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

APPLICATION OF SPUR ENERGY PARTNERS, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 21733

APPLICATION OF LONGFELLOW ENERGY, LP FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 21651

SPUR'S CLOSING STATEMENT

Spur Energy Partners, LLC ("Spur") (OGRID No. 328947) submits this closing statement in support of its application in Case No. 21733, as requested by the Hearing Examiner at the June 17-18, 2021 consolidated matters in the competing Case No. 21651.

INTRODUCTION

These matters involve competing pooling cases between Spur and Longfellow Energy, LP ("Longfellow") for development of the Yeso formation within the Empire; Glorieta-Yeso Pool [Pool Code 96210], underlying the N/2 of Section 13, and the NE/4 of Section 14, Township 17 South, Range 28 East, NMPM, Eddy County, New Mexico.

Three main factors favor Spur's proposed development over Longfellow's plan. First, Spur controls a greater share of the working interest ownership within the proposed spacing unit. Longfellow improperly relies on contractual interests derived from two joint operating agreements (JOAs) that partially overlap the proposed spacing unit to inflate its working interest control. Many of those contractual interests are not working interests under an oil and gas lease within the spacing unit. Such interests are not properly subject to compulsory pooling under the New Mexico Oil and Gas Act and, therefore, should not be considered for purposes of calculating working interest control.

Second, Spur's proposed plan targets all proven economic zones within the proposed spacing unit, whereas Longfellow's plan creates an acknowledged gap in the development of its Blinebry target. It also leaves undeveloped a slightly deeper zone in the middle Blinebry that is proven to be economic in numerous wells operated by Spur in the adjacent Township to the east. As proposed, Longfellow's plan will result in waste and impair Spur's correlative rights. Longfellow's application should be denied for that reason alone.

Third, Spur's development plan will target and develop more of the reserves in the proposed spacing unit at a lower estimated cost by appropriately sizing its completion design without sacrificing ultimate recovery. Longfellow presented no data demonstrating that its proposed larger completion design of 90 barrels per foot will generate greater ultimate recovery than Spur's proposal. To the contrary, data from the target Yeso formation in the area confirms that completion designs larger than 60 barrels per foot do not result in greater recovery and do not justify the extra cost.

In addition to prevailing on the foregoing critical factors, every other factor considered by the Division in competing compulsory pooling cases favor Spur:

- Spur has far more experience drilling and operating horizontal wells in New Mexico and in the Yeso formation than Longfellow. Spur operates more than 400 horizontal wells in New Mexico and has successfully drilled and completed more than thirty horizontal wells in the Yeso formation. In contrast, Longfellow has drilled and operates only five horizontal wells in New Mexico.
- The well cost estimates (AFEs) proposed by Spur are based on its extensive experience drilling and completing Yeso formation wells in this area and are substantially lower than those proposed by Longfellow.

- Spur's proposed overhead rates are consistent with what Spur and other operators are charging in this area for similar wells and are substantially lower (~14%) than those proposed by Longfellow.

Because the factors considered by the Division weigh in favor of Spur, including the most significant factor—control of the largest share of the working interest in the acreage underlying the spacing unit—the Division should grant Spur's pooling application. Spur should be allowed to control the costs that it will be ultimately responsible for across its acreage in the proposed spacing unit, including the NW/4 of Section 13 where Spur owns 100% of the working interest. That will ensure the acreage will be developed under the most cost-effective and efficient development plan and will avoid waste and protect correlative rights.

ARGUMENT

I. Spur Controls the Majority of the Working Interest Ownership in the Proposed Unit.

In the tracts that comprise the proposed 480-acre horizontal spacing unit, Spur owns approximately 46.25% of the working interest in the unit and, through agreements with MEC Petroleum Corporation and ConocoPhillips Company, controls more than 50% of the working interest ownership. *See* Spur Exhibit C-4A (MEC "agrees to support . . . the appointment of Spur as operator") (letter acknowledging agreement for Spur to acquire ConocoPhillips' interests in the spacing unit); In contrast, Longfellow Energy owns less than 35% of the working interest in the unit and controls less than 35% of the working interest, calculated based on the working interest ownership in the specific tracts that make up the spacing unit. *See* Spur Exhibit 4

(Longfellow's interest in the unit is 25.6% and Longfellow acquired Murchison's 7.9% interest[1]); *see also* **Exhibit G**.

