

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

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

**CASE NO. 13777  
ORDER NO. R-12682**

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

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on September 14, 2006 before Examiner William V. Jones.

NOW, on this 13<sup>th</sup> day of December, 2006, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

**FINDS THAT:**

- (1) This is a case of first impression for the Oil Conservation Division.
- (2) Cimarex Energy Company ("applicant" or "Cimarex") seeks an order pooling all uncommitted mineral interests in the Wolfcamp formation underlying the SW/4 NW/4 and NW/4 SW/4 of Section 21, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico, for any and all pools developed on 40-acre spacing within that vertical extent, including but not limited to the Caudill-Permo Upper Penn Pool (10830).
- (3) As allowed in Division Rule 111, the applicant intends to form an 80-acre "project area" by combining two contiguous 40-acre spacing and proration units for purposes of drilling a horizontal well. Applicant seeks an order pooling the entire 80-acre project area.
- (4) The Oil and Gas Act authorizes the Division to pool interests "in a spacing or proration unit." NMSA 1978 Sec. 70-2-17.C, as amended. Although this statute does not authorize the Division to pool an area larger than a spacing or proration unit, the Division has authority to create a non-standard spacing unit, larger than the standard unit for a particular pool, and pool all interests in the non-standard unit. *Rutter & Wilbanks Corp. v. OCC*, 87 NM 286, 532 P2d 582 (1975).

(5) Rule 111 authorizes the creation of a project area but does not purport to authorize compulsory pooling of the area so created.

(6) For the Division to create a non-standard unit as contemplated in this application, the applicant should present evidence demonstrating that doing so will prevent waste and protect correlative rights. No such evidence was offered at the hearing on this matter.

(7) In addition, where the unit sought to be created is larger than the normal spacing unit for the pool, pooling provisions in lease forms in common use (the particular leases are not in evidence) might not be construed to authorize the lessee to pool the royalty interest without joinder of the royalty owners. Accordingly, the royalty owners should be notified of this proceeding and afforded an opportunity for a hearing.

**IT IS THEREFORE ORDERED THAT:**

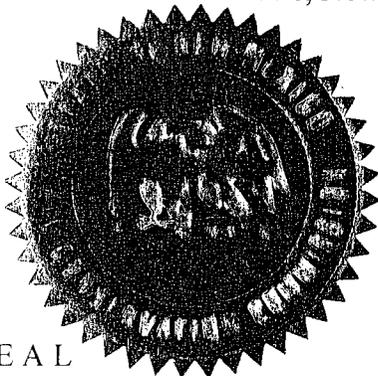
(1) The application of Cimarex Energy Company in this case shall be set for re-hearing on the next available Division Examiner Docket more than 20 days after the issuance of this order.

(2) Applicant shall notify all owners of all interests in the oil and gas in and under the area sought to be pooled.

(3) Applicant shall be afforded an opportunity, at the re-hearing, to show, by appropriate technical evidence, that the establishment of the proposed unit will prevent waste and will not impair correlative rights.

(4) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



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STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire", written over a horizontal line.

MARK E. FESMIRE, P.E.  
Director