



September 15, 2010

**VIA HAND-DELIVERY**

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

Re. Case Nos. 14418 and 14480: Applications of Cimarex Energy Co. for a Non-Standard Oil Spacing and Proration Unit and Compulsory Pooling, Eddy County, New Mexico.

Dear Mr. Fesmire:

Enclosed please find a proposed Confidentiality Order agreed to by the parties in the above-referenced matters. Upon the request of Lynx Petroleum Consultants, the Commission issued a subpoena to Cimarex Energy Company. In order for Cimarex to maintain the confidentiality of certain documents that Lynx has requested, the parties have agreed to enter into the enclosed Confidentiality Order. The proposed order substantially conforms to confidentiality orders that the Division and Commission have issued in the past.

Accordingly, we appreciate your review of the proposed order. If it meets your approval, please execute and distribute to counsel for Lynx and Cimarex. Thank you for your time and attention to this matter.

Very truly yours,

Ocean Munds-Dry  
Attorney for Lynx Petroleum Consultants, Inc.

cc: Gary Larson, Esq.

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

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

**Case No. 14418 *De Novo*  
Order No. R-13228-E**

**CONFIDENTIALITY ORDER**

THIS MATTER having come before the Oil Conservation Commission ("the Commission") on the joint request by the parties for entry of a Confidentiality Order to govern information and documents designated as confidential that are produced and exchanged in the course of discovery, the Commission Chair hereby ORDERS AS FOLLOWS:

1. This Confidentiality Order governs the handling of documents, materials, and other tangible things disclosed in discovery in this action, when those items are designated "Confidential" in accordance with the procedures herein.

2. The following definitions shall apply to this Confidentiality Order:

a. "Confidential Material" or "Confidential Information" shall mean and refer to any documents, materials, or other tangible things which are:

(1) deemed in good faith by the party or person producing them to constitute trade secret, confidential, or propriety information; and

(2) designated as such in accordance with the procedures set forth herein.

b. "Qualified Person(s)" shall mean and refer to:

(1) Attorneys for the parties, including in-house counsel;

- (2) Employees of the parties who are responsible for assisting counsel in the conduct of this action;
- (3) Employees of any firm retained by the parties to produce or duplicate any discovery material for use in accordance with this Confidentiality Order;
- (4) Independent experts or consultants who are employed or retained to assist counsel in this action;
- (5) Potential hearing witnesses;
- (6) A party's working interest owners who are represented by that party at the hearing and who have executed the Acknowledgement of Confidentiality Order; and
- (7) Employees of the Commission.

3. Anyone may designate Confidential Material to be handled in accordance with the terms of this Confidentiality Order by marking on, or physically affixing to, the document, material, or other tangible thing the following designation:

*"Subject to Confidentiality Order in New Mexico OCC Case No. 14418."*

The designation shall be placed on documents in such a manner that it does not obscure or make illegible the wording of the document.

4. The following restrictions and procedures shall apply to any Confidential Material and Confidential Information:

- a. All Confidential Material, and all Confidential Information contained in or derived from Confidential Material, shall not be used by any person for business

or competitive purposes or for any purpose other than the preparation for and hearing of this action, and any appeals therefrom.

b. Access to Confidential Material and Confidential Information shall be limited to Qualified Persons who require access to such Confidential Material and Confidential Information to perform their duties in this action. Qualified Persons shall not disclose any information designated as confidential to any other persons or entities.

c. Any Qualified Person to whom Confidential Material, or any Confidential Information contained therein or derived therefrom, is to be disclosed shall, as a precondition to such disclosure:

(1) be advised of the provisions of this Confidentiality Order, and of the limited purpose for which the Confidential Material or any Confidential Information contained in or derived therefrom may be used; and

(2) execute the attached Acknowledgment which recites that he or she has received and read a copy of this Confidentiality Order, and agrees to be bound by its provisions. These procedures need not be followed if the Qualified Person to whom the Confidential Material or Confidential Information is disclosed is the person or party that produced the Confidential Material or an employee of the Commission.

d. Within sixty (60) days of the final termination of this action, whether by settlement or Commission Order, including any appeals therefrom, each party or other Qualified Person shall return all Confidential Material to the party or other

person from whom it was received, including any copies and any extracts, summaries, or documents containing information taken therefrom, but excluding any materials which, in the judgment of the party's or person's counsel, constitute work product materials, and shall provide to the producing party a copy of each executed Acknowledgment of Confidentiality Order.

e. Any party who seeks to introduce Confidential Material as an exhibit at the hearing shall inform the Commission that the proposed exhibit consists of or contains Confidential Material and/or Confidential Information and shall request that, in accordance with NMSA 1978, § 71-2-8, the Confidential Materials and Confidential Information, and any associated testimony, not be made a part of the public case record.

5. Entering into, agreeing to, producing or receiving any Confidential Material, or otherwise complying with the terms of this Confidentiality Order shall not:

- a. Constitute an admission by any party or person that any document designated as Confidential Material contains or reflects trade secret, propriety or commercial information or other confidential matter; or
- b. Prejudice in any way the rights of any party to object to the production of documents it considers not subject to discovery; or
- c. Prejudice in any way the rights of any party to seek a determination by the Commission whether particular discovery materials should be produced, or if produced, whether such material is properly subject to the terms of this Confidentiality Order; or

d. Prejudice in any way the rights of any party to seek a determination that access to Confidential Material should be granted to a person not herein specifically designated to receive the same; or

e. Prejudice in any way the rights of any party to apply for a further protective order relating to any assertedly confidential, trade secret or propriety information.

6. Any party may object to any designation of Confidential Material at any time by notifying the producing party in writing. The producing party, upon receipt of such objection, must within ten (10) days of receipt file an appropriate motion with the Commission for protection of the disputed materials. The disputed materials will be handled as Confidential Materials until a ruling is obtained.

7. The Commission reserves ruling on the admissibility and handling of Confidential Material until the time of hearing.

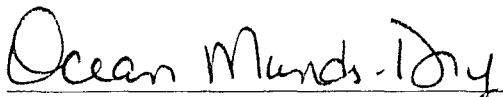
Dated this 16<sup>th</sup> day of September, 2010.

NEW MEXICO OIL CONSERVATION COMMISSION

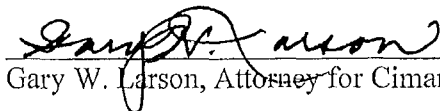
By: 

Mark E. Fesmire, P.E., Chairman

Approved By:



Ocean Munds-Dry, Attorney for Lynx Petroleum Consultants, Inc.



Gary W. Larson, Attorney for Cimarex Energy Co.

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**ACKNOWLEDGMENT OF CONFIDENTIALITY ORDER**

Before working on and reviewing documents in the above-referenced matter, it is necessary that you read the Confidentiality Order attached hereto which the parties have agreed to with respect to certain materials produced in this case. Part of this Confidentiality Order requires that all Qualified Persons be advised of the provisions of the Confidentiality Order, and of the limited purposes for which confidential materials or other information contained in or derived therefrom may be used. Once you have carefully read the Order, please acknowledge that you understand its contents and that you agree to be bound by its provisions by signing below.

\_\_\_\_\_  
Signature of Qualified Person