

RECEIVED OCD
2009 AUG 27 P 2:48

August 27, 2009

VIA HAND DELIVERY

Mr. Mark E. Fesmire, P.E.
Director
Oil Conservation Division
New Mexico Department of Energy, Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

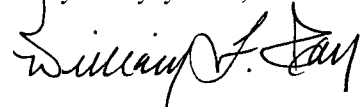
Re: Case 14372: Application of Cimarex Energy Co. for a non-standard oil spacing and proration unit and compulsory pooling, Chaves County, New Mexico.

Dear Mr. Fesmire:

Enclosed is the Motion to Dismiss the above referenced case of Me-Tex Supply Co. Me-Tex is prepared to argue this motion whenever the Division desires. However, since Me-Tex's primary witness will be unable to attend next week's hearing because he is having surgery, we request that the argument on this motion be heard at the September 3rd examiner hearing.

We have provided a copy of this Motion to Dismiss to James Bruce, attorney for Cimarex, and have asked Cimarex to concur in the request for continuance.

Very truly yours,



William F. Carr

Enclosure

cc: James Bruce Esq.

**BEFORE THE
NEW MEXICO ENERGY, MINERALS AND
NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

RECEIVED OCD
2009 AUG 27 P 2:48

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

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

CASE NO. 14372

ME-TEX SUPPLY CO.'S MOTION TO DISMISS

Me-Tex Supply Co. ("Me-Tex") moves the Oil Conservation Division for an order dismissing the application of Cimarex Energy Co. ("Cimarex") for an order pooling the N/2N/2 of Section 20, Township 15 South, Range 31 East, N.M.P.M., Chaves County, New Mexico and in support of its motion states:

1. Me-Tex is the owner of the working interest under the 80-acre tract comprised of the N/2 NW/4 of Section 20, Township 15 South, Range 31 East, N.M.P.M.
2. By letter dated June 17, 2009, Mr. Hayden Tresner, Landman for Cimarex, wrote to Me-Tex and proposed the drilling of the Valley Forge 20 State Com Well No. 4H in the N/2 N/2 of said Section 20. Cimarex attached an AFE for the well which identified the proposed non-standard spacing unit for the well but did not identify the location of the horizontal wellbore on that spacing unit. Cimarex advised Me-Tex that it would provide a proposed form operating agreement for the well after Me-Tex signed and returned a copy of the AFE.
3. On Thursday, July 16, 2009, Cimarex Energy Co. placed a call to Me-Tex and left

a message requesting a return call from Me-Tex.

4. On Tuesday, July 21, 2009, Mr. Ash Roan of Me-Tex called Mr. Tresner at Cimarex and Mr. Tresner advised that Cimarex was planning to drill a horizontal well in the N/2 N/2 of said Section 20 during the first quarter of 2010 on a 160-acre spacing unit comprised of four 40-acre oil spacing units and that Cimarex would be sending force pooling documents to Me-Tex.

5. On July 28, 2009, Mr. Roan left a telephone message on Mr. Tresner's voice mail asking Cimarex to call to discuss a possible farmout of the Me-Tex interest and to otherwise discuss the development of this property. This call was not returned.

6. By letter dated, August 13, 2009, Me-Tex received a letter and a copy of Cimarex's Application for an order compulsory pooling the N/2 N/2 of said Section 20. This application stated that "Applicant has in good faith sought to obtain the voluntary joinder of all other mineral interest owners in the N1/2 N1/2 of Section 20 ..." Paragraph 3. Cimarex's application also stated that it had "attempted to obtain voluntary agreements from all mineral interest owners to participate in the drilling of the well or to otherwise commit their interests to the well, certain interest owners have failed or refused to join in dedicating their interests." Paragraph 4.

7. Cimarex has not provided Me-Tex with a proper well proposal nor afforded Me-Tex a reasonable opportunity to reach a voluntary agreement for the development of the non-standard unit they are proposing to pool.

8. The Division, by long standing practice, has required operators to furnish interest owners a well proposal prior to filing a pooling application. Order No. R-13155, Cases 14365

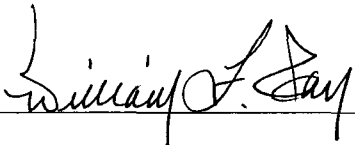
and 1436, August 11, 2009.

9. The Division has dismissed applications for compulsory pooling until 30-days after it “has furnished to all owners in the proposed unit a formal well proposal, including a proposed form of joint operating agreement and an authorization for expenditures (AFE) setting forth the estimated costs for the well to be proposed in such application.” (Emphasis added) Order No. R-13155, Cases 14365 and 14366, August 11, 2009.

10. Me-Tex does not plan to drill the well until 2010 and therefore does not have a leasehold interest that will be jeopardized by requiring it to comply with the Division’s long standing practice.

WHEREFORE, Me-Tex Supply Co. moves the Oil Conservation Division for an order dismissing the application of Cimarex Energy Co. in this case until 30 days after Cimarex has (i) furnished Me-Tex a proper well proposal that provides full details on the proposed well, (ii) provides the proposed terms of participation therein, and (iii) has in good faith sought to obtain the voluntary joinder of Me-Tex in the proposed well.

Respectfully submitted,
HOLLAND & HART LLP

By: _____

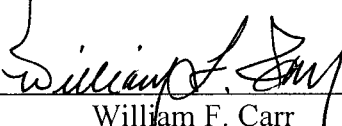
William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504
Telephone: (505) 988-4421
ATTORNEY FOR ME-TEX SUPPLY CO.

CERTIFICATE OF SERVICE

I certify that on August 26, 2009, I served a copy of the foregoing document to the following by

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☒ Fax
- ☐ Electronic Service by LexisNexis File & Serve

James Bruce Esq.
Attorney at Law
Post Office Box 1056
Santa Fe, New Mexico 87504
Attorney for Cimarex Energy Company
FAX NO.: (505) 982-2151



William F. Carr