When the Division is presented with competing development plans, "working interest control . . . should be the controlling factor in awarding operations" "[i]n the absence of compelling factors such as geologic and prospect differences, ability to operate prudently, or any reason why one operator would economically recover more oil or gas by virtue of being awarded operations than the other[.]" Order No. R-10731-B; *see also* Order No. R-11869 at ¶ 23; Order No. R-13603 at ¶17(f); Order No. R-14518 at ¶ 23.

With 46.25% working interest ownership, even excluding the support of MEC and ConocoPhillips, Spur owns and controls the largest share of the working interest in the proposed 480-acre horizontal spacing unit and will be ultimately responsible for that portion of the development costs. It will bear the largest burden of the expenses and should be awarded operatorship over Longfellow to allow it to control those costs and implement its preferred plan of development.

Longfellow incorrectly contends that it owns approximately 47.23% of the working interest in the spacing unit compared to 40.31% for Spur. In determining ownership of the working interest within the tracts that comprise the spacing unit, Longfellow incorrectly includes the contractual interests of parties to two overlapping JOAs (i.e., the Puma and Aid), many of which do not own mineral interests or an oil and gas lease in the tracts that comprise the proposed 480-acre spacing unit.[2] *See* Longfellow Rebuttal Ex. A-12 (Puma JOA) at Ex. A

[1] *See* Tr. Vol. 2 at 347:10-348:1 (stating that Spur improperly excluded Murchison's interests from the calculation of working interest attributable to Longfellow).

[2] Note that Technical Examiner Garcia asked Longfellow's land witness to provide an updated Longfellow Exhibit A-2 showing all leases broken down by their owners. *See* Tr. Vol. 1 at

("IDENTIFICATION OF LANDS SUBJECT TO THIS OPERATING AGREEMENT" are the N/2 of Section 14 in Township 17 South, Range 28 East); Longfellow Rebuttal Ex. A-13 (Aid JOA) at Ex. A ("LANDS SUBJECT TO CONTRACT" are the E/2 of Section 13 in Township 17 South, Range 28 East); Tr. Vol. 1 at 43:7-20 (stating that the interests contributed to the JOA are allocated equally across each tract comprising the contract area); Tr. Vol. 1 at 44:8-12 (stating that all the JOA "contractual interests become part of the new pooling" in a pooling order); Longfellow Rebuttal Exhibit A-11 (reflecting that Longfellow's working interest calculation incorporates the contract-area interests of parties to the Puma and Aid JOAs to calculate the working interest ownership underlying the proposed spacing unit); *see also* Tr. Vol. 1 at 45:8-21; 47:25-48:19. Longfellow's Rebuttal Exhibit A-11 confirms that Puma and Aid JOA contract parties who do not have leasehold ownership interests in tracts underlying the spacing unit are included in Longfellow's calculation—their interests under the JOA are derived from the tracts in the NW/4 of Section 14 and the SE/4.[3] The effect of Longfellow's methodology is to increase Longfellow's share of the working interest ownership within the unit and to dilute Spur's share. *See* Longfellow Rebuttal Exhibit A-11 (showing that Longfellow calculation including the contractual rights of parties in the Puma and Aid JOA results in a greater working interest share for Longfellow compared to Spur's calculating which excludes those interests).

Longfellow's working interest calculation methodology is incorrect. It conflicts with the statutory scheme under the New Mexico Oil and Gas Act and regulations that limit compulsory

62:16-63:9. Longfellow's attorney agreed to provide it. To our knowledge Longfellow never provided an updated exhibit, as requested.

[3] *See* Longfellow Rebuttal Exhibit A-11 (comparing Spur's exclusion of parties with only a contract interest to Longfellow's inclusion of entities with contractual interests). All the entities on Longfellow's ownership list that are not included on Spur's list are included in Longfellow's calculation due only to their contractual interest in the Puma and Aid JOAs and do not actually own a mineral interest underlying the subject spacing unit.

pooling to owners of oil and gas mineral interests in the specific tracts subject to pooling. It also conflicts with the Division's precedent and practice of calculating working interest and working interest control based on mineral ownership in the specific tracts underlying a proposed spacing unit.

