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

**IN THE MATTER OF THE APPLICATION OF
CIMAREX ENERGY CO. OF COLORADO FOR
A NON-STANDARD SPACING AND PRORATION UNIT
AND COMPULSORY POOLING ,
EDDY COUNTY, NEW MEXICO**

CASE NO. 14741

**SUPPLEMENTAL TO
CIMAREX ENERGY CO. OF COLORADO
MOTION TO QUASH
THE
SUBPOENA DATED SEPTEMBER 21, 2011
ISSUED AT THE REQUEST
OF
NEARBURG PRODUCING COMPANY**

Cimarex Energy Co. of Colorado ("Cimarex") supplements its Motion to Quash a Subpoena issued at the request of Nearburg Producing Company in order to provide further information in response to a request by counsel for Nearburg, by letter dated October 6, 2011, asking for clarification of documents:

By Motion filed September 28, Cimarex objected to Nearburg's request to the extent that they have attempted to impose obligations that are beyond those required by the Division, the New Mexico Rules of Civil Procedure. Moreover, Cimarex objected to the extent that Nearburg's requests create an undue burden or seek discovery in violation of the work product, attorney/client and other applicable privileges. In addition, some of this data is not relevant to the case and the issues that Nearburg is opposing.

Cimarex incorporates by reference its Motion to Quash and the objections, privileges stated therein and supplements its response to the Subpoena Items as follows:

**NEARBURG'S SUBPOENA SEEKS DATA THAT IS
PRIVILEGED**

The Cimarex data is protected by discovery by the following privileges: (1) work product (2) attorney-client communication (3) trade secrets (4) other confidential information, and (5) confidential geological and geophysical information. In addition of this data is not relevant and will not lead to the discovery of relevant data. Other data is available to Nearburg in the NMOCD files. There is some data that Cimarex will voluntary provide to Nearburg.

ITEMIZED SUPPLEMENTAL RESPONSE

Nearburg seeks the following documents for Cimarex's West Shugart State Com Well No. 1-H (API #30-015-38294) Unit D, W/2W/2 Sec 32, T18S R31E, NMPM, Eddy County, NM:

Subpoena Item #1:

Request: All open-hole and cased-hole logs from surface to total depth.

Response: Cimarex has these logs are identified as:

Dual Spaced Neutron Spectral Density Tool curves include:

- Gamma Ray
- Caliper
- Formation Density (g/cc)
- Density Correction
- Std Formation Pe
- Tension

Dual Laterolog Micro Guard Tool curves include:

- Gamma Ray
- Caliper
- Deep Resistivity
- Shallow Resistivity
- Micro guard

Status: These logs have been filed with the NMOCD and are public records.
Nearburg can be obtained from the OCD records.

Subpoena Item #2:

Request: All mud logs from the surface to total depth.

Response:

- (a) There is only a mud log from casing at 4,219 feet to 13054.
- (b) Typically not part of the public record, only paying participating partners due this data.

Status:

Because Cimarex may use its mud log for the non-standard spacing unit ("NSP") portion of the case and while Nearburg has not objected to the NSP, as an accommodation to Nearburg, Cimarex will provide this data.

Subpoena Item #3:

Request:

- a. All DST reports,
- b. pressure charts,
- c. fluid recovery data
- d. observed flow rates,
- e. together with service company analysis thereof with respect to reservoir parameters.

Response:

- a. none
- b. none
- c. none
- d. none
- e. none

Status: no action necessary.

Subpoena Item #4:

Request: All daily drilling reports from commencement through completion of the well.

Response:

- (a) production data will be available through the NMOCD when posted
- (b) prior to then only paying participating partners due this data.
- (c) Cimarex's process is unique to Cimarex and Nearburg wants this data for that it can learn the process of how XEC drills and completes 2nd BSPG wells. Everybody does it differently and Nearburg is seeking data it should not have.

Status: Cimarex continue to object and will not voluntarily produce.

Subpoena Item #5:

Request: All data, analysis and reports for cores and side-wall cores.

Response: There are none.

Status: no action required by the Examiner

Subpoena Item #6:

Request: All surface access, easement and use agreements along with all surface damage agreements.

Response: Cimarex has the following agreements:

- (a) Roy L. Creamer and
- (b) the State of New Mexico
- (c) Cimarex continues to object--This information is not relevant to any issue in the current compulsory pooling case.

Status: Unless withdrawn by Nearburg, the Examiner needs to decide this item.

Subpoena Item #7:

Request: A copy of the drilling plan for the subject well

Response: It date is treated as confidential ("trade secret") among the partners to this well.

Status:

- a. This information is not relevant to any issue in the current compulsory pooling case.
- b. Objection. Cimarex has no obligation to provide data to Nearburg until such time as Nearburg has paid its share of the total well costs pursuant to a voluntary agreement or as a participating party that has joined pursuant to a compulsory pooling order.

