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

ORIGINAL

APPLICATION OF CIMAREX ENERGY CO.
OF COLORADO FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

CASE NOS. 14770
and 14771

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Chief Examiner
WILLIAM V. JONES, Technical Examiner

May 10, 2012

Santa Fe, New Mexico

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This matter came on for hearing before the
New Mexico Oil Conservation Division, DAVID K. BROOKS,
Chief Examiner, and WILLIAM V. JONES, Technical
Examiner, on Thursday, May 10, 2012, at the New Mexico
Energy, Minerals and Natural Resources Department, 1220
South St. Francis Drive, Porter Hall, Room 201,
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

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APPEARANCES

FOR APPLICANT CIMAREX ENERGY COMPANY OF COLORADO:

JAMES BRUCE, ESQ.
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FOR YATES PETROLEUM CORPORATION, ABO PETROLEUM CORPORATION, AND MYCO INDUSTRIES, INC.:

MICHAEL H. FELDEWERT, ESQ.
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INDEX

PAGE

Case Number 14770	3
Case Number 14771	10
Hearing Concluded	14
Certificate of Court Reporter	15

EXHIBITS MARKED OR FORMALLY IDENTIFIED

Cimarex Exhibits 1 and 2 Admitted (Case 14770)	10
Cimarex Exhibits 1 and 2 Admitted (Case 14771)	14

1 (9:58 a.m.)

2 EXAMINER BROOKS: We're back on the record
3 in Case Number 14770.

4 Mr. Bruce, you have no witnesses, correct?

5 MR. BRUCE: I have no witnesses.

6 EXAMINER BROOKS: You have no witnesses?

7 MR. FELDEWERT: Correct.

8 Mr. Examiner, the parties filed their
9 prehearing statements in this case in January,
10 expressing, on behalf of my clients, the objection to
11 being pooled. Our presence in this case, the filing of
12 our prehearing statements reflect opposition to the
13 pooling application. You cannot present a case by
14 affidavit if there is opposition to the pooling
15 application, which is what we have here.

16 There are no witnesses here today to be
17 presented by the Applicant that will afford us the
18 opportunity to cross-examine and address the issues that
19 are associated with the pooling application, which is
20 why you can't do it by affidavit if there is any
21 opposition to the pooling application.

22 So since we currently cannot present the
23 case by affidavit, then it seems to me we're left with
24 two options. Either we dismiss my clients from the
25 pooling case so there would be, then, no opposition, and

1 they can move forward with their affidavit process; or
2 we continue the case for two weeks and allow Cimarex,
3 then, the opportunity to present a witness to address
4 the opposition to their application.

5 EXAMINER BROOKS: There's a third option,
6 and that would be that we dismiss the case and allow
7 Mr. Bruce to refile when there is a breakdown in
8 communications here. But I will let Mr. Bruce respond.

9 MR. BRUCE: Well, I think it's a little
10 more complicated than that, Mr. Examiner.

11 COG and Cimarex had a large number of
12 competing applications in this general area, Section --
13 in this Section 1, adjoining Section 6, and up to the
14 north in Section 31 in three different Townships.

15 In February, they reached a global
16 settlement whereby COG would operate certain acreage and
17 Cimarex would operate certain acreage. All competing
18 pooling applications were withdrawn. There were
19 competing applications in the cases that we're here for
20 today, but since Cimarex will operate these cases --
21 these -- it is agreed that Cimarex will operate these
22 tracts that we're here for today.

23 As Mr. Feldewert said, under Division
24 rules, pooling can be done by affidavit if there is no
25 opposition, but there haven't been any prehearing

1 statements filed by COG, or Yates, Abo and Myco, and in
2 the next case, or OXY Y-1, which have objected to the
3 pooling. Yates, Abo, Myco simply filed an entry of
4 appearance. They never filed a prehearing statement
5 objecting to the pooling.

6 OXY Y-1 filed a prehearing statement,
7 simply said it was an interested party. That's in the
8 second case.

9 COG did file a prehearing statement last
10 January, which stated that the Division would have to
11 determine the competing development plans between COG
12 and Cimarex. However, the parties themselves have
13 decided to develop -- the development plans and have
14 recited the competing development plans.

15 COG, in fact, has gone to hearing on a
16 couple of its force pooling proposals, I think, in this
17 Section 1, certainly in adjoining Section 6, without any
18 interference by Cimarex. Cimarex hasn't objected.

19 Moreover, COG has never filed a subsequent
20 prehearing statement, say, last Thursday objecting to
21 the poolings, so I assumed there would be no objection.

22 If I could have -- if the parties had filed
23 objections, I would have brought a landman who, frankly,
24 couldn't give more info than is in these piles of
25 affidavits that I've got right now.

1 Fact of the matter is, these wells were
2 proposed first back in August of 2011. Cimarex simply
3 wants to get the wells drilled. The parties are
4 negotiating, but, nonetheless, these matters are sitting
5 out there. These applications themselves were filed in
6 November -- or December, I believe, and November of
7 2011.

8 Therefore, without any advance notice of
9 objection, I prepared the affidavits. I'm ready to
10 present them today. I would request to present the
11 cases with the proviso, as I mentioned before, that no
12 order be issued for at least two weeks so that -- to
13 allow more time for the parties to negotiate, and
14 Mr. Feldewert and I could report back to you at that
15 time.

16 I think it's unfair at this late date, not
17 knowing of opposition and because of that
18 three-continuance rule, to dismiss the cases.

19 EXAMINER BROOKS: Mr. Feldewert, do you
20 want to say anything further?

21 MR. FELDEWERT: Mr. Examiner, I think it's
22 clear that the parties did file -- both parties, Cimarex
23 and the affected parties, filed their prehearing
24 statements in January objecting to being pooled under
25 the pooling applications. Neither Cimarex nor the

1 affected parties have filed any updated prehearing
2 statements. There is no need to do that because the
3 objection is on file.

4 Secondly, we're here today because we
5 object to the pooling application.

6 Third, if they had a witness here today, we
7 would be able to cross-examine that witness and, I
8 suggest to you -- represent to you, we could bring out
9 from that witness the fact that the parties have told
10 Cimarex that they object to being pooled, and they're,
11 rather, in the process of reaching a voluntary
12 agreement.

13 So we have a circumstance where there is an
14 objection to the application. In that circumstance, we
15 cannot present the case by affidavit.

16 We do not have -- we do not have any
17 objection to continuing the matter for two weeks. That
18 is certainly, we believe, an option, but we cannot go
19 forward today with a pooling application by affidavit.

20 EXAMINER BROOKS: Well, I am going to allow
21 Mr. Bruce to proceed to present his affidavits, and we
22 will leave the matter of the effect of the presentation
23 on the merits.

24 You may proceed, Mr. Bruce.

25 MR. BRUCE: Mr. Examiner, I have handed you

1 two exhibits. Exhibit 1 is the Verified Statement of
2 Hilary Coder, the landman for Cimarex Energy Company.

3 In this case, maybe the easiest thing to do
4 would be to turn back maybe three or four pages to the
5 land plat.

6 Cimarex Energy seeks to force pool four
7 Yeso well units for vertical wells to be drilled
8 collectively in the east half of the southwest and the
9 west half of the southeast corner of Section 1, Township
10 19 South, Range 25 East. That is a single-foot track
11 with common ownership.

12 The wells involved are set forth in the
13 affidavit. There's one well on each 40. The parties
14 being pooled and their interests are set forth. There's
15 approximately 11 percent of the interest that is subject
16 to pooling.

17 There is a lot of correspondence in here.
18 Frankly, I don't think you need to go through too much
19 of it. They are proposal letters to all the parties
20 being pooled. They were first proposed in August of
21 2011. They were re-proposed in March, after the
22 settlement.

23 As Mr. Feldewert said, the parties have
24 been in discussions, and we hope they reach a voluntary
25 agreement, but Cimarex would like to get its wells

1 drilled.

2 Attached are, as required, AFEs for each of
3 the wells. These are vertical wells, and the well costs
4 are all pretty similar. The well costs are stated to be
5 fair and reasonable, and Cimarex would request, of
6 course, a 200-percent risk charge, if the parties don't
7 reach voluntary agreement. We would hope that they do.
8 The overhead rates requested are \$4,500 per month and
9 \$450 per month for a producing well. We think these
10 rates are fair and reasonable, and actually they're
11 lower than rates I've seen in quite some time.

12 Exhibit 2 is the affidavit of the notice.
13 All pertinent parties received actual notice of the
14 application.

15 Again, as with the next case, I would
16 request that the matter be taken under advisement with
17 the stipulation that no action be taken on this
18 application for at least two weeks, and then in two
19 weeks, I would request that Mr. -- permission for
20 Mr. Feldewert and myself to report back to the Division
21 as to the status of the negotiations between the
22 parties.

23 EXAMINER BROOKS: Okay.

24 MR. BRUCE: And I would move the admission
25 of Exhibits 1 and 2.

1 EXAMINER BROOKS: Mr. Feldewert?

2 MR. FELDEWERT: I guess -- well, I would
3 object to the admission of the affidavit on the basis
4 I've already stated.

5 I'd also point out that I do not have a
6 witness to cross-examine here today, as we've already
7 discussed, to address the issues such as the status of
8 the negotiations and the good-faith efforts to reach an
9 agreement that's reasonable and necessary of their
10 proposed costs, among other issues.

11 EXAMINER BROOKS: Okay. Exhibits 1 and 2
12 will be admitted, and Case Number 14770 will be taken
13 under advisement, with the understanding that there's a
14 possibility that next time it may be dismissed if its
15 presentation would require the presence of a witness and
16 no witness was presented. Okay?

17 (Cimarex Exhibit Numbers 1 and 2 were
18 offered and admitted into evidence.)

19 (The hearing concluded, 10:10 a.m.)

20 EXAMINER BROOKS: At this time, call Case
21 Number 14771, the Application of Cimarex Energy Company
22 of Colorado for compulsory pooling, Eddy County, New
23 Mexico.

24 Call for appearances.

25 MR. BRUCE: Mr. Examiner, Jim Bruce of

1 Santa Fe, representing the Applicant, submitting by
2 affidavit.

3 MR. FELDEWERT: Mr. Examiner, Michael
4 Feldewert, Santa Fe office of the law firm of
5 Holland & Hart, appearing, first, on behalf of COG
6 Operating, LLC and then, secondly, on behalf of Yates
7 Petroleum Corporation, Abo Petroleum Corporation and
8 Myco Industries, Inc.

9 We have a motion, Mr. Examiner, that was
10 already presented in Case Number 14770, that is premised
11 on the desire here by Cimarex to present its pooling
12 application by affidavit. The parties are in opposition
13 to the application. We do not believe that this case is
14 subject to pooling by affidavit for the reasons that are
15 to be set forth in Case Number 14770, and I'd ask that
16 that particular -- ask that that transcript be
17 incorporated into this case for purposes so I don't have
18 to repeat our argument.

19 EXAMINER BROOKS: Okay. We will note your
20 objection, and it will be incorporated by reference.

21 MR. FELDEWERT: Thank you.

22 EXAMINER BROOKS: You may proceed,
23 Mr. Bruce.

24 MR. BRUCE: Mr. Examiner, I've submitted to
25 you Exhibits 1 and 2.

1 Exhibit 1 is a Verified Statement of
2 Cimarex's landman, Hilary Coder. Again, if you turn
3 back to attachment A to the exhibit, you see that in
4 this case Cimarex seeks to force pool 240-acre well
5 units, collectively, covering the west half, southwest
6 corner of Section 1, Township 19 South, Range 25 East.
7 It is a single fee tract with common ownership.

8 EXAMINER BROOKS: Now, this is the same
9 section involved in the previous --

10 MR. BRUCE: It is the same section.

11 And for your information, Mr. Examiner, in
12 the settlement I mentioned, Cimarex operates the south
13 half; COG operates the north half, and you'll recall
14 there was a -- there was a compulsory pooling contested
15 case over in the east -- in Section 6. Part of the
16 agreement is, Cimarex operates the east half of Section
17 6, and COG operates the west half of Section 6.

18 EXAMINER BROOKS: I didn't know
19 specifically where they were. I knew there were a
20 number of compulsory pooling cases in this general area.

21 MR. BRUCE: In this case, Cimarex seeks to
22 force pool for its Montana 1 Well Number 1 in the
23 northwest/southwest, and the Montana 1 Well Number 3 in
24 the southwest/southwest.

25 The second page of the exhibit shows the

1 interest of the parties. In this case, there is an
2 additional owner. OXY Y-1 Company owns a small
3 interest. Collectively, they own about -- a little over
4 18 percent of the well unit.

5 Again, the correspondence, the well
6 proposals and AFEs for the well are attached as Exhibits
7 B and C.

8 Again, these wells were proposed first in
9 August of 2011 and were re-proposed after the global
10 settlement. The well costs are in the \$2.5 million
11 range, which is stated to be fair and reasonable. The
12 overhead rates, again, are \$4,500 per month for a
13 drilling well and \$450 a month for a producing well.
14 Applicant does request a 200-percent risk charge.

15 And Exhibit 2 is simply the Affidavit of
16 Notice.

17 There were a couple of extra people
18 notified of this application, but all of the parties
19 being pooled today did receive actual notice of this
20 application.

21 And with that, I'd move the admission of
22 Exhibits 1 and 2.

23 MR. FELDEWERT: Mr. Examiner, I would
24 object to the admission of Exhibit Number 1 on the
25 grounds that this is not a case that is properly

1 presented as by affidavit. We do not have an
2 opportunity to cross-examine any witness on behalf of
3 the applicant to address issues status of discussions
4 good-faith efforts to reach reasonableness of their
5 costs. The request for this penalty associates. So
6 we'd object to the introduction of Exhibit Number 1.

7 We have no objection to the introduction of
8 Exhibit Number 2.

9 EXAMINER BROOKS: Okay. Exhibit Number --
10 the objection will be overruled. Exhibits 1 and 2 will
11 be admitted.

12 (Cimarex Exhibit Number 1 and 2 were
13 offered and admitted into evidence.)

14 EXAMINER BROOKS: And if there is nothing
15 further, Case Number 14771 will be taken under
16 advisement under the same conditions as Case Number
17 14770. That is to say that no order will be issued for
18 at least two weeks, and the parties will report to the
19 -- to the Division if and when a settlement is reached,
20 and the issue of a motion to dismiss by the Respondents
21 will be considered in connection with the merits.

22 MR. BRUCE: Thank you.

23 (The hearing concluded, 10:15 a.m.)

24 I do hereby certify that the foregoing is
25 a complete record of the proceedings in
the Examiner hearing of Case No. 14770/71
heard by me on 5-10-2012

David K. Brooks
Examiner

Oil Conservation Division

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

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

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

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

19



20

MARY C. HANKINS, CCR, RPR
Paul Baca Professional Court Reporters
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2012

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