

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

**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 ORER NO.
R- 23089, LEA COUNTY, NEW MEXICO**

CASE NO. 24541

ORDER DENYING CIMAREX’S MOTION TO REOPEN EVIDENTIARY RECORD

This matter comes before the Oil Conservation Division’s Hearing Examiner on Cimarex Energy Co.’s (Cimarex) motion to reopen the evidentiary record that closed at the conclusion of the August 9-11, 2023 hearing. Cimarex seeks leave to 1) introduce additional evidence in support of its competing compulsory pooling applications regarding its Allocation Formula and 2) to provide a revised written closing argument. Having the benefit of Read & Stevens, Inc. and Permian Resources Operating, LLC’s (Read & Stevens) response in opposition and oral argument on the matter at the November 21, 2024 docket with all parties present and being otherwise fully apprised in the matter, **I FIND, CONCLUDE AND ORDER:**

1. On or about March 7, 2023, Cimarex filed applications in Case Nos. 23448- 23455, to pool and develop the Bone Spring formation underlying all of Sections 4, 5, 8 and 9, Township 20 South, Range 34 East, N.M.P.M., Lea County, New Mexico (“Subject Lands”), reflecting a development plan that targeted the reservoir located predominately in the Bone Spring. In addition to proposed wells that targeted the First and Second Bone Spring, Cimarex focused on the Third Bone Spring by proposing to complete four wells (the Mighty Pheasant wells) in the Third Bone Spring formation of Sections 5 and 8 and complete four wells (the Loosey Goosey wells) in the Third Bone Spring formation of Sections 4 and 9.
2. On or about April 13, 2023, Read & Stevens submitted competing pooling applications for the Subject Lands in Case Nos. 23508-23523 that proposed to locate wellbores (the Bane and Joker wells) in the Third Bone Spring with a second set of wellbores in the Upper Wolfcamp XY, just below the base of the Third Bone Spring.
3. Cimarex concluded that it was not necessary to drill wells in the Upper Wolfcamp in order to develop the single reservoir, but because Read & Stevens had submitted pooling applications for the Wolfcamp, Cimarex also submitted, as its Option II, pooling applications in Case Nos. 23594 - 23601 for the Wolfcamp formation to counter Read & Stevens’ plan and to account for production from the Upper Wolfcamp should it be viewed as production instead of incidental drainage as Cimarex described in its Option I. Cimarex presented its Options I and II in the original hearing to assist the Division with negotiating the difficult situation of having the bottom part of the Bone Spring reservoir severed by the upper limit of the Wolfcamp pool which encroaches upon the reservoir, to wit: Option I was provided if the Division viewed product from the Upper Wolfcamp as incidental drainage while Option II was provided if the Division viewed the product as actual

production.

4. The hearing for the competing sets of applications was held on August 9 – 11, 2023. The Division issued Order No. R-23089 on April 8, 2024, in which it denied both sets of applications because it found that the “lands proposed for drilling by both parties lacks natural barriers that would prevent communication between the Third Bone Spring Sand and the Upper Wolfcamp, thereby creating a single reservoir or common source of supply located predominately in the Third Bone Spring Sand.” Order No. R-23089, ¶
5. As result, the Division invited the applicants to submit a proposal for “a Wolfbone pool, that would account for the lack of frac baffles between the Bone Spring and Wolfcamp formations in this area,” and that such a proposal would “prompt a reopening of the hearing record on both applications.” *See id.* at ¶¶ 21 and 22.
6. The Order further stated that the “record is left open for such a proposal and will prompt a reopening of the hearing record on both applications.” The Order further instructed the parties that additional evidence regarding their original proposed plans would not be necessary for the Division to reconsider its denial of the applications in the above case numbers. *Id.* at ¶ 22.
7. On October 10, 2024, the Division heard Cimarex’s and Pride’s joint application for a special Wolfbone pool in Case Nos. 24721 and 24736 and took the application under advisement.
8. At all times, the Division provided the parties with procedural and substantive due process. “At a minimum, procedural due process requires that before being deprived of life, liberty, or property, a person or entity be given notice of the possible deprivation and an opportunity to defend.” *Reid v. New Mexico Bd. of Examiners in Optometry*, 92 N.M. 414, 415–16, 589 P.2d 198, 199–200 (1979). In addition, “the trier of fact must be unbiased

and may not have a predisposition regarding the outcome of the case.” *Santa Fe Expl. Co. v. Oil Conservation Comm’n of State of N.M.*, 1992-NMSC- 044, ¶ 14, 114 N.M. 103, 109, 835 P.2d 819, 825.

9. Cimarex’s request to reopen the evidentiary record is strongly opposed by Read & Stevens on the grounds that it would be unfairly prejudicial to permit Cimarex a second bite at the apple. Counsel for Read Stevens argued on November 21, 2024 that Cimarex had ample opportunity to include the Allocation Formula in its Applications and to present relevant evidence on that subject at the 3-day hearing, but that it chose not to. The Division finds this argument to be persuasive.
10. Based on the foregoing, I do not find good cause to support the opposed motion, and therefore Cimarex’s motion is denied. The Division will approve or deny the competing Applications based on the evidence submitted at the hearing and in the administrative record.

**Gregory
Chakalian** Digitally signed by
Gregory Chakalian
Date: 2024.11.22
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GREGORY CHAKALIAN
HEARING EXAMINER

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2024, I served a copy of the foregoing document to the following counsel of record via Electronic Mail:

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Sheila Apodaca, Law Clerk
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