

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

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

APPLICATION OF CIMAREX ENERGY CO. CASE NO. 16379  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

September 6, 2018

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner, and David K. Brooks, Legal Examiner, on Thursday, September 6, 2018, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

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# APPEARANCES

FOR APPLICANT CIMAREX ENERGY CO.:

DEANA M. BENNETT, ESQ.  
JENNIFER L. BRADFUTE, ESQ.  
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.  
500 4th Street, Northwest, Suite 1000  
Albuquerque, New Mexico 87102  
(505) 848-1800  
deanab@modrall.com

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1 (10:02 a.m.)

2 EXAMINER McMILLAN: Call Case Number 16379,  
3 application of Cimarex Energy Company for compulsory  
4 pooling, Lea County, New Mexico.

5 Call for appearances.

6 MS. BENNETT: Good morning. Mr. Examiner.  
7 My name is Deana Bennett, with Modrall, Sperling, on  
8 behalf of Cimarex Energy Company. And with me is  
9 Jennifer Bradfute.

10 EXAMINER McMILLAN: Any other appearances?  
11 Please proceed.

12 MS. BENNETT: Good morning, again. As I  
13 mentioned, I'm Deana Bennett. I'm here on behalf of  
14 Cimarex Energy Company. This is an uncontested pooling  
15 case, and I am prepared to present it by affidavit  
16 today.

17 The first affidavit that I have in the  
18 packet before you is marked as Exhibit 1, and that is  
19 the affidavit of Cody Elliot. Cody Elliott is a landman  
20 for Cimarex Energy Co., and he has been qualified by the  
21 Division as an expert petroleum landman, and he has  
22 previously, as I mentioned, testified before the  
23 Division. And I'd like to take a moment now to run  
24 through his affidavit and the exhibits that we've  
25 attached to his affidavit.

1 EXAMINER McMILLAN: Okay.

2 MS. BENNETT: Thank you.

3 So the purpose of the application is to  
4 force pool the working interest owners into a horizontal  
5 spacing unit. There is no opposition expected, and  
6 there is no opposition here today. The interest owners  
7 being pooled have been contacted regarding the proposed  
8 well, but have either failed or refused to voluntarily  
9 commit their interest to the well.

10 If you look at Exhibit A, which is  
11 immediately behind Mr. Elliott's affidavit, that is a  
12 plat, and it's marked as Exhibit 1A. This map shows the  
13 ownership of each separate tract in the proposed unit,  
14 the proposed well's location in the unit. And Cimarex  
15 is here today seeking an order pooling all of the  
16 mineral interests in the Bone Spring Formation  
17 underlying the east half of the east half of Section 7,  
18 Township 20 South, 35 East. And this unit will be  
19 dedicated to the Lea 7 Fed Com 30H well. And that well,  
20 as you can see from the plat, as well as the C-102,  
21 which is Exhibit 1B, will have a surface location in the  
22 southeast quarter of the southeast quarter of Section 7  
23 and a final take point in the northeast quarter of the  
24 northeast quarter of Section 7. The landman also  
25 testified in his affidavit that there are no depth

1 severances within this formation.

2 I've attached Exhibit D, which is the C-102  
3 for the well. It's a proposed C-102. And from the  
4 C-102, you can see that the pool is the Wildcat Bone  
5 Spring, which is an oil pool. And this C-102 shows the  
6 proposed landing point, which is 191 feet from the south  
7 line and 660 feet from the east line. And then the  
8 bottom-hole location, 660 feet from the east line, 330  
9 feet from the north.

10 The landman has testified that the  
11 producing interval for the well will be orthodox and  
12 will comply with the Division setback requirements.

13 Looking back at Exhibit 1A, this exhibit  
14 identifies the percentage ownership of the parties being  
15 pooled. And I have an Exhibit A that I will be  
16 testifying to. That's my affidavit, which will have the  
17 parties' addresses in it.

18 The landman has testified that he conducted  
19 a diligent search of the public records in the county  
20 where the well is located, and he also conducted  
21 computer searches to locate contact information for the  
22 parties entitled to notification. And he mailed all the  
23 parties well proposals, including AFEs and a form of  
24 operating agreement, and those exhibits are Exhibits C  
25 and D.

1                   Exhibit C is the proposed well-proposal  
2     letter, and Exhibit D is the AFE showing the drilling  
3     costs, completion costs and the total well costs on the  
4     first page.

5                   The landman has testified that in his  
6     opinion, Cimarex made a good-faith effort to obtain the  
7     voluntary joinder of the working interest owners in the  
8     proposed well. He also testifies that the estimated  
9     cost of the well set forth in the AFE is fair and  
10    reasonable and is comparable to the costs of other wells  
11    of similar depths in New Mexico.

