

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

RECEIVED OCD
2007 AUG 27 P 4: 20

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

CASE NO. 14369

**APPLICATION OF CIMAREX ENERGY CO. FOR APPROVAL OF A NON-
STANDARD SPACING AND PRORATION UNIT AND COMPULSORY POOLING,
CHAVES COUNTY, NEW MEXICO.**

PRE-HEARING STATEMENT

This Pre-Hearing Statement is submitted by Holland & Hart, L.L.P. on behalf of Fuel Products, Inc. as required by Oil Conservation Rule 19.15.14.1204 B NMAC.

APPEARANCES OF PARTIES

APPLICANT

Cimarex Energy Co.

ATTORNEY

James Bruce, Esq.
Post Office Box 1056
Santa Fe, New Mexico 87501
(505) 982-2043
(505) 982-2151

OPPOSITION

Fuel Products, Inc.
Attn: Tom Beall
Post Office Box 1889
Midland, Texas 79702
(423) 683-3344

ATTORNEY

William F. Carr, Esq.
Holland & Hart, L.L.P.
Post Office Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421
(505) 983-6043 Facsimile

STATEMENT OF CASE

APPLICANT

Cimarex Energy Co. seeks an order approving a non-standard spacing and proration unit (project area) in the Bone Spring formation comprised of the S/2 N/2 of Section 34, Township 19 South, Range 34 East, NMPM, to form a non-standard 160-acre spacing and proration unit (project area), and pooling all mineral interests in the Bone Spring formation underlying the non-standard unit. The unit is to be dedicated to the Mallon 34 Fed. Well No. 19, a horizontal well to be drilled with a surface location at an orthodox location in the SE/4 NE/4 and a terminus at an orthodox location on the SW/4 NW/4 of Section 34. Also to be considered will be the costs of drilling and completion the well and the allocation of the costs thereof, as well as actual operating costs and charges for supervision, designation of Cimarex Energy Co. of Colorado as operator of the well, and a 200% charge for risk involved in drilling and completing the well.

OPPOSITION OF OTHER PARTY

Fuel Products, Inc. will appear and present testimony in opposition to the application of Cimarex Energy Co. Fuel Products, Inc. is the owner of working interest that is subject to this application. Fuel Products, Inc. will show that Cimarex failed to engage in good faith negotiations for the voluntary commitment of the Fuel Products interests to the proposed well and therefore is not entitled to a pooling order under the Oil and Gas Act. Fuel Products will request that, if the lands are pooled, that (i) only the Bone Spring formation be pooled, (ii) a risk penalty of no more than 100% be imposed on the pooled interests, (iii) the pooling order expire at the end of 90 days unless Cimarex has commenced the proposed well thereby preventing the use of the Division's rules to tie up the acreage of other owners where there is no immediate plan to drill, and (iv) reducing the AFE charges to a reasonable amount thereby assuring that the amount that owners subject to pooling must pay to avoid the risk penalty set by the order is not inflated.

PROPOSED EVIDENCE

OPPOSITION

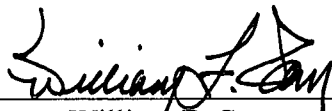
<u>WITNESSES</u> (Name and expertise)	<u>EST. TIME</u>	<u>EXHIBITS</u>
Louis J. Mazzullo Or Dale Lubinsti (Geologist)	Approx. 20 min.	Approx. 6
Tom Beall MAY CALL	Approx. 20 min.	Approx. 3

PROCEDURAL MATTERS

Fuel Products, Inc.'s Motion to Dismiss is pending before the Division.

Respectfully Submitted:

Holland & Hart LLP



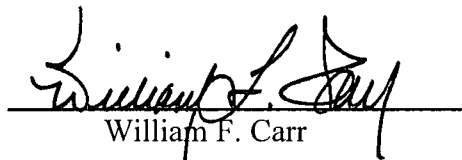
William F. Carr
Holland & Hart LLP
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
(505) 983-6043 Facsimile

ATTORNEYS FOR FUEL PRODUCTS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of August 2009, I have caused to be delivered by Facsimile a copy of the **Pre-Hearing Statement** in the above mentioned case to the following counsel of record:

James Bruce, Esq.
Post Office Box 1056
Santa Fe, New Mexico 87501
(505) 982-2043
(505) 982-2151



William F. Carr