Setting aside the impropriety of including contractual interests in the calculation, Longfellow's methodology also wrongly attributes interests to their benefit based on JOAs with partially overlapping contract areas as if those parties had committed their interests to the spacing unit. Division precedent clearly establishes that an agreement to drill a contract area that partially overlaps a proposed horizontal well spacing unit does not represent an agreement or commitment to drill or combine interests into the proposed spacing unit. The commitment of interests to a JOA, such as the Puma and Aid, is limited to the combination of acreage for the specific contract area.

A. Only Owners of Mineral Interests—Not Contractual Interests—Are Subject to Compulsory Pooling Under New Mexico Law.

Under the New Mexico Oil and Gas Act (the "Act"), the Division has authority to issue compulsory pooling orders only as to owners of oil and gas minerals in tracts of land located within the proposed spacing unit that is subject to compulsory pooling. It does not give the Division authority to pool parties to a JOA or other contractual interests who do not actually own an interest in the land or minerals underlying the proposed spacing unit.

The Act provides that when "two or more separately owned tracts of land are embraced within a spacing or proration unit," or when there are "owners" of "undivided interests in oil and gas minerals which are separately owned or any combination thereof, embraced within such spacing or proration unit" who have "not agreed to pool their interests," the Division "shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit." *See*

NMSA, 1978 § 70-2-17(C) (emphasis added); *see also* § 70-2-18(A) (addressing only "owners . . . in oil or gas minerals . . . embraced within such spacing or proration unit."). The phrase "[s]uch lands or interests" refers to "separately owned tracts of lands" and "owners . . . of undivided interests in oil and gas minerals embraced within" a proposed spacing unit. *See* Such, BLACK'S LAW DICTIONARY (8th Ed. 2004) ("1. Of this or that kind. 2. That or those having just been mentioned.").

Recognizing that the Division's authority to issue compulsory pooling orders extends only to owners of mineral interests in lands within a proposed spacing unit, the Division's rules provide that

> [t]he applicant shall give notice to each owner of an interest in the mineral estate of any portion of the lands the applicant proposes to be pooled or unitized whose interest is evidenced by a written conveyance document either of record or known to the applicant at the time the applicant filed the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized (other than a royalty interest subject to a pooling or unitization clause).

19.15.4.12.A(1)(a) NMAC (emphasis added). Thus, contractual interests arising from a JOA who do not also own an interest in the mineral estate within a proposed spacing unit are not parties subject to a compulsory pooling proceeding for that spacing unit.

Division rules define a "mineral interest owner" as "a working interest owner [i.e., a leasehold interest owner], or an owner of a right to explore for and develop oil and gas that is not subject to an existing oil and gas lease [i.e., an unleased mineral interest owner]." 19.15.2.7.M(10) NMAC. A "working interest owner"[4] is defined as "the owner of an operating

[4] Longfellow incorrectly refers to all parties to the Puma and Aid JOAs as working interest owners for purposes of the compulsory pooling proceeding in these cases. *See* Tr. Vol. 2 at 344:19-23. Under the Division's regulations, only parties to those JOAs who are also owners of

interest under an oil and gas lease [not a JOA] who has the exclusive right to exploit the oil and gas minerals" and is a cost bearing interest. 19.15.2.7.W(10) NMAC (emphasis added). Under these definitions, a contractual interest subject to a JOA that has contributed a leasehold interest to a contract area partially overlapping a proposed spacing unit is not a "mineral interest owner" or a "working interest owner" within the proposed spacing unit because the contractual interest is not an owner of the oil and gas minerals, and is not an owner of an oil and gas lease, in the spacing unit. Their leasehold interest, if they even hold an interest in a lease, is outside the spacing unit. A party with a contractual interest may be cost bearing as between and among the parties to a JOA, but it is not cost bearing pursuant to an oil and gas lease in the lands subject to compulsory pooling unless it actually owns a leasehold interest in the specific tracts that comprise the spacing unit.

Joint operating agreements are purely contractual in nature and do not convey an interest in minerals, in the oil or gas, or in an underlying lease. *See* Longfellow Rebuttal Ex. A-12 (Puma JOA) at Art. III.B ("Nothing contained in this Article III.B. shall be deemed an assignment or cross-assignment of interests covered hereby"); Longfellow Rebuttal Ex. A-13 (Aid JOA) at Art. III.B (stating that shared production from the contract area "shall not be deemed an assignment or cross-assignment of interests covered hereby"); *see also Masgas v. Anderson*, 310 S.W.3d 567, 571 (Tex. App. 2010) (holding that a JOA that "disclaims any intent" to convey an interest or an assignment does not convey title). The parties do not dispute that. *See* Tr. Vol. 2 at 243:8-12; Tr. Vol. 2 at 351:17-20. Parties to a JOA, who do not also own an interest in the mineral estate or who are not themselves working interest owners under a lease in the specific lands

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an operating interest under a lease within the proposed spacing unit are "working interest owners" for purposes of determining parties subject to compulsory pooling.

