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October 27, 2014

Ms. Jami Bailey, Director
New Mexico Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

Hand Delivered

**Re: NMOCD Case No. 15224; Application of Sovereign Eagle, LLC for
Compulsory Pooling, Roosevelt, County, New Mexico.**

Dear Ms. Bailey:

On behalf of Sovereign Eagle, LLC enclosed is the original and two copies of
Sovereign Eagle, LLC's Response to Motion for Continuance

Thank you.

Very truly yours,

/s/

J. Scott Hall

Enclosure a/s

cc: Jim Bruce, Esq.
Gabriel C. Wade, Esq.
Phillip Goetze

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

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APPLICATION OF SOVEREIGN EAGLE, LLC
FOR COMPULSORY POOLING, ROOSEVELT
COUNTY, NEW MEXICO

Case No. 15224

**SOVEREIGN EAGLE, LLC'S RESPONSE TO
MOTION FOR CONTINUANCE**

Applicant, Sovereign Eagle, LLC, for its response to the Motion for Continuance filed on behalf of Yates Brothers, states:

Yates Brothers is the owner of an unleased mineral interest in the N/2 and the SE/4 of Section 26, Township 2 South, Range 29 East, NMPM in Roosevelt County. By its Motion, Yates Brothers seeks a three week continuance of the hearing on the Application in this matter from October 30th to November 20, 2014 for the reason of a witness scheduling conflict.¹ In addition, the Yates Brothers motion suggests that a hearing must be delayed, if not dismissed, for the reasons that (1) Yates Brothers never received a well proposal and (2) the well location has been moved fifty (50) feet to the west. These objections are not seriously made, are interposed only for purposes of delay and provide no good grounds for the relief requested.

¹ Yates Brothers has been aware of the November 30, 2014 scheduled hearing date for this matter since approximately October 7, 2014 when notification of hearing was sent to it. Apparently, the witness is available to attend a hearing on November 20th. Motion, ¶3.

Yates Brothers relies on the provisions of Order No. R-13165² to argue that an applicant for compulsory pooling must first submit a well proposal letter accompanied by an AFE and indicating a well depth and location in order to demonstrate good faith negotiations. ("The Division understands these requirements to be comparable to the proposal requirements included in forms operating agreement generally used in the industry." Order No. R-13165, Finding ¶ 5.a, [September 15, 2009]).

This reliance is misplaced. Order No. R-3165 is readily distinguishable from the circumstances here. Order No. R-3165 was precipitated by a Motion to Dismiss filed by a Hyde Oil and Gas Corporation, a working interest owner, which challenged the adequacy of well proposals it received from Cimarex for Hyde's participation in the drilling of three wells. Motion To Dismiss, Exhibit A, attached. The requirements established under Order No. R-3165 for proposals to working interest owners for their participation in the drilling of wells as under an operating agreement are inapplicable to efforts to obtain the voluntary agreement of unleased mineral interest owners.

In this case, Yates Brothers is the owner of an unleased mineral interest in the N/2 and SE/4 of Section 26. Sovereign Eagle has been engaged in extensive efforts to obtain Yates Brothers's voluntary participation under an oil and gas leases that contains a voluntary pooling provision. Affidavit of Grace Charboneau, October 26, 2014, Exhibit B, attached. Sovereign Eagle did not propose that Yates Brothers participate in the drilling of the well under a joint operating agreement. *Id.*, at ¶3. Landman Jim Ball stated to Sovereign Eagle's lease negotiator that Yates Brother was not interested in becoming a working interest owner and did not seek to participate in a well. *Id.*, at ¶5. At no time

² NMOCD Cases 14368, 14369, 14370 and 14372 (Consolidated), *Application of Cimarex Energy Co. For a Non-Standard Spacing Unit and Compulsory Pooling, Chaves County, New Mexico*

did Yates Brothers request to be provided with a joint operating agreement or an AFE for a well. *Id.*

The express language of both NMSA 1978 Sections 70-2-17(C) and 70-2-18 is quite clear: In the case of unleased mineral interests, an applicant is obliged only to make a good faith effort to obtain the “voluntary agreements pooling said lands” under Section 70-2-18(A). While the pooling of working interests is understandably different, the compulsory pooling statutes do not prescribe the form or substance of any such voluntary agreement for the pooling the interests of a mineral interest owner. And by no precedent order has the Division ever presumed to impose any requirement for doing so beyond an oil and gas lease.

Yates Brothers contentions that good faith negotiations are negated by a change of a well location are further unfounded. In the case of a mineral interest owner who expressly eschews participation in the drilling of a well, the location of a well is of no consequence. Under Section 70-2-17 the Division’s compulsory pooling statute, at subsection (B) contemplates that the Division will issue an order “pooling the lands **dedicated to the spacing or proration unit. . .**”. This agency’s authority to do so is then found under Section 70-2-17(C) where “. . .[the Division] shall pool all or any part of such lands or interests or both in the spacing or proration unit **as a unit.**” (*id.*, emphasis added.)

Nowhere in the case of an unleased mineral interest owner does the language of the two pooling statutes direct that their application is limited to a “specifically proposed well” at a restricted location within the spacing unit. Rather, pooling proceedings effect the consolidation of interests unit-wide. Indeed, this is consistent with the guidance

provided by Order No. R-13165 that provides "...exact footage locations need not necessarily be specified in the application filed with the Division or in formal notices of hearing." Order No. R-13165, ¶(5)(b), September 15, 2009.

