

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

**APPLICATION OF CIMAREX ENERGY
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case No. 14703
Case No. 14704
Case No. 14705
Case No. 14698

**APPLICATION OF COG OPERATING LLC FOR A NON-STANDARD
SPACING AND PRORATION UNIT, NON-STANDARD
LOCATION AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

Case No. 14725
Case No. 14726

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**JOINT MOTION TO STAY ORDER NO. R-13490 AND TO REOPEN THESE
CONSOLIDATED CASES**

COG Operating LLC ("Concho") and Cimarex Energy ("Cimarex") jointly move the Division to immediately stay Order No. R-13490 issued in these consolidated cases and to reopen these cases for additional hearing. In support of this motion, Concho and Cimarex state:

1. Under these consolidated cases, Cimarex and Concho sought orders pooling all uncommitted interests in the Glorieta-Yeso formation in their respective proposed and competing spacing and proration units involving the SE/4 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico.
2. Specifically, Cimarex sought to pool all uncommitted interests from the surface to the base of the Glorieta-Yeso formation underlying the SE/4 of said Section 6, to form the following 40-acre oil spacing and proration units for four *vertical* wells:
 - a. The NW/4 SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 1, to be drilled at a standard location;

- b. The NE/4 SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 2, to be drilled at a standard location;
- c. The SW/4 SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 5, to be drilled at a standard location; and
- d. The SE/4 SE/4 of Section 6 to be dedicated to its proposed Kansas 6 Fee Well No. 1, to be drilled at a standard location.

3. Concho sought to pool all uncommitted interests in the Glorieta-Yeso formation underlying the E/2 of said Section 6 to form the following non-standard 160-acre spacing and proration units or project areas for two full-section *horizontal* wells:

- a. The W/2 E/2 of said Section 6 to be dedicated to Concho's proposed Arabian 6 Fee Well No. 7H, to be horizontally drilled from a surface location 150 feet from the South line and 1700 feet from the East line (Unit O) to a bottom-hole location 330 feet from the North line and 1700 feet from the East line (Unit B); and
- b. The E/2 E/2 of said Section 6 to be dedicated to Concho's proposed Arabian 6 Fee Well No. 8H, to be horizontally drilled from a surface location 150 feet from the South line and 380 feet from the East line (Unit P) to a bottom-hole location 330 feet from the North line and 380 feet from the East line (Unit A).

4. Rather than following its traditional practice of approving one competing pooling application over another, the Division concluded following hearing that the "advent of horizontal wells" supports a departure from this traditional practice. *See* Order No. R-13490 ¶ 14. The Division approved both competing pooling applications brought by the parties, thereby (a)

creating overlapping spacing and proration units in the SE/4 of Section 6 for the purpose of drilling both vertical and horizontal wells by Cimarex and Concho, respectively, that target the same formation in the same physical space, (b) naming both Cimarex and Concho operators of the subject wells in the overlapping spacing units, and (c) providing each competing operator until December 15, 2012, to drill their respective vertical and horizontal wells in the overlapping spacing units. *See* Order No. R-13490 at pp. 6-7, director ¶¶ (1) – (4).

5. As recognized in paragraph 14 of Order No. R-13490, the relief afforded by the Division in these competing pooling cases is unprecedented and could not have been predicted by any of the parties that appeared at the hearing or the affected mineral owners or their lessees in Section 6.

6. Moreover, the Division's pooling of overlapping spacing and proration units for the purpose of drilling and operating vertical and horizontal wells by competing operators in the same formation creates a number of legal and practical problems, including the following:

- a. Neither the Order nor the Division's rules indicate how the allowable for the overlapping spacing and proration units will be allocated between the vertical and horizontal wells, nor does the Order indicate the number of wells each competing operator will be allowed to drill within the overlapping spacing and proration units.
- b. The Order essentially creates a "race to drill" so that the first drilling operator has access to its preferred locations, is able to conduct fracture stimulation completion methods without concern for existing wells, and is able to take immediate advantage of the production allowables. A race to

drill is clearly detrimental to the orderly and efficient development of the resource.

- c. The Order fails to take into account the fact that at least some of the mineral interest owners or their lessees in Section 6 agreed to participate in the proposed wells under the premise that the proposed spacing and proration units would be developed by a single operator in an orderly fashion. The sudden and unexpected creation of overlapping spacing units for the purpose of drilling vertical and horizontal wells by competing operators in the same formation changes the economics under which these interest owners or their lessees agreed to participate in the well or wells, and raises due process and other procedural concerns.
- d. The Order fails to account for the impact that a vertical well in an overlapping spacing unit will have on the ability of that spacing unit to contribute equally to the non-standard unit created for the horizontal well.
- e. The Order does not address where the vertical or horizontal wells should be located within the overlapping spacing and proration unit or provide for any set-back requirements to mitigate or limit any interference or damage by the parties' proposed drilling and fracture stimulation operations.
- f. The Order fails to take into account the surface impacts associated with the duplication of roads, tank batteries, power lines, and other facilities resulting from two operators with competing wells in the SE/4 of Section 6.

7. As a result of these legal and practical problems, Concho and Cimarex request that the Division immediately stay Order R-13490 and reopen these consolidated cases for additional hearing to address the impact of the Division's unprecedented Order and the matters presented by these competing pooling applications.

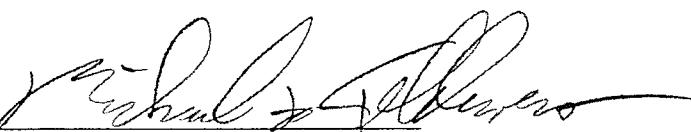
8. Allowing either party to commence drilling of the proposed wells under Order No. R-13490 before the Division has the opportunity to address the legal and practical problems raised by its unprecedented Order will result in the disorderly and chaotic development of the formation underlying the overlapping spacing units, will result in unanticipated and gross negative consequences to mineral owners or their lessees within the overlapping spacing units, will impair correlative rights, and will create waste.

9. Concho and Cimarex have additional competing pooling applications in this same general area that are currently scheduled for hearing on January 19th. *See* Case Nos. 14791-14795 (Concho) and 14767-14772, 14781 (Cimarex). Since the issues addressed by Order No. R-13490 are similar to the issues raised in these additional pooling applications, the issue raised by Order R-13490 can be discussed and considered separately from or in conjunction with the hearings on these additional competing pooling applications.

10. In order to prevent waste, protect correlative rights, and to prevent gross negative consequences to the mineral owners or their lessees in the overlapping spacing units, Concho and Cimarex jointly requests that the Division grant this motion.

WHEREFORE, Concho and Cimarex jointly request that the Division issue an order immediately staying Order No. R-13490 and reopening these consolidated cases for additional hearing at the next available Examiner hearing. Pursuant to Division Rule 19.15.4.23(B) NMAC, a proposed order is attached hereto.

Respectfully submitted,

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**ORDER GRANTING JOINT MOTION TO STAY ORDER NO. R- 13490 AND
REOPENING THESE CONSOLIDATED CASES**

This matter has come before the Division Director pursuant to Rule 19.15.4.23(B) NMAC on the motion filed by COG Operating LLC and Cimarex Energy ("Cimarex") to stay Order No. R-13450 and to reopen these consolidated cases for additional hearing. Having reviewed the motion, the Director finds and concludes that:

1. The Division entered Order No. R-13490 on December 14, 2011, approving the competing applications of Cimarex Energy Company ("Cimarex") and COG Operating LLC ("Concho") for compulsory pooling of the uncommitted interest owners from the surface to the base of the Glorieta-Yeso formation in the SE/4 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico.
2. The Director finds that the relief afforded by Order No. R-13490, namely the pooling of overlapping spacing and proration units for the purpose of drilling vertical and horizontal wells in the same formation by competing operators, is unprecedented and not likely the type of relief anticipated by the affected parties.

3. Concho and Cimarex have jointly moved the Division to stay Order No. R-13490 and to reopen these consolidated cases for additional hearing to address the legal and practical implications of the Division's unprecedented proposal to allow the pooling of overlapping spacing and proration units for the purpose of drilling vertical and horizontal wells in the same formation by competing operators.

4. Concho and Cimarex have additional competing pooling applications pending before the Division that raise issue similar to those addressed by Division Order R-13490. Accordingly, the problems and concerns raised by Order R-13490 can be discussed and considered separately from or in conjunction with the scheduled hearings on these additional competing pooling applications.

5. The Director finds that a stay of Order R-13490 is necessary to prevent waste, protect correlative rights, and prevent gross negative consequences to the affected parties, and that good cause exists to reopen these consolidated cases for additional hearing on the matters presented by these consolidated cases and the legal and practical affects of Order R-13490.

IT IS THEREFORE ORDERED THAT:

Division Order No. R-13490 is STAYED until such time as the Division has had and opportunity to set these consolidated cases for additional hearing and received additional testimony, evidence and comment on the matters raised by these consolidated cases, including the legal and practical implications of the relief afforded by Order No. R-13490.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

JAMI BAILEY
Director