12                  Cimarex has a form operating agreement that  
13    I mentioned a moment ago, and in that operating  
14    agreement, Cimarex identifies overhead and  
15    administrative rates of 7,000 per month for a drilling  
16    well and 700 per month for a producing well. And  
17    Cimarex requests those costs in this hearing. The  
18    landman has testified that these rates are fair and  
19    comparable to rates charged by other operators for wells  
20    of this type in this area of New Mexico. Cimarex also  
21    requests that these rates be adjusted periodically as  
22    provided in the COPAS accounting procedure.

23                  In his affidavit, the landman also requests  
24    the maximum cost, plus 200 percent risk charge be  
25    assessed against nonconsenting working interest owners.

1 And Cimarex requests that it be designated operator of  
2 the well.

3 I would also like to point out that there  
4 are no offsets here. This is a standard unit, and there  
5 are no overriding interest owners.

6 The landman testified that the attachments  
7 to the affidavit were prepared by him or compiled by him  
8 and that the information contained in the affidavit is  
9 complete to the best of his knowledge. He also  
10 testifies that the granting of the application is in the  
11 interest of conservation and the prevention of waste.

12 With that, I would ask that Exhibits --  
13 Exhibit A, the affidavit of Cody Elliott -- excuse me --  
14 Exhibit 1, the affidavit of the Cody Elliot, along with  
15 Exhibits A, B, C and D to his affidavit, be admitted, be  
16 accepted into the evidence.

17 EXAMINER McMILLAN: So Exhibit 1 and then  
18 1A, 1B, 1C --

19 MS. BENNETT: And 1D.

20 EXAMINER McMILLAN: -- 1D may now be  
21 accepted as part of the record.

22 (Cimarex Energy Co. Exhibit Numbers 1, 1A,  
23 1B, 1C and 1D are offered and admitted into  
24 evidence.)

25 MS. BENNETT: Thank you.

1 EXAMINER McMILLAN: What's the pool code?

2 MS. BENNETT: Pool Code 96403.

3 EXAMINER McMILLAN: 96403.

4 MS. BENNETT: And that's the pool code for  
5 the Wildcat Bone Spring Pool.

6 EXAMINER McMILLAN: Status? It's proposed?

7 MS. BRADFUTE: Proposed.

8 EXAMINER McMILLAN: No API number?

9 MS. BENNETT: There is no API number as of  
10 yet.

11 EXAMINER McMILLAN: Unlocatable interests?

12 MS. BENNETT: There is one unlocatable  
13 interest owner, and we have published, which I will get  
14 to momentarily.

15 EXAMINER McMILLAN: Okay. What's the OGRID  
16 number?

17 MS. BENNETT: The OGRID number is --

18 EXAMINER McMILLAN: I get confused with  
19 them.

20 MS. BENNETT: Right. So the OGRID number  
21 for Cimarex Energy Co. is 215099.

22 EXAMINER McMILLAN: Go ahead.

23 EXAMINER BROOKS: I don't really have any  
24 questions.

25 Who is the unleased -- the unknown --



1 MS. BENNETT: There is not anyone who is  
2 unknown. They're known. We just haven't been able to  
3 contact them.

4 EXAMINER BROOKS: You mean, you know their  
5 names, but you don't know --

6 MS. BENNETT: We know their names and  
7 addresses, but mail has returned undeliverable.

8 EXAMINER BROOKS: Presumably that's not a  
9 good address. Have you served them by publication?

10 MS. BENNETT: Yes.

11 EXAMINER BROOKS: And who is that?

12 MS. BENNETT: That will be identified in  
13 Exhibit 3, which is my affidavit. And it's Exhibit --  
14 it's the second page of Exhibit 3A. And I apologize for  
15 the way I've tabbed the document. I will do a better  
16 job of tabbing for the next time we present by  
17 affidavit. I appreciate your patience with me. But on  
18 the second page of Exhibit 3A, you can see that the Lowe  
19 Family, Limited in Lubbock, Texas, we mailed a letter to  
20 them, but it has not been delivered.

21 EXAMINER BROOKS: Okay. So you don't  
22 know -- you listed somebody as managing trustee. I'm  
23 sorry. The Lowe Family, Limited, was that --

24 MS. BENNETT: Uh-huh, the Lowe Family, Ltd.

25 EXAMINER BROOKS: Okay. And did you say

1     you served them by publication?

2                     MS. BENNETT:   Yes, I did, sir.

3                     EXAMINER BROOKS:   Okay.   And what diligence  
4     did you use -- did the person -- did the landman testify  
5     to attempting to locate the person?

6                     MS. BENNETT:   Well, what I can tell you is  
7     that what he testified to -- and I'm happy to follow up  
8     on this if you'd like more detail on this -- is that he  
9     did a search of public records in the county, and he  
10    also conducted computer searches to find contact  
11    information.

12                    EXAMINER BROOKS:   That's about what people  
13    usually say.

14                    MS. BENNETT:   Yeah.   Yes.   So if you'd like  
15    me to ask him any specific questions about that, I'd be  
16    happy to.   But it does seem like he conducted a diligent  
17    search for the address that he was able to find.

18                    EXAMINER BROOKS:   Well, the Ltd suggests  
19    it's a limited partnership.   If it's a limited  
20    partnership, it should be on file somewhere as a limited  
21    partnership.   So yeah, I think that ought to be checked  
22    out.

23                    MS. BENNETT:   Okay.

24                    EXAMINER BROOKS:   That is in the Secretary  
25    of State's Office of some state.   I don't know what

1 state it might be registered in.

2 MS. BENNETT: Yes. We'll check that.

3 EXAMINER BROOKS: Thank you.

4 MS. BENNETT: Any other questions before I  
5 move on to the geology affidavit?

6 EXAMINER McMILLAN: No.

7 EXAMINER BROOKS: No.

8 MS. BENNETT: Okay. Turning then to what  
9 I've marked as Exhibit 2, which is the affidavit of the  
10 geologist, the geologist's name is Staci Mueller,  
11 M-U-E-L-L-E-R, and first name, S-T-A-C-I. Ms. Mueller  
12 has not testified previously before the Division. I  
13 spoke with her about her education, and we've included  
14 it in her affidavit. She received a Bachelor of Science  
15 and a Master of Science in Geophysics from the Colorado  
16 School of Mines. She graduated with her master's degree  
17 in 2016.

18 She's worked for Cimarex Energy Co. as a  
19 petroleum geologist for over year and a half, and before  
20 that, she worked at Liberty Resources in Denver,  
21 Colorado for six months.

22 Her work for Cimarex involves Lea County,  
23 and she's familiar with the geological matters involved  
24 in this case, including the Bone Spring Formation.

25 With that -- and I apologize. I'm not sure

1 if I need to do this, but I would like to have her  
2 recognized or accepted as an expert in geology --  
3 petroleum geology.

4 EXAMINER McMILLAN: So qualified.

5 MS. BENNETT: Okay. Thank you.

6 Ms. Mueller attached three exhibits to her  
7 affidavit. The first exhibit is Exhibit A, which is a  
8 structure map, and that's Exhibit 2A, a structure map on  
9 the base of the 3rd Bone Spring Sand. This structure  
10 map, as you can see, shows that the structure dips down  
11 to the southeast. It also shows the 3rd Bone Spring  
12 Sand wells in the vicinity of the proposed Lea 7 Fed Com  
13 30H well. And the Lea 7 Fed Com 30H well is in a  
14 callout box, and the lateral is designated in purple.  
15 And there is a line of cross section running from A to A  
16 prime.

17 The next exhibit actually that I'd like to  
18 talk about is Exhibit 2B, and Exhibit 2B is the cross  
19 section. And it's hung on the base of the 3rd Bone  
20 Spring Sand. These are the wells that are identified on  
21 Exhibit A in the same order, A to A prime. And the well  
22 logs on the cross section give a representative sample  
23 of the 3rd Bone Spring Sand Formation in the area. The  
24 target zone for the well is the basal 3rd Bone Spring  
25 Sand. And Ms. Mueller testifies that the zone is

1 continuous across the well unit.

2                   Turning now to what is marked as Exhibit  
3 2C, 2C is the net pay map of the 3rd Bone Spring Sand  
4 unit, has the same callout box for the proposed well,  
5 and the lateral has the same A to A prime for the other  
6 wells. And Ms. Mueller testifies, based on her review  
7 of this map, the 3rd Bone Spring Sand is uniform across  
8 the proposed well unit. From her review of the map, she  
9 concludes that the horizontal spacing and proration unit  
10 is justified from a geologic standpoint, that there are  
11 no structural impediments or faulting that would  
12 interfere with the horizontal development and that each  
13 quarter-quarter section in the unit will contribute more  
14 or less equally to production.

15                   She also testified that the preferred well  
16 orientation in this area is north-south, and she notes  
17 that that is because of the maximum horizontal stress  
18 direction.

19                   And she and I also discussed the other  
20 wells that are identified, for example, on the structure  
21 map, and she and I discussed how most of these wells --  
22 the majority of these wells run north-south as well,  
23 with only two wells showing on the map running east to  
24 west, which further suggests the preference of north to  
25 south.

1                   That is all the testimony I have from  
2   Ms. Mueller, if you have any questions for me.

3                   EXAMINER BROOKS:   No, I don't.

4                   EXAMINER McMILLAN:   I don't have any.

5                   MS. BENNETT:   With that, I would like to --

6                   EXAMINER McMILLAN:   Actually, can you  
7   resend Exhibit 2B and show where the target interval is,  
8   clarify just a little bit?

9                   MS. BENNETT:   Yes, I will.   I believe it's  
10   marked on here as -- but it is very difficult to read.  
11   There is a 3rd Bone Spring Sandstone line (indicating).

12                   EXAMINER McMILLAN:   Yeah.   I didn't know if  
13   it looks like -- if it's a little sand that's in the  
14   Samson Resources, a little sand kind of in there more or  
15   less.

16                   MS. BENNETT:   Right.   I will ask this to be  
17   clarified.

18                   EXAMINER McMILLAN:   Actually, there's no --  
19   clarify with the landman that there -- that the  
20   ownership in the Bone Spring -- ownership in the mineral  
21   estate in the Bone Spring and the Wolfcamp's identical.

22                   MS. BENNETT:   Okay.   And this is only in  
23   the application for the Bone Spring that you would like  
24   to know --

25                   EXAMINER McMILLAN:   Yeah.   I would like to

1 know that, too. So if you'll get those two things, I  
2 don't have anything else.

3 MS. BENNETT: Okay. Thank you.

4 With that, I would like to tender Exhibit 2  
5 and its attached exhibits, 2A, 2B and 2C, for the  
6 record.

7 EXAMINER McMILLAN: Exhibit 2, Exhibit 2A  
8 and 2B may now be -- and Exhibit 2C may now be accepted  
9 as part of the record, along --

10 MS. BENNETT: Thank you.

11 (Cimarex Energy Co. Exhibit Numbers 2, 2A,  
12 2B and 2C are offered and admitted into  
13 evidence.)

14 MS. BENNETT: And now I'd like to briefly  
15 go over Exhibit 3. Exhibit 3 is an affidavit that I  
16 prepared and signed that discusses the mailing for the  
17 notice of this hearing today. And as you can see, we  
18 have the names and addresses of the parties Cimarex  
19 seeks to pool, along with the spreadsheet detailing that  
20 we, in fact, mailed them, and the status of the mailing,  
21 that it was delivered to three out of the four. We've  
22 already discussed that it wasn't delivered to the  
23 fourth.

24 And then Exhibit 3B is the Affidavit of  
25 Publication showing that notice of the hearing was

1 published in the newspaper of general circulation in the  
2 area.

3 With that, I'd like to tender Exhibit 3, 3A  
4 and 3B.

5 EXAMINER McMILLAN: Exhibit 3, 3A and 3B  
6 may now be accepted as part of the record.

7 (Cimarex Energy Co. Exhibit Numbers 3,  
8 3A and 3B are offered and admitted into  
9 evidence.)

10 EXAMINER McMILLAN: The question I have for  
11 David Brooks is: Is this mailing -- are we accepting  
12 this?

13 EXAMINER BROOKS: The return receipt?

14 EXAMINER McMILLAN: Is this acceptable?

15 EXAMINER BROOKS: I think so.

16 EXAMINER McMILLAN: Okay.

17 MS. BENNETT: And I do know that we've used  
18 this recently in the past, and I believe it's the same  
19 that Holland & Hart uses as well.

20 EXAMINER BROOKS: Yes. Our rule actually  
21 just says evidence of delivery if available, which makes  
22 it a rather squashy, squishy rule. So I think it's  
23 okay.

24 MS. BENNETT: Okay. And it is simply a  
25 software that makes it easier for us to track the



1 delivery notices, and it's much less cumbersome in terms  
2 of copying and printing it as well.

3 EXAMINER BROOKS: Well, USPS is not known  
4 for their devastating efficiency.

5 MS. BENNETT: So I noted I have three  
6 things to do: Check out the Ltd status and get  
7 information from the landman about what attempts he made  
8 to further contact them, clarify with the landman  
9 whether the interest in the Bone Spring and the Wolfcamp  
10 are identical, and then submit a revised cross  
11 structure -- cross-section map with the target zone more  
12 clearly identified.

13 EXAMINER McMILLAN: Yes.

14 MS. BENNETT: And would it be the  
15 Division's preference that I just email that information  
16 to you-all and submit it by affidavit via email?

17 EXAMINER BROOKS: Whatever you think.

18 EXAMINER McMILLAN: Just email it.

19 MS. BENNETT: That sounds good.

20 Subject to that further clarification, I  
21 would ask this case be taken under advisement.

22 EXAMINER McMILLAN: Case Number 16379 shall  
23 be taken under advisement. Thank you.

24 MS. BENNETT: Thank you.

25 (Case Number 16379 concludes, 10:21 a.m.)

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

13 I FURTHER CERTIFY that the Reporter's  
14 Record of the proceedings truly and accurately reflects  
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.

20 DATED THIS 28th day of September 2018.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2018  
Paul Baca Professional Court Reporters

25