For the foregoing reasons, the Division should deny the Yates Brothers Motion for Continuance, including any implied request to dismiss, and the Examiner's October 24, 2014 pre-trial scheduling ruling should be rescinded.

Respectfully Submitted:

MONTGOMERY & ANDREWS, P.A.

By: /s/ J. Scott Hall
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 27th day of October, 2014.

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J. Scott Hall

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

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APPLICATION OF CIMAREX ENERGY COMPANY
FOR APPROVAL OF A NON-STANDARD OIL SPACING
AND PRORATION UNIT AND COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

CASE NO. 14368

APPLICATION OF CIMAREX ENERGY COMPANY
FOR APPROVAL OF A NON-STANDARD OIL SPACING
AND PRORATION UNIT AND COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

CASE NO. 14369

APPLICATION OF CIMAREX ENERGY COMPANY
FOR APPROVAL OF A NON-STANDARD OIL SPACING
AND PRORATION UNIT AND COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

CASE NO. 14370

MOTION TO DISMISS

Hyde Oil and Gas Corporation ("Hyde Oil") moves the Division to dismiss these applications on the grounds that Cimarex has (a) failed to properly propose these wells, and (b) failed to engage in good faith efforts to reach a voluntary agreement with the interest owners in the proposed spacing units prior to filing these applications. In support of this motion, Hyde Oil states:

1. Hyde Oil is the owner of uncommitted working interests in Section 34, T-19-S, R-34-E, the area that is the subject of these applications.
2. The Division, by long-standing practice, has required an applicant for compulsory pooling to first furnish all interest owners a formal well proposal at least thirty days prior to filing an application for pooling, and to then engage in good faith efforts to reach an agreement on the development of the acreage before invoking the pooling authority of the Division.

3. To foster informed, good faith discussion, the Division has traditionally required that the formal well proposal include, at the very least, the footage location of the proposed well, the formations or pools targeted by the proposed well, a proposed form of joint operating agreement, and an authorization for expenditures (AFE) setting forth the estimated costs.

4. The Division recently confirmed these long-standing requirements in its Order No. R-13155 issued on August 11, 2009.

5. In these cases, Cimarex proposed to Hyde Oil three horizontal wells in Section 34 by letters dated July 17, 2009. However, these well proposals were deficient because:

- a. The letters did not identify a footage location for either the surface or bottom hole location of the proposed wells; and
- b. The letters did not contain a proposed form of joint operating agreement for consideration.

See Attachments A1 (involving Case No. 14368), A2 (involving Case No. 14369) and A3 (involving Case No. 14370).

6. In mid July, Cimarex represented to Hyde Oil that it intended to schedule a face to face meeting to discuss and explain its development proposals in Section 34. However, no such meeting took place prior to or after Cimarex sent these well proposals. *See Exhibit C (Affidavit of Blair Hamburg) at ¶¶ 1-4.*

7. On August 13, 2009, less than thirty days after sending its deficient well proposal letters, Cimarex filed and sent certified letters providing notice of its pooling applications in these cases. *See Attachments B1, B2 and B3.*¹

¹ The certified letter for Case No. 14369 (Mallon 34 Well No. 19) was submitted under a cover letter dated July 28, 2009. However, all indications are that this letter was sent on August 13, 2009, with the certified letters for the Mallon 34 Well Nos. 18 and 20.

8. On August 17, 2009, Hyde Oil received the certified mailings. On that same date, Hyde Oil sent an email to Cimarex stating Hyde Oil was "confused because the paperwork we have received thus far from Cimarex, or on their behalf, combined with previous phone conversations, has not been clear as to Cimarex's plans, therefore making it difficult for us to make a decision." See Exhibit C at ¶¶ 6-7.

9. Cimarex has represented in its Applications to the Division that it "has in good faith sought to obtain the voluntary joinder of all other mineral interests" in each of the three proposed spacing units. However, no such good faith efforts have taken place prior to invoking the pooling authority of the Division. See Exhibit C at ¶ 8.

WHEREFORE, Hyde Oil respectfully requests that the Division dismiss these applications and require that Cimarex, (a) first furnish to the interest owners a proper well proposal for the development of the acreage comprising it proposed spacing units, and (b) thereafter attempt in good faith to reach a voluntary agreement with each of the interest owners prior to invoking the pooling authority of the Division.

Respectfully submitted,

Holland & Hart LLP



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Michael H. Feldewert

Post Office Box 2208

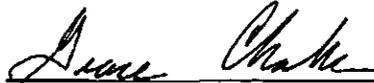
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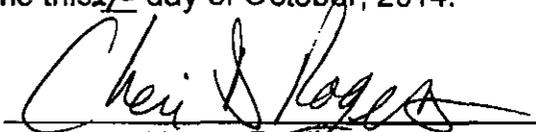
**ATTORNEYS FOR
HYDE OIL AND GAS CORPORATION**

4. Since approximately June 23, 2014 through to the present, I have exchanged lease offers and counter-offers, correspondence and e-mails with Yates Brothers' landman, Mr. Jim Ball, on approximately thirty occasions. In addition, I have had numerous telephone conversations with Mr. Ball.
5. Mr. Ball indicated to me that Yates Brothers was not interested in being a working interest owner. Yates Brothers was not offered and did not seek the opportunity to participate in a well under a joint operating agreement. Yates Brothers never requested to be provided with a joint operating agreement or an AFE for a well.



Grace Charboneau

SUBSCRIBED AND SWORN to before me this 27th day of October, 2014.



Notary Public

My Commission Expires:

