evaluating competing applications, the Commission is charged with the duty to prevent waste. Section 70-2-3 of the Oil and Gas Act broadly defines "waste" as including, among other things, its "ordinary meaning."

44. The ordinary meaning of "waste" includes the unnecessary loss or misuse of money—*i.e.*, economic waste. In the oil and gas regulatory context, the duty to prevent economic waste encompasses the obligation to avoid unnecessary expenditures, including the drilling of unnecessary wells.

45. The duty to prevent economic waste is built into the pooling statute

a) Section 70-2-17(C) explicitly states that the Division's authority to pool lands must be exercised so as "**to avoid the drilling of unnecessary wells…..**" While the drilling of unnecessary wells often prevents underground waste, it also prevents economic waste.

b) Section 70-2-17(C) also states that all orders effecting pooling shall "be **just and reasonable** and the owner or owners of each tract or interest in the unit the opportunity to recover or receive **without unnecessary expense** his just and fair share of the oil and gas, or both."

46. The ordinary meaning of "waste" includes wasting money--, *i.e.,* economic waste. In the oil and gas regulatory context, the prevention of economic waste includes the duty to eliminate unnecessary expenses, including the drilling of unnecessary wells.

47. An article written in 1963 by Richard S. Morris published in the University of New Mexico Natural Resources Journal entitled "Compulsory Pooling of Oil and Gas Interests in New Mexico" concludes that his examination of New Mexico conservation cases revealed that 'waste':

> meant *economic* waste rather than the *physical* waste of oil and gas. The protection of correlative rights and the prevention of **economic waste** caused by the drilling of unnecessary wells **were the chief considerations in ordering pooling….**

3 Nat. Res. J**.** 316 (1963), page 319 (emphasis supplied).

48. The Morris paper is cited with approval by Kramer & Martin in their authoritative treatise on **THE LAW OF POOLING AND UNITIZATION,** Section 10.02[4], noting that economic waste has been considered in pooling cases in New Mexico going back almost 70 years.

49. The Commission adopted the following projections from Permian's Reservoir Engineer David Sonka: (1) Permian's plan would recover 39 MMBOE, versus 22 MMBOE under Coterra's; (2) Permian's plan would generate $641 million in value, compared to $372 million for Coterra's; and (3) Permian's plan is essential to capture incremental reserves at risk of being stranded. *Order* ¶¶ 29, 30, 34.

50. With respect to Mr. Sonka's projections for Coterra, his 22 MMBOE projection is based on Coterra completing a total of 24 wells. Permian Ex. F-2. Mr. Sanka acknowledged that his projections contained in Ex. F-2 did not include six wells that Coterra is planning to complete in their proposed development of the Subject Lands. Tr. 69:13-22 (September 19, 2025). However, Coterra is planning to drill 30 wells. *See* Coterra Ex. R-4. Thus, Mr. Sonka's 22 MMBOE projection is invalid. Consequently, the only valid projection of the amount of hydrocarbons Coterra's actual plan will produce is the projection made by Coterra, which is 38.2 MMBOE. Coterra Ex. R-4.

51. Mr. Sonka made another error in calculating the value generated by Coterra's plan by using Coterra's estimated costs from July 2024, $296,302,696 (Coterra Ex. C-13) and not its reduced costs of $283,250,000, as shown on Coterra Ex. C-14. Because Mr. Sonka's used the wrong costs for Coterra and his MMBOE projection for Coterra is invalid, his projections for the value generated by Coterra's plan is also invalid, and therefore the Commission cannot consider those projections.

52. Another fundamental problem with the Commission's reliance on Mr. Sonka's projections is that Permian will drill all 48 proposed wells—a premise supported only by its self-serving testimony. Unrebutted evidence, in the form of Permian's own witness, shows that Permian recently failed to complete its proposed wells in the adjacent Batman and Robin developments (Robin being contiguous to the Joker lands and Batman directly west of Robin). Tr. 114:5-24 (Sept. 19, 2025 (Testimony of David Sanka, Permian's Reservoir Engineer); and Tr. at 114:5-24 (Sept. 18, 2025). *See also*, Coterra Ex. C-12 (wine rack depiction of Permian's Batman and Robin develops that shows that Permian did not drill 12 of its promised 24 wells in Batman, including only drilling 1 of its proposed Wolfcamp wells and that Permian did not drill

of 5 of its 22 promised wells in its Robin plan) and Permian Ex. F-3 that shows the proximity of the Batman and Robin development to Permian's proposed Joker and Bane development covering the Subject Lands. Permian's very recent track record of broken promises undermines Permian's credibility and belies the Commission's reliance on Permian's speculative promises.

53. Assuming, *arguendo*, that Permian finally keeps its development promises and drills all 48 wells, then using Permian's projections for its recovery of hydrocarbons, it will recover 39 MMBOE while spending $411,229,737.76 to do so, or $10,544,352 per MMBOE, while Coterra will recover 38.2 MMBOE while spending $283,250,000, or $7,414,921 per MMBOE. Thus, Permian is spending 42.2% more per MMBOE than Coterra while only recovering an additional 0.8 MMBOE, or only an increase of 2.09%. Creating 2.09% more MMBOE by spending an additional 42.2% in costs is an extreme example of economic waste

54. If Coterra turns out to be wrong, infill drilling can always be permitted in the future if additional wells are proven to be necessary, but once an unnecessary well is drilled, the resulting economic waste cannot be undone.

E. The Commission's Adoption of Permian's Surface Acreage Allocation Formula Results in an Uncompensated Taking of the Hydrocarbons in the Bone Springs Sand

55. The Commission erred in rejecting Coterra's taking argument that it raised under the holding in *Manning v. N.M. Energy, Minerals & Natural Resources Department*, 2006-NMSC-027, ¶ 22. *See* Order ¶ 88. *Manning* involved a regulatory taking claim against the State and held that sovereign immunity does not bar compensation claims for unconstitutional takings. The New Mexico Supreme Court emphasized that when state action results in the taking of private property—whether by regulation or administrative order—the Constitution requires the

government to provide a reasonable, certain, and adequate mechanism for compensation at the time of the taking

56. The Commission's adoption of Permian's allocation formula results in precisely the kind of uncompensated taking that Manning forbids. The allocation formula deprives Bone Spring owners of the fair value of hydrocarbons drained by Wolfcamp wells, effectively transferring a portion of their correlative rights and production value to Permian and other Wolfcamp-interest owners without compensation. The Commission's Order provides no mechanism—reasonable, certain, or otherwise—for these owners to recover what is being taken.

57. The Commission provides three bases for rejecting Coterra's takings argument, none of which withstand scrutiny. First, at Paragraph 88(a), the Commission concludes that because all of the non-Coterra entities that own more interest in the Bone Spring than the Wolfcamp support Permian's plan, Permian's plan cannot constitute a taking of their property. This reasoning is defective because it assumes that those parties correctly understand the geology of the Wolfbone Pool and the effect of Permian's plan on their correlative rights. Permian failed to provide any evidence that any of the other working interest owners were cognizant of the unique geology of the Wolfbone Pool or that the majority of the hydrocarbons are located in the Bone Spring.

58. Second, the Commission accepts Mr. Sonka's testimony that Permian's plan would result in $40 million more in value creation to the Bone Spring owners than Coterra's plan and that as a result Magnum Hunter is receiving adequate and reasonable revenues under Permian's plan. Order ¶ 88.b. However, Mr. Sonka's calculations are based on allocating all of the production from Permian's Wolfcamp wells to Wolfcamp owners and because Permian's Wolfcamp wells will produce from the Bone Spring where Coterra and Magnum Hunter owns a

higher percentage interest than it does in the Wolfcamp (35.48% vs. 28.16%) and in which the predominate source of hydrocarbons are located, Coterra and Magnum Hunter will not receive adequate and reasonable revenues under Permian's plan. Instead, Permian and other non-operators will take Coterra and Magnum Hunter's share of production without fair and adequate compensation.

F. The Commission's Analysis of the Seven Factors is Flawed

59. The Commission failed to proper analyze the evidence with respect to many of the seven factors used in contested pooling cases to determine the best proposed development plan.

i) Geology

60. The Commission deemed both parties equal under this criterion. *Order* ¶ 22. Coterra should have been awarded a slight advantage with respect to Geology because Coterra identified the fact that there was no baffle between the Bone Spring and the Wolfcamp. *See* Cimarex Energy Co.'s Brief Providing the Basis for Evaluating a Single Reservoir Situated in the Third Sand of the Bone Spring Formation in an Area that Lacks a Baffle Separating it From the Underlying Wolfcamp Formation, submitted to the OCD on July 26, 2023. This analysis facilitated the creation of the Wolfbone Pool across the Subject Lands that ensures the protection of correlative rights for all owners in both the Bone Spring and the Wolfcamp provided, of course, that a valid allocation formula will be utilized.

ii) Risk and Development

61. The Commission concluded that "the RISK AND DEVELOPMENT criteria strongly favors awarding operatorship to Permian." *Order* ¶ 36.

62. The Commission's conclusion on the Risk and Development factor rests on three projections from Permian witness David Sonka: (1) Permian's plan would recover 39 MMBOE, versus 22 MMBOE under Coterra's; (2) Permian's plan would generate $641 million in value, compared to $372 million for Coterra's; and (3) Permian's plan is essential to capture incremental reserves at risk of being stranded. *Order* ¶¶ 29, 30, 34.

63. As set forth in Paragraphs 49-53, above, using the correct projections and even assuming that Permian will drill all of its 48 wells, Permian will recover 39 MMBOE while spending $411,229,737.76 to do so, or $10,544,352 per MMBOE, while Coterra will recover 38.2 MMBOE while spending $283,250,000, or $7,414,921 per MMBOE. Thus, Permian is spending 42.2% more per MMBOE than Coterra while only recovering an additional 0.8 MMBOE, or only an increase of 2.09%.

64. Additionally, the Commission improperly credited Permian for generating $187 million in severance and ad valorem taxes (versus $106 million under Coterra's plan). *Order* ¶ 33. No statutory or regulatory authority supports rewarding a plan based on higher state revenue.

65. Thus, Coterra is entitled to a moderate advantage with respect to Risk and Development.

iii) Good Faith Negotiations

66. The Commission found "the record is unclear whether the NEGOTIATIONS factor favors either party." *Order* ¶ 40.

67. The Commission disregarded unrebutted testimony from John Coffman at the first OCD hearing detailing Read & Stevens' (Permian's predecessor) bad-faith obstruction of Coterra's development efforts on the Subject Lands. *See* Coterra Ex. E (Statement of John Coffman ¶¶ 24-31; Tr. 30:12 – 33:11 (August 9, 2023).

68. Coterra is entitled to a moderate preference for good faith negotiations.

iv) Prudence of Operator

69. The Commission determined both parties equal under the "PRUDENCE OF OPERATOR criteria." *Order* ¶ 43.

70. In reaching that conclusion, the Commission ignored evidence of Coterra's superior record in reducing flaring and harmful emissions. Tr. at 116:16-117:15 (Sept. 18, 2025) and Coterra Ex. D at ¶¶ 15-19 and Ex. D-4. Permian acknowledged that Coterra's environmental record is superior to Permian's with respect to the three key metrics of flare intensity, methane intensity, and greenhouse gas intensity. Tr. at 25:19-22 (Sept. 18, 2025) (testimony of Davro Clements, Permian's Facilities Engineer). Instead, the Commission deferred to the prior OCD finding that both parties "adequately minimize surface and environmental impacts." *Order R-23089-A* ¶ 28.

71. Another fact supporting the finding that Coterra is the more prudent operator is the fact that Permian has failed in the very recent past to implement its proposed development plans to the detriment of the public interest. *See* Paragraph 52, above.

72. The record demonstrates a measurable disparity in environmental stewardship. Thus, Coterra is entitled to a significant preference with respect to this factor.

v) Comparison of Costs

73. The Commission held that "the COMPARISON OF COSTS criteria slightly favors awarding operatorship to Coterra." *Order* ¶ 57.

74. The record supports a stronger advantage for Coterra. Coterra proposed 30 wells (versus Permian's 24), narrowing the cost gap from prior hearings. *Order* ¶ 52. The Commission acknowledged Coterra's costs "remain slightly lower." *Id.* ¶ 56. However, unrebutted evidence

shows Permian's plan at $411,229,737.76 versus Coterra's $283,250,000 Coterra Ex. C-14)—a difference of $127,979,737.76, which is a 31.12% difference. Such disparity warrants more than a "slight" edge.

vi) Working Interest

75. The Commission ruled that "the WORKING INTEREST criterion now strongly favors awarding operatorship to Permian." *Order* ¶ 57.

76. It is undisputed that Coterra held majority support among non-applicant owners prior to the OCD's Order. The post-OCD Order shift in support of Permian reflects pragmatic alignment with the presumptive operator rather than a merit-based endorsement of Permian's plan. This artificial "support" lacks probative value.

77. Another reason to discount Permian's support is that it is based on Permian's promise to the working interest owners that it will drill all of its 48 wells within a year, a promise that is speculative at best due to Permian's recent string of broken promises. *See* Paragraph 52, above. There is no evidence in the record that Permian made any working interest owner aware of Permian's track record in this regard or that any of the working interest owners had independent knowledge of Permian's history of broken promises.

78. Finally, there is no record evidence that any of the working interest owners that support Permian's plan were aware that Permian's Bone Spring wells will drain the Wolfcamp and its Wolfcamp wells will drain the Bone Spring which results in a clear violation of their correlative rights.

G. Conclusion

79. For the reasons set forth herein, Coterra respectfully requests that the Commission grant this Application for Rehearing and reverse its decision to grant Permian's applications and instead grant Coterra's applications.

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 New Mexico Oil Conservation Commission and was served on counsel of record via electronic mail on November 4, 2025:

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

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

APPLICATONS OF CIMAREX ENERGY CO. FOR A HORIZONTAL SPACING UNIT AND COMPULSORY POOLING, LEA COUNTY, NEW MEXICO — **CASE NOS. 23448-23455**

APPLICATONS OF CIMAREX ENERGY CO. FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO — **CASE NOS. 23594-23601**

APPLICATONS 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 NOS. 23448-23455, 23594-23601, AND 23508-23532, LEA COUNTY NEW MEXICO — **CASE NO. 24541**

OCD ORDER NO. R-23089
OCD ORDER NO. R-23089-A

OCC CASE NO. 25371

ORDER GRANTING PERMIAN'S (READ & STEVENS) APPLICATIONS & DENYING COTERRA'S (CIMAREX) APPLICATIONS

COMES NOW, the New Mexico Oil Conservation Commission ("Commission") and issues this ORDER in the adjudicatory hearing in the above-cited case numbers. Pursuant to

EXHIBIT A

NMSA 1978, Section 70-2-13 and 19.15.4 NMAC, the hearing occurred on September 18-19, 2025. Pursuant to 19.15.4.24 NMAC, the Commission, upon reviewing the legal arguments, hearing testimony and exhibits, issues the following ORDER containing its statement of reasons:

Procedural History:

1. This matter was previously heard by a New Mexico Oil Conservation Division ("OCD") Hearing Examiner from August 9, 2023, through August 11, 2023.
2. This matter involves competing compulsorily pooling applications with overlapping horizontal spacing units filed by Coterra (formerly Cimarex Energy Co.) and Permian Resources (formerly Read & Stevens, Inc.) involving the Third Bone Spring formation ("Bone Spring") and Upper Wolfcamp formation ("Wolfcamp" which includes "Wolfcamp A" and "Wolfcamp XY").
3. On April 8, 2024, the OCD, after considering the testimony, evidence, and recommendation of the Hearing and Technical Examiners, issued Order R-23089.
4. This Order stated: "OCD hereby denies both applications except insofar as either applicant or both applicants chose to propose a special pool, a Wolfbone pool, that would account for the lack of frac baffles between the Bone Spring and Upper Wolfcamp formations in this area." Order R-23089, para 21. (Combining Wolfcamp and Bone Spring and formations.)
5. Coterra and Permian jointly filed a request for a special Wolfbone pool (Coterra under Case 24541; Permian under Case 24528).
6. On April 1, 2025, the OCD, after considering the testimony, evidence and recommendation of the Hearing and Technical Examiners, issued Order R-23751. This Order granted the joint request for a Wolfbone pool.

7. On April 1, 2025, the OCD, after considering the testimony, evidence and recommendation of the Hearing and Technical Examiners, also issued Order R-23089-A. Order R-23089-A ("OCD Order") took up the issue of whether Coterra or Permian should be operator of the Wolfbone pool.
8. "[E]ach seeks to be named operator of its proposed wells and spacing units." Order R-23089-A, para. 2.
9. The subject lands are: "Township 20 South, Range 34 East, N.M.PM. Section 4: Lots 1, 2, 3, 4 S/2N/2, S/2 (a/k/a All); Section 5: Lots 1, 2, 3, 4, S/2N/2, S/2 (a/k/a All); Section 8: All; Section 9: All." Order R-23089-A, para. 3. Both parties divided the Subject Lands into two sections: Coterra's naming nomenclature: "Mighty Pheasant" and "Loosey Goosey," and Permian's naming nomenclature: "Joker" and "Bane."
10. "[Permian] submitted sixteen (16) applications under case numbers 23508 to 23523, each of which is to compulsorily pool the uncommitted oil and gas interests in" the subject lands. Order R-23089-A, para. 3.
11. "[Coterra] submitted sixteen (16) applications under case numbers 23448 to 23466 and 23594 to 23601 to compulsorily pool the uncommitted oil and gas interests in" the subject lands. Order R-23089-A, para. 4.
12. The OCD Order stated: "The Oil Conservation Commission ("Commission") and OCD have developed several factors that they 'may consider' in evaluating competing compulsory pooling applications which are listed as follows:
    a. A comparison of geologic 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.

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

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.

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

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

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

g. A comparison of the ability of the applicants to timely locate well sites and to operate on the surface (the surface factor)." Order R-23089-A, para. 12.