"embraced within" the proposed spacing unit, are thus not subject to notice for compulsory pooling. They are not owners of tracts of land, undivided mineral interests, or oil or gas interests within the proposed spacing unit. Such contractual interests also cannot be subject to a compulsory pooling order for the same reasons.

B. The Division's Compulsory Pooling Orders Recognize that Forced Pooling is Limited to Owners of Mineral Interests within the Proposed Spacing Unit.

Division and Commission orders recognize that forced pooling is limited to uncommitted mineral interest owners within the proposed spacing unit. *See, e.g.*, Order No. R-10358, Decretal ¶ 1, ("pooling all mineral interests from the surface to the base of the Canyon formation underlying the SW/4 of Section 13 . . ."); Order No. R-10731-B, Decretal ¶ 2 ("pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 20 . . ."); Order No. R-14518, Decretal 3 (pooling "all uncommitted interests, whatever they may be, in the oil and gas . . . underlying the Unit") (emphasis added).

Longfellow's application expressly acknowledges this legal fact because it seeks an order pooling "all mineral interests in the Yeso formation underlying the HSU." *See* Longfellow Application, Case No. 21651, at 1 & 3 (¶ B). Longfellow's requested relief correctly excludes all from its compulsory pooling request contractual interest owners in overlapping JOAs who do not also own a mineral interest within the spacing unit. This is not surprising because the Oil and Gas Act limits compulsory pooling to mineral interest owners underlying the specific tracts in which compulsory pooling is sought.

Therefore, all parties that do not actually own a mineral interest, including cost-bearing working interests (i.e., a leasehold interest), underlying the proposed 480-acre spacing unit must be excluded from forced pooling in these cases and from the Division's calculation of working interest control.

C. Because Compulsory Pooling is Limited to Owners within a Proposed Spacing Unit, the Division Considers Only Working Interest Ownership within a Proposed Spacing Unit to Determine Working Interest Control.

Division and Commission orders further recognize that for purposes of determining working interest control in competing compulsory pooling cases, only working interests owned within the proposed spacing unit are considered. *See, e.g.*, Memorandum from D. Catanach to W. LeMay, dated April 5, 1995, attached as **Exhibit A** (stating that "interest ownership within the particular spacing unit being sought" is "Relevant and Pertinent" evidence for evaluating competing compulsory pooling cases) (emphasis added); Order No. R-21416-A, FOF ¶¶ 20, 54 (finding that because "BTA owns 82% of the working interest in the Ochoa Acreage" it "owns a greater interest in the Ochoa Acreage than Marathon holds in its proposed spacing units.") (emphasis added); Order No. R-20223, FOF ¶ 39 (determining "acreage position" in the proposed spacing unit by comparison of "ownership" in the proposed unit).

For example, in Case No. 15433, at issue was whether a JOA committed a JOA party (Nearburg) to a proposed horizontal well spacing unit when the JOA party owned a working interest in a contract-area tract that only partially overlapped the spacing unit. *See* Order No. R-14140 at Finding § 7. In that case, an existing JOA covered the S/2 of Section 31 and the S/2 of Section 32 in Township 18 South, Range 33 East. The proposed spacing unit was for the W/2 E/2 of Section 32. The JOA contract area and the proposed spacing unit thus overlapped in the SW/4 of Section 32. *See* Nearburg Ex. 2 at 13, Case No. 15433, attached as **Exhibit B** (identifying contract area lands subject to JOA and ownership interest on a tract basis); *see also* Matador Ex. 3, Case No. 15433, attached as **Exhibit C** (identifying spacing unit tracts and ownership interest by tract). Nearburg, the JOA party subject to compulsory pooling in the case, owned a 66.6% interest in the specific contract-area tract that partially overlapped the proposed spacing unit. *See* Nearburg Ex. 2 at 13, Case No. 15433, attached as **Exhibit B**. The applicant's

land exhibit thus depicted Nearburg as owning a 66.6% interest in the specific spacing-unit tract that overlapped the contract area. *See* Matador Ex. 3, Case No. 15433, attached as **Exhibit C**.

As it turns out, all parties to the JOA in Case No. 15433 owned identical interests in both tracts that made up the contract area, making their interests uniform on a tract and unit-wide basis. However, the testimony, hearing exhibits, and the Division's questions regarding ownership in the specific tracts make clear that the Division pools parties based on mineral interest ownership in the specific tracts comprising the spacing unit, not a blended contractual interest derived from a JOA contract area that includes leasehold interests outside the spacing unit. *See* Case No. 15433, Tr. 23:4-20, attached as **Exhibit D** (stating that Exhibit 3 identifies "the interest owners in the proposed 160-acre spacing unit" and that "it breaks down ownership on a tract basis" and on "project area [spacing unit] basis"); *id.* at Tr. 40:9-41:19 (Division confirming that the "working interest owners in the south half of the proposed spacing unit are also parties to the existing joint operating agreement covering . . . the south of this proposed unit" and "that joint operating agreement include[s] all working interest owners who own interests in the south half of the proposed unit"); *see also* Exhibits B and C.

Because parties subject to a compulsory pooling order must actually own an interest in the mineral estate underlying tracts that comprise the proposed spacing unit, only mineral interest ownership underlying the specific tracts in the spacing unit is considered for purposes of calculating working interest control.

D. A Party with Contractual Interests Under a JOA with a Contract Area Partially Overlapping a Proposed Spacing Unit has not Committed its Interests to, nor Reached Agreement to Develop, the Proposed Spacing Unit.

Parties to a JOA, who have contractually agreed to contribute their leasehold interests to a specified contract area, have not committed their interests to, nor reached agreement on the development of, a proposed spacing unit that only partially overlaps the JOA contract area.

The Division recently evaluated this issue in the context of horizontal well development and confirmed, in a case directly on point, that "[i]n the absence of an agreement as to how production from [a] proposed horizontal well is to be divided between the lands within and without [a] defined contract area, [a] JOA does not constitute an agreement of the parties to pool their interests in such production[.]" *See* Case No. 15433, Order R-14140, ¶ 17, attached as **Exhibit E** (with relevant facts and holdings highlighted); *see also* Case Nos. 16115 & 16116, Order No. R-14876.

This holding contrasts with the circumstance where a vertical well is proposed to be drilled entirely within a JOA contract area that only partially overlaps the designated spacing unit. In this latter circumstance, a JOA effectively commits the JOA parties' interests to the proposed vertical well, even though the contract area does not extend to include the entire spacing unit, because the proposed vertical well is located entirely within the contract area where the JOA parties have reached agreement and committed their interests. *See, e.g.*, Case No. 10658, Order No. R-9841, attached as **Exhibit F**; *see also* Case No. 8606, Order No. R-8013.

But that vertical well analysis is inapposite here. Instead, the former horizontal well analysis applies where, as with the facts underlying Order No. R-14140, the two JOAs relied upon by Longfellow have contract areas that each overlap only a portion of the proposed 480-acre horizontal well spacing unit. Setting aside the fact that parties with only a contractual interest in the portion of a contract area that partially overlaps a proposed spacing unit do not own oil and gas mineral interests in the proposed spacing unit, and so are not subject to compulsory pooling, parties to the JOAs at issue here have no agreement as to how production from the proposed horizontal well is to be divided between the lands within and without the defined contract area and have not, therefore, committed their interests to the proposed 480-acre spacing unit. *See* Case No. 15433, Order R-14140, ¶ 17; *see also* Longfellow Rebuttal Ex. A-12

(Puma JOA) at Ex. A ("IDENTIFICATION OF LANDS SUBJECT TO THIS OPERATING AGREEMENT" are limited to N/2 of Section 14 in Township 17 South, Range 28 East); Longfellow Rebuttal Ex. A-13 (Aid JOA) at Ex. A ("LANDS SUBJECT TO CONTRACT" are limited to E/2 of Section 13 in Township 17 South, Range 28 East).

The owners of oil and gas mineral interests in the proposed 480-acre spacing unit must reach voluntary agreement on the commitment of their interests to the proposed spacing unit or they are considered uncommitted owners and must be force pooled. *See* § 70-2-17(C). Both parties acknowledge that there is no agreement among owners committing their interests to the proposed 480-acre spacing unit at issue and that owners must sign a new JOA or be subject to a forced pooling order. *See* Tr. Vol. 2 Tr. at 238:15-239:2 (Spur); 250:8-16 (Spur); 346:3-12 (Longfellow) (confirming that Longfellow has proposed a new JOA for the 480-acre spacing unit but that "we have not had anybody sign the JOA.").

If the existing, partially overlapping Puma and Aid JOAs were effective to commit the JOA parties' contractual interests to the new proposed 480-acre spacing unit, Longfellow would have no need to propose a new JOA and contract area or obtain the voluntary commitment from those parties. By acknowledging that the parties to the Puma and Aid JOAs must execute a new JOA covering the 480-acre horizontal spacing unit, Longfellow concedes that the overlapping JOAs have not committed the parties' interests to the proposed spacing unit.

II. Every Other Key Factor Weighed by the Division in Determining Competing Well Development Plans Favors Spur as Operator.

In addition to owning the majority working interest in the proposed 480-acre spacing unit, every other key factor considered by the Division in competing well development and compulsory pooling cases favors Spur.

A. The Geology Factor Favors Spur.

Both parties are targeting the same Paddock and Blinebry intervals; however, Spur proposes to develop an additional zone in the lower portion of the upper Blinebry that is proven to be economic within five miles in the immediately offsetting Township to the east. *See* Spur Rebuttal Ex. 2; *see also* Tr. Vol. 2 329:24-331:25.

In that offsetting acreage, Spur operates eight wells that have produced 820,000 barrels of oil to date and are expected to ultimately recover approximately 1.6 million barrels. *See* Tr. Vol. 2 330:22-331-2. Using the average production from those eight wells, normalized to a 5,000-foot lateral length and adjusted by Spur's costs to drill and complete, results in an expected 60% rate of return. *See* Tr. Vol. 2, 331:6-25. Not targeting that zone is demonstrably wasteful. *Id.*; *id.* at 342:7-22.

The proposal Longfellow presented to the Division will not develop this portion of the Blinebry, resulting in waste and impairing Spur's correlative rights by denying it the opportunity to access and produce these proven reserves. Because Spur's plan will develop proven economic reserves that would otherwise remain unproduced under Longfellow's plan, the geologic factor favors Spur.

B. The Potential to Efficiently Recover Reserves Favors Spur.

In these cases, the critical distinctions between the competing development plans are the number of wells proposed to develop the spacing unit and the size, or intensity, of the completion design for each well. Longfellow proposes only five wells, while Spur proposes six. *See* Spur Exhibit D-7, D-8, Tr. Vol. 2 at 325:20-326:7, 332:11-333:2. Longfellow contends it can generate more production, and "completely development the unit,"[5] with fewer wells by employing a

[5] *See* Tr. Vol. 1 at 91:10-11; *see also* Tr. Vol. 1 at 96:3-9.

larger and significantly more costly[6] completion design—90 barrels of stimulation per foot of completed lateral compared to 60 barrels of stimulation per foot as proposed by Spur. Longfellow's contentions are not supported by the data or testimony.

Longfellow asserts that data from approximately 500 wells completed in the Yeso formation support its position that a larger completion design yields a higher ultimate recovery. *See* Tr. Vol. 1 at 99:8-10. In general, production trends from the Yeso formation do support the contention that larger completion designs stimulate increased production, but only to a point. *See* Tr. Vol. 2 at 327:20-329:6. Aside from a general reference to its internal modelling analysis, Longfellow presents no data from those 500 wells in testimony or exhibits confirming that larger stimulations result in increased production. The data does not support the contention.

Prior to Longfellow's five wells in the adjacent spacing unit to the south, which have only just commenced production operations, eight wells across the Yeso trend were completed using a larger completion design analogous to the one Longfellow proposes. *See* Tr. Vol. 2 329:16-23. Those wells were drilled and completed by Spur's predecessors-in-interest to test the concept that larger stimulations will generate greater ultimate recovery. Spur's predecessors have demonstrated that "there's a point of diminishing return after you get to 60 barrels per foot." *See* Tr. Vol. 2 331:15-22.

Excluding cherry-picked wells completed in zones that are not