Subpoena Item #8:

Request: All documents or a summary reflecting actual expenditures from commencement of operations or the well to drilling to total depth

Response: Cimarex has drilling reports and field tickets for the 1H, but does not have all the final accounting costs for the 1H. That will take many more months to get the exact costs. All costs to date are our best estimates.

Status: This data is not included in the public record. It is provide to WI partners that have paid their portion of the well. It is treated as treated as confidential ("trade secret") among the partners to this well.

Status:

This information is not relevant to any issue in the current compulsory pooling case.

Objection. Cimarex has no obligation to provide data to Nearburg until such time as Nearburg has paid its share of the total well costs pursuant to a voluntary agreement or as a participating party that has joined pursuant to a compulsory pooling order.

Subpoena Item # 9:

Request: All completion reports.

Response:

(a) Cimarex has filed a completion report form C-105 with the NMOCD that is available to Nearburg as a public record

(b) there are in-house reports are not typically part of the public data

(c) Nearburg can decide about participation with the C-105. Nearburg is seeking privileged and proprietary data that will show the details of the stimulation and perforating schemes. Also the data would show the operation of cleaning the well, putting the well on pump, and facilities that you cannot be obtained from the public reports.

(d) Nearburg can decide from the public reports if it will participate in this well.

(e) This information is not relevant to any issue in the current compulsory

(f) Objection. Cimarex has no obligation to provide data to Nearburg until such time as Nearburg has paid its share of the total well costs pursuant to a voluntary agreement or as a participating party that has joined pursuant to a compulsory pooling order.

Status: Unless withdrawn by Nearburg, this item will require a decision by the Examiner

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Cimarex's Supplement to its Motion to Quash

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Subpoena Item #10:

Request:

- (a) all reservoir pressure information from the well,
- (b) all bottomhole pressure tests
- (c) build-up test results,
- (d) current well rates,
- (e) flowing tubing pressures and choke sizes.

Response:

- a. All reservoir pressure is shown on Division form C-105
- b. There is no bottomhole pressure tests
- c. There is no build-up test results
- d. There are current well rates
- e. The flowing tubing pressure and the choke size is disclosed on Division form C-105

Objection.

Cimarex has no obligation to provide data to Nearburg until such time as Nearburg has paid its share of the total well costs pursuant to a voluntary agreement or as a participating party that has joined pursuant to a compulsory pooling order.

Status:

(1) Production from the well will be report in accordance to NMOCD rules and will become public record. Only Paying Participating partners are due this data before it is posted.

(2) Because Cimarex may use production data from the 1H well for the NSP portion of this case and while Nearburg has not objected to the NSP, Cimarex, as an accommodation to Nearburg, Cimarex will provide this data.

CONCLUSION

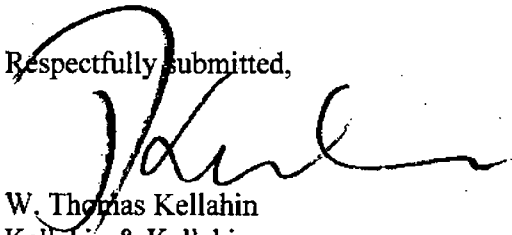
This is a basic compulsory pooling case in which Nearburg is seeking to unnecessarily obtain confidential data so that it can give itself a competitive advantage and/or avoid the 200% risk factor penalty to be awarded in this compulsory pooling case.

The real motive of Nearburg appears to be to obtain, free of cost, Cimarex's well data on the West Shugart 32 State Com Well No. 1-H so that it can make its decision about election to participate pursuant to a compulsory pooling order to be entered for a different well—the West Shugart 32 State Com Well No. 2-H.

Regardless of Nearburg's motives, the discovery of Cimarex's protected data is not relevant to any issue in this pooling case and would be an abuse of the Division's powers.

Must the Division allow Nearburg to gain an unfair advantage by using a Subpoena to have a "free look" at Cimarex's confidential and proprietary business data concerning the drilling of a different well prior to the time that Nearburg paid for its share of the costs this offsetting wellbore? Cimarex urges the Division to say "no" by granting this motion to quash this subpoena.

Respectfully submitted,



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CERTIFICATE OF SERVICE

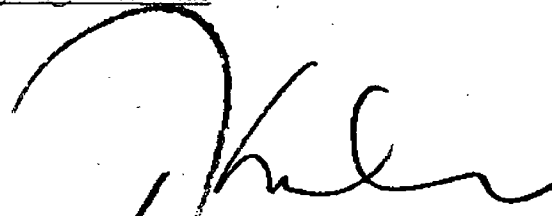
I certify that a true and correct copy of the foregoing pleading was transmitted by email this 7th day of October 2011 as follows:

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