13. The OCD Order, after reviewing and weighing each of the seven criteria, granted Permian's applications and denied Coterra's applications. Order R-23089-A, para. 59, 60.

14. The OCD Order concluded: "OCD finds [Permian'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." Order R-23089-A, para. 44.

15. On April 17, 2025, Coterra filed an application for *de novo* hearing of Order R-23089-A.

16. On September 14, 2025, both parties agreed, in a pre-hearing stipulation, that the evidence from the record below from Order R-23089, Order R-23089-A and Order R-23751 was to be admitted into the record.
17. On September 14, 2025, both parties agreed, in a pre-hearing stipulation, that there was a depth severance resulting in nonuniform ownership between the base of the Third Bone Spring and top of the Upper Wolfcamp formation.
18. On September 18-19, 2025, the Commission held a *de novo* hearing in this matter with written exhibits, testimony and legal argument.

Evaluation of Competing Applications to Operate the Wolfbone Pool:

19. Based on the written exhibits, testimony and legal arguments presented to the Commission for its September 18-19, 2025 *de novo* hearing, the Commission made the following determinations regarding each of the seven criteria for evaluating competing compulsory pooling applications:

Criterion a--Geological evidence:

20. Order R-23089-A (OCD Order) concluded: "OCD finds that both the Applicants are attempting to develop the Subject Lands as part of a larger development plan and neither party found any faulting, pinch outs, or other geologic impediments that would impede production. OCD further finds that [Permian] has taken additional steps in securing knowledge of the geology of the Subject Lands." Order R-23089-A, para. 20.
21. At the COMMISSION hearing, there was no new evidence of substantive nature that altered the analysis of this criterion.
22. The evidence supports a determination that both parties are equal in the GEOLOGIC EVIDENCE criteria.

Criterion b--Risk and Development:

23. The OCD Order summarized Permian's position as follows: "[Permian's] Reservoir Engineer testified that co-development of the Wolfbone (Third Bond Spring Sand and the Wolfcamp A) is necessary to recover incremental reserves…that would otherwise risk being left unproduced if the acreage was only developed with wells in the Third Bone Spring Sand portion of the Wolfbone. Testimony further included that undeveloped reserves would harm correlative rights of owners who own a greater share of interest in the Wolfcamp or own only interest in the Wolfcamp." Order R-23089-A, para. 21.
24. The OCD Order summarized Coterra's position as follows: Coterra's development plan is different than Permian's development plan because Permian plans to have wells for the Wolfcamp, but Coterra believes these added wells would "produce negligible additional reserves." Order R-23089-A, para. 22.
25. The OCD Order concluded: "OCD finds [Permian'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." Order R-23089-A, para. 23.
26. At the Commission hearing, Permian's Reservoir Engineer, Mr. David Sonka, testified that Permian's plan to recover reserves in the Wolfcamp XY area is supported by the data showing the adjacent Matador "XY well was best well in pattern, recovering significant additional resource over 6+ year producing life." Permian Exhibit F-8.
27. Mr. Sonka testified that there was a successful test of Bone Spring and XY co-development and Wolfcamp XY "performed in-line with [Bone Spring], driving significant, incremental value and resource recovery." Permian Exhibits F-10 to -14.

28. Mr. Sonka's testimony rebutted Coterra's argument that there were only "negligible additional reserves" in the Wolfcamp and Mr. Sonka's testimony demonstrated that Permian's proposed number of wells was consistent with and a logical outgrowth of successful adjacent oil projects. Permian Exhibits F-10 to -16.
29. Mr. Sonka testified Permian's plan would result in 39 million barrels of oil equivalent ("MMBOE") recovered; in contrast, Coterra's plan would likely recover only 22 MMBOE. Permian Exhibit F-2.
30. Mr. Sonka testified Permian's plan would result in $641 million in value creation, compared to $372 million under Coterra's Plan. Permian Exhibit F-2.
31. Mr. Sonka testified that Permian's plan would result in $165 million in value creation to Bone Spring owners (as compared to $120 million under Coterra's plan). Permian Exhibit F-2.
32. Mr. Sonka testified that Permian's plan would result in $152 million in value creation to Wolfcamp owners (as compared to $45 million under Coterra's plan). Permian Exhibit F-2.
33. Mr. Sonka testified that Permian's plan would result in $187 million in severance and *ad valorem* taxes to the government (as compared to $106 million under Coterra's plan). Permian Exhibit F-2.
34. Permian's testimony corroborated the OCD Order's finding that Permian's plan "is necessary to recover incremental reserves…that would otherwise risk being left unproduced." Order R-23089-A, para. 21.

35. Permian's testimony corroborated the OCD Order's finding that Permian's "proposal will result in a higher recovery of hydrocarbons and will produce the Wolfcamp portion of the Wolfbone which will prevent waste…." Order R-23089-A, para. 44.
36. The Commission finds that based on the evidence presented in this case, the RISK AND DEVELOPMENT criteria strongly favors awarding operatorship to Permian.

Criterion c--Negotiations:

37. The OCD Order concluded: "OCD finds that each Applicant made effort to negotiate with each party in the Subject Lands as each party gained support from various interest owners." Order R-23089-A, para. 25.
38. Under this criterion, the Commission favors operators who make good faith efforts to seek consensus, and to reach an allocation that strives to be fair to all interest holders.
39. The Commission finds that a proposed allocation formula in the case of a pool across a depth severance may be evidence of good faith negotiations and good faith attempts to reach common understanding of fairness with other interest owners in the pool.
40. On balance, the record is unclear whether the NEGOTIATIONS factor favors either party in this case.

Criterion d--Prudence of Operator:

41. The OCD Order concluded: "OCD finds that both Applicants are active operators in the Permian Basin and both Applicants are taking prudent steps to minimize surface and environmental impact." Order R-23089-A, para. 28.
42. At the COMMISSION hearing, there was no new evidence of substantive nature that altered the calculation of this criterion.

43. The evidence supports a determination that both parties are equal in the PRUDENT OF OPERATOR criteria.

Criterion e--Comparison of Cost:

44. The OCD Order summarized as follows: "[Coterra's] applications have an associated total cost of just over $283 million, with each individual well's cost ranging from $9.7 million to $10.6 million." Order R-23089-A, para. 31.

45. The OCD Order summarized that Permian proposed 48 wells and "[Permian's] applications have an associated total cost of just over $539 million…." Order R-23089-A, para. 32.

46. Coterra in its pre-hearing statement asserted that OCD disregarded and ignored the difference in the cost portion. Coterra claimed that: "[t]he Division found the difference in total development cost between the plans—$256 million—was irrelevant to the question of operatorship." Coterra's Consolidated Prehearing Statement, pp. 4-5. Coterra also asserted that "the Division has contravened [its] obligation by disregarding and ignoring economic waste as a factor to be considered." *Id.* at p. 23.

47. The OCD Order states that: "[Coterra's] total development cost is lower than [Permian's] total development cost. However, under Order-10731-B, differences in cost estimates 'are not significant factors in awarding operations and have only minor significance in evaluating an operator's ability to prudently operate the property." Order R-23089-A, para. 33. (emphasis added)

48. Finding a criterion to have "minor significance" is not the same as finding it to be "irrelevant." The OCD Order did not disregard or ignore this criterion; the order merely assigned this criterion less weight.

49. As to the difference in costs, Coterra originally proposed 20 wells to the OCD Hearing Officer. Permian Exhibit F-1.
50. Coterra then proposed 24 wells. Permian Exhibit F-2.
51. At the Commission hearing, Coterra's witness testified that it has further increased its proposed number of wells to "thirty wells in total." Weinkauf, 9/18/25, Transcript P. 102: 6.
52. While Coterra's proposed costs remain lower than Permian's proposed costs, this increase in Coterra's number of proposed wells has significantly increased Coterra's proposed costs from what it presented to the OCD Hearing Officer. These changes have greatly shrunk the cost difference between the two proposals from what was presented to the OCD Hearing Officer.
53. At the Commission hearing, Mr. Sonka testified that Permian's extra wells generated more MMBOE, revenue and taxes. Permian Exhibit F-2.
54. Mr. Sonka testified about the purpose and effectiveness of the spacing and location of the extra wells to create the additive impact. Permian Exhibit F-2.
55. Mr. Sonka rebutted Coterra's argument that extra wells would not generate additional revenues. Permian Exhibits F-20 to -24.
56. The Commission finds that Permian's higher costs do not constitute economic waste because the evidence shows that the increased costs will likely result in significant increased recovery of hydrocarbons. Nevertheless Coterra's costs remain slightly lower.
57. Therefore, The Commission finds that the evidence presented in this hearing supports a determination that the COMPARISON OF COST criteria slightly favors awarding operatorship to Coterra.

Criterion f--Working Interest:

58. The OCD Order summarized: "The ownership interest in the Bone Spring and Wolfcamp formations underlying the Subject Lands are not uniform. There is a difference in the percentage of ownership between the formations and in some circumstances are different between the formations." Order R-23089-A, para. 34.
59. The OCD Order stated that: (a) Permian and its working interest support was 34.18% in the Bone Spring and 39.48% in the Wolfcamp, and (b) Coterra and its working interest support was 50.23% in the Bone Spring and 41.8% in the Wolfcamp. Order R-23089-A, para. 36.
60. The OCD Order concluded: "OCD finds the differences between Cimarex's and Read's working interest control are not very significant and that makes it difficult to use working interest control as the deciding factor in this case." Order R-23089-A, para. 37.
61. However, at the Commission hearing, Mr. Hajdik testified that working interest support has shifted significantly towards Permian since the OCD Order was issued. Permian Exhibits C-14 to C-18.
62. Permian and working interest support has now grown to as high as 74% in the Bone Spring and as high as 80% in the Wolfcamp. Permian Exhibit C-11, p. 176.
63. "Several sizable owners have executed a JOA naming Permian Resources as the Operator or issued letters of support throughout the intervening years … including working interest owners who previously supported Coterra, such as Zorro and Javalina." Permian Exhibit C-11, p. 189.

64. The overwhelming percentage of working interest that is now in support of Permian's development plan demonstrate that these entities reject Coterra's allegation that Permian's plan will constitute "waste" of their capital.

65. Based on the evidence presented at the Commission hearing, the Commission finds that the WORKING INTEREST criterion now strongly favors awarding operatorship to Permian.

Criterion g--Surface Factor:

66. The OCD Order stated that Coterra's development plan consisted of 33.9 acres of surface disturbance and Permian's development plan consisted of 30.9 acres of surface disturbance. Order R-23089-A, para. 39-40. The OCD Order concluded: "OCD finds both Cimarex and Read have taken steps with the BLM to obtain approval to operate the Subject Lands." Order R-23089-A, para. 43.

67. At the COMMISSION hearing, there was no new evidence of substantive nature that altered the calculation of this criterion.

68. Based on the evidence presented at the Commission hearing, the Commission finds that the SURFACE FACTOR criterion very slightly favors awarding operatorship to Permian.

The Seven Factor Analysis Favors Permian

69. Based on the analysis above, (a) the Geological Evidence analysis results in a tie, (b) the Risk and Development analysis strongly favors Permian, (c) the Negotiations analysis does not clearly favor either party, (d) the Prudence analysis results in a tie, (e) the Comparison of Costs slightly favors Coterra, (f) the Working Interest analysis strongly favors Permian, and (g) the Surface Factor analysis slightly favors Permian. Therefore,

the Commission finds that on balance, the evidence presented favor Permian's applications to operate the Wolfbone Pool.

Allocation of Revenue Among Interest Owners:

70. The Commission is "empowered, and it is its duty, … to protect correlative rights, as in this act provided." NMSA 1978, Section 70-2-11.

71. It is uncontested that: (1) the Wolfbone Pool consists of the base of the Third Bone Spring formation and the top of the Upper Wolfcamp formation; (2) due to a depth severance, there is nonuniform ownership between the base of the Third Bone Spring and top of the Upper Wolfcamp formation; and, (3) the "common source of supply [is] located predominantly in the Third Bone Spring Sand." Order R-23089, para. 6.

72. Permian proposed allocating revenue from the Wolfbone Pool based on the express language of NMSA 1978, Section 70-2-17(C): " [P]roduction shall be allocated 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."

73. Coterra argued that Permian's proposed allocation of revenue for the interest owners was not "equitable" nor "fair" to the correlative rights of the owners in the Bone Spring. Coterra argued Permian's allocation formula was so disproportionate as to constitute a "taking" because the "common source of supply [within the Wolfbone Pool is] located predominantly in the Third Bone Spring Sand." Order R-23089, para. 6.

74. Coterra cited to NMSA 1978, Section 70-2-17(A): "The rules, regulations or orders of the division shall, so far as it is practicable to do so, afford to the owner of each property in a pool the opportunity to produce his just and equitable share of the oil or gas, or both, in

the pool, being an amount, so far as can be practically determined, and so far as such can be practicably obtained without waste, substantially in the proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for this purpose to use his just and equitable share of the reservoir energy." NMSA 1978, Section 70-2-17(A) (emphasis added).

75. Coterra asserted that since the supply was "predominantly" in the Bone Springs formation, it would be more just and equitable for the owners of the Bone Spring formation to "predominantly" receive the revenue.

76. Coterra's geologist expert, Ms. Staci Frey, testified that Coterra's proposed allocation formula was a percentage split of 70% to the Bone Spring owners collectively and 30% to the Wolfcamp owners collectively.

77. Ms. Frey testified that Coterra estimated the relative amount of the recoverable resource that exist between the Bone Spring and Wolfcamp formations using three different methods:

    a. Method #1 – Phi*H (multiplying the porosity of each formation by its thickness); this method would estimate the Bone Spring formation to hold 73% of the resource and the Wolfcamp to hold 27% of the resource. Coterra Exhibit B-11.

    b. Method #2 – Resistivity / Neutron (calculated based on resistivity and neutron density log cut offs); this method would estimate the Bone Spring formation to hold 79% of the resource and the Wolfcamp to hold 21% of the resource. Coterra Exhibit B-12.

    c. Method #3—So*Phi*H original (multiplying saturation of oil by the porosity and thickness of the formation); there was a dispute of fact as to the results of this

method. One potential outcome would estimate the Bone Spring formation to hold 65% of the resource and the Wolfcamp to hold 35% of the resource. Coterra Exhibit B-13. This method could also estimate the Bone Spring formation to hold 74% of the resource and the Wolfcamp to hold 26% of the resource. Permian Rebuttal Exhibit F-27.

78. Ms. Frey testified that Coterra proposed a 70% / 30% allocation split because it was a rounded number in the range of the estimation methods Coterra considered.

79. Mr. Bradford and Mr. Sonka testified that Coterra's 70% / 30% calculations were not reliable because the results of the different models varied too widely. Permian Rebuttal Exhibit E-24 and F-27.

80. The Commission finds that there is insufficient evidence in the record to demonstrate that Coterra's proposed allocation is more just and equitable. The Commission was presented with four different estimates using three different methodologies, and Coterra's proposed allocation formula is different from all four estimates. This suggests that even Coterra finds that it is not "insofar as practicable" to determine with sufficient certainty what would constitute the most fair and equitable allocation formula. NMSA 1978, Section 70-2-17(A).

81. In addition, Permian's geology expert, Ira Bradford, testified there are oil reserves in the Wolfcamp A Shale portion of the pool that was not accounted for in Coterra's 70% / 30% calculation. Permian Rebuttal Exhibit E-31-34. Permian wrote: "Coterra's allocation formula thus ignores oil-bearing porosity in the Wolfcamp A Shale portion of the pool." Permian's Amended Pre-Hearing Statement, p. 17. In other words, Coterra's proposed allocation undervalues the reserves in the Wolfcamp A.

82. Permian argued that its proposed allocation formula for revenue for interest owners was fair to the correlative rights of all owners because it was based on the express language of NMSA 1978, Section 70-2-17(C). This law reads: "For the purpose of determining the portions of production owned by the persons owning interests in the pooled oil or gas, or both, such production shall be allocated 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, Section 70-2-17(C) (emphasis added).
83. A rule of statutory construction is that a more specific statute controls over a more generally worded statute. State v. Arrellano, 1997-NMCA-074, para. 4.
84. Section 70-2-17(C) is more specific than Section 70-2-17(A) and therefore sets the statutory default for the allocation formula.
85. Certain previous division orders pooling across a depth severance have included an allocation formula that departs from the statutory default. See e.g. R-21165 and R-12094. However, in those cases, the allocation formula adopted was the one proposed by the prevailing applicant, without adversarial record. Therefore, these cases are distinguishable from this instant case.
86. However, even if, assuming arguendo, the Commission could impose an allocation formula that departs from the statutory default of NMSA 1978, Section 70-2-17(C), there are not sufficient grounds in this case to justify such departure.
87. Coterra's request for an alternate allocation formula is based on the hypothesis that Permian's allocation formula will undercut the correlative rights of entities that own a greater interest in the Bone Spring than the Wolfcamp. Permian's Landman, Mr. Mark

Hajdik, provided a list of such entities: Highland, Avalon (PR), Javelina Partners, William Hudson II, Prime Rock and Magnum Hunter. Permian Exhibit C-11.

a. Highland supports Permian's allocation plan.

b. Avalon (PR) supports Permian's allocation plan.

c. Javelina Partners entered into a Joint Operation Agreement with Permian.

d. William Hudson II entered into a Joint Operation Agreement with Permian.

e. Prime Rock is neutral. Permian Exhibit C-11.

f. Magnum Hunter is the only entity that opposes Permian's plan. Coterra's witnesses stated that Magnum Hunter is owned by Coterra.

88. Coterra alleges in its prehearing statement that the OCD Order's acceptance of Permian's proposed allocation formula resulted in an unconstitutional "taking" from those entities that own a greater interest in the Bone Spring than the Wolfcamp. The government could cure this problem, according to Coterra, only if: "[T]he takings Clause mandates that states have made, at the time of the taking, reasonable, certain and adequate provision for obtaining compensation." Coterra's Consolidated Prehearing Statement, p. 14 (citing to Manning v. NM Energy, Minerals and Natural Resources Dep't, 2006-NMSC-027, para. 22).

a. First, all above-cited entities (except Coterra's subsidiary, Magnum Hunter) side with Permian, which rebuts Coterra's assertion that Permian's proposed allocation formula is a "taking" from these entities.

b. Second, Mr. Sonka testified that Permian's plan would result in $165 million in value creation to Bone Spring owners. Permian Exhibit F-2. This is greater than the value creation from Coterra's plan ($120 million) for Bone Spring owners.

Permian Exhibit F-2. This means Permian's proposed allocation formula provides a reasonable, certain and adequate provision to Magnum Hunter to receive adequate and reasonable revenues. Therefore, the Commission and OCD's acceptance of Permian's proposed allocation formula is not a violation of the Takings Clause under the Manning case law analysis.

89. In addition, Permian's Landman, Mr. Mark Hajdik, provided a list, which included whose entities with a greater interest in the Wolfcamp than the Bone Spring: MRC, Northern, First Century (PR), Read & Stevens (PR), CBR, CLM Production, Warren Associates, Cimarex Energy, Marks Oil, Wilbanks Reserve, HOG Partnership LP. Permian Exhibit C-11. This list represents those entities who will miss out on revenue if Coterra's development plan to avoid drilling in the Wolfcamp was adopted. All these entities support Permian's allocation formula. Permian Exhibit C-11. Mr. Hadjik's list of more than ten entities corroborated the OCD Order's conclusion that Coterra's plan would actually "harm correlative rights of owners who own a greater share of interest in the Wolfcamp or own only interest in the Wolfcamp." Order R-23089-A, para. 21.

90. The Commission finds that there was substantial evidence presented at the hearing and hearings below establish that on balance, the seven criteria analysis favor Permian as operator of the Wolfbone Pool.

    a. Permian's development plan will prevent "waste" of oil resources.

    b. Permian development plan will create more value and revenue for all interest owners.

    c. Permian's development plan will not "waste" the capital of the interest owners.

d. Permian's allocation formula is based on the statutory formula and will not unfairly harm the correlative rights of interest owners.

ORDER

Based on the above, the Commission:

a. **Grants** Permian's applications in **CASE NOS. 23508-23523**

b. **Denies** Coterra's applications in **CASE NOS. 23448-23455** and **CASE NOS. 23594-23601.**

c. All other pending motions are **denied**.

d. This Order will go into effect 20 days from the date this order is filed and served, and all previously issued stays in this case will be lifted on that same date.

The vote for this Order was unanimous.

Albert Chang

Albert C.S. Chang, Chairman
On behalf of the Commission

10/16/2025

Date

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:

DE NOVO

APPLICATION OF CURRY AND THORNTON FOR AN UNORTHODOX OIL WELL LOCATION AND A NON-STANDARD PRORATION UNIT, CHAVES COUNTY, NEW MEXICO. CASE NO. 9617

APPLICATION OF STEVENS OPERATING CORPORATION TO AMEND DIVISION ORDER NO. R-8917, DIRECTIONAL DRILLING AND AN UNORTHODOX OIL WELL LOCATION, CHAVES COUNTY, NEW MEXICO. CASE NO. 9670

Order No. R-9035

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on October 19, 1989, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 2nd day of November, 1989, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Curry and Thornton and Stevens Operating Corporation, own the leasehold on the W/2 of Section 9, Township 14 South, Range 29 East, NMPM, Chaves County, New Mexico and desire to dedicate their directionally-drilled Deemar Federal Well No. 1 to a non-standard unit consisting of

EXHIBIT B

the E/2 W/2 of said Section 9 at an unorthodox bottomhole location 1948 feet from the South line and 2562 feet from the West line (Unit K) of said Section 9 in the North King Camp-Devonian Pool.

(3) Santa Fe Exploration and Exxon USA appeared at the hearing and opposed the subject application on the basis that the unorthodox location would impair correlative rights; and, if granted, a penalty should be assessed based upon an estimate of recoverable pool reserves under each tract or the ratio penalty formula set forth in Division Order No. R-8917 and R-8917-A.

(4) The discovery well, the No. 1 Holmstrom, was drilled by Santa Fe Exploration at a standard location 1980 feet from the South and East lines of said Section 9.

(5) Special pool rules for said pool were promulgated by Order No. R-8806 after the hearing held November 22, 1988 in Case No. 9529, which provided for 160-acre spacing and proration units consisting of a governmental quarter section with the well to be located not less than 660 feet from the unit boundary, nor less than 330 feet from an inner quarter-quarter section line, nor less than 1320 feet from the nearest well completed in said pool.

(6) Pursuant to Order R-8917-A, Stevens Operating Corporation ("Stevens") re-entered the Philtex Oil Company Honolulu Federal Well No. 1 in Unit K of said Section 9 and directionally drilled the Deemar Federal Well No. 1 to the approved bottomhole location and encountered only water. After notifying the Division, Stevens plugged back said well bore and deviated a second hole at a higher angle to the east, which they completed as a producer.

(7) Timely applications for hearing de novo before the Commission were filed by both Stevens Operating Corporation and Santa Fe Exploration and the hearing date was extended to October 19, 1989 with the concurrence of all parties.

(8) After reviewing the Eastman Christensen "Report of Subsurface Directional Survey" for the Stevens Operating Corporation Deemar Federal Well No. 1, which showed the bottom-most perforated interval of the wellbore to be at 1948 feet from the South line and 2562 feet from the West line of Section 9, or 78 feet from the East line of the proration unit, the Director assigned a daily oil allowable of 35 barrels per day in accordance with Decretory Paragraph (5) of Order No. R-8917-A.

(9) Both sides presented testimony that was in substantial agreement as to the geometry, the geology field and the producing reservoir characteristics, of the reservoir differing in their interpretations of the rate of north dip and to a minor degree, the trace of the major trapping fault at the west boundary.

(10) In unorthodox location cases, the Commission has generally endorsed a penalty formula using ratios based upon the proportional distance a well crowds the proration unit boundary and nearest producing well as in Division Order R-8917-A, but in cases where there is substantial evidence and agreement as to productive acreage and recoverable reserves, the Commission is obligated under the Oil and Gas Act to set allowables which allow operators to recover the oil and gas underlying their respective tracts while preventing waste.

(11) The geological witness for Stevens presented testimony that the pool oil-water contact was estimated at subsea elevation of -6055 feet which was not refuted by subsequent witnesses.

(12) The same witness established the major fault trace based upon a Formation Micro Scanner survey run in the Deemar Federal No. 1.

(13) Santa Fe Exploration's geophysicist presented a seismic interpretation showing a rate of north dip steeper than that presented by the Stevens' witness who relied upon a geological interpretation of the Micro Scanner survey. That survey only shows the rate of dip within the No. 1 Deemar wellbore.

(14) Based upon the oil-water contact and the major fault trace established by Stevens' geologist, the rate of north dip established by the Santa Fe geophysicist, and other geologic and engineering criteria which was in substantial agreement, the relative percentages of oil productive rock volume calculated under each tract are as follows:

(a) Within the total field there is approximately 10,714 acre-feet of Devonian oil pay or oil saturated rock volume.

(b) Underlying the E/2 W/2 of Section 9, there is approximately 2,246 acre-feet of Devonian oil pay or 21% of the pool total.

(c) Underlying the SE/4 of Section 9 there is approximately 5,688 acre-feet of Devonian oil pay or 53% of the pool total.

(d) Underlying the NE/4 of Section 9 there is approximately 2,780 acre-feet of Devonian oil pay or 26% of the pool total.

(15) The North King Camp-Devonian Pool has an active water drive and the relative percentages of oil pay or oil-saturated rock volume under each tract are the same approximate percentages as the recoverable oil reserves under each tract, provided wells are positioned to permit the recovery.

(16) Productive surface area is calculated to be approximately 177 acres and expert engineering testimony has established that one well located at the highest part of the North King Camp structure could effectively and efficiently drain all of the recoverable oil reserves under this 177 acre pool.

(17) The Stevens' Deemar Federal No. 1 well occupies the highest portion of the structure and could effectively drain the entire pool. Only well locations that are unorthodox, such as the Stevens' well, could drain the upper portion (attic) of this oil reservoir and prevent the waste of unrecoverable oil reserves.

(18) Producing the Stevens' well at top allowable rates would eliminate waste but would violate the correlative rights of interest owners in the SE/4 of Section 9 unless all interest owners in Section 9 agreed to operate the pool and share oil and gas production and costs in some equitable fashion.

(19) The Santa Fe Exploration No. 1 Holmstrom Federal, the only other producing well in the pool, is located 55 feet lower structurally than the No. 1 Deemar.

(20) Testimony did establish that Santa Fe Exploration is producing their No. 1 Holmstrom well at a rate of 200 barrels of oil per day plus 10 barrels of water so as to minimize the effects of coning water.

(21) In the absence of unitized operations, in order to prevent waste and protect the correlative rights of all interest owners in a pool, allowables must be established which reflect the relative percentages established in Finding (14), encourage voluntary unitization and discourage the

drilling of additional wells which are not needed and would constitute waste.

(22) Penalized allowables for the Stevens well that are tied to the producing rates of the No. 1 Holmstrom would be indefinite and violate Stevens' correlative rights. Allowables which would encourage drilling additional wells would cause waste.

(23) In order to protect correlative rights, total pool allowable should be the current pool production rate which includes the penalized rate of 35 barrels of oil per day for the Stevens' well, and the producing rate of 200 barrels of oil per day from the Santa Fe well. Said pool allowable of 235 barrels of oil per day should be allocated according to the percentages established in Finding (14) which are:

(a) The E/2 W/2 of Section 9 should have an allowable of 49 (.21 x 235) barrels of oil per day.

(b) The SE/4 of Section 9 should have an allowable of 125 (.53 x 235) barrels of oil per day.

(c) the NE/4 of Section 9 should have an allowable of 61 (.26 x 235) barrels of oil per day if it is drilled.

(24) The allowables established in Finding (23) should become effective December 1, 1989 and should remain in effect unless voluntary agreement is reached by all interest parties in the field at which time the pool allowable should be increased to 1,030 barrels of oil per day which is the top allowable rate for the two producing wells currently in the pool and which new pool allowable could be produced in any proportion between the two existing wells.

(25) The tract allowables established in Finding (23) should protect correlative rights by honoring the percentages established in Finding (14) and prevent waste by discouraging the drilling of additional wells which are not necessary to effectively and efficiently drain the subject pool.

(26) Should all interest owners in this pool reach voluntary agreement subsequent to the entry of this order, operators of the pool wells should file with the Director of the Division application for approval of the unit agreement and, upon approval, this order should thereafter be of no further effect and the new pool allowable should take effect on the first day of the month following approval of said unit agreement by the Director.

IT IS THEREFORE ORDERED THAT:

(1) Effective December 1, 1989, the pool allowable for the North King Camp-Devonian field shall be 235 barrels of oil per day which shall be shared by the below listed proration units in the amounts shown:

(a) The E/2 W/2 of Section 9, Township 14 South, Range 29 East, shall have a top allowable of 49 barrels of oil per day.

(b) The SE/4 of Section 9, Township 14 South, Range 29 East, shall have a top allowable of 125 barrels of oil per day.

(c) The NE/4 of Section 9, Township 14 South, Range 29 East, shall have a top allowable of 61 barrels of oil per day if a well is drilled and completed in the Devonian.

(2) Said allowable shall remain in effect unless all interest owners in the pool reach voluntary agreement to provide for unitized operation of its pool.

(3) Should all interest owners reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(4) The operators of the pool wells shall file with the Director of the Division an application for approval of the unit agreement and this order shall then terminate on the first day of the month following approval of said unit. A new pool allowable of 1,030 barrels of oil per day shall then take effect; said new pool allowable can be produced in any proportion between existing pool wells.

(5) Jurisdiction of this case is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

WILLIAM R. HUMPHRIES, Member

William W. Weiss

WILLIAM W. WEISS, Member

WILLIAM J. LEMAY, Chairman
and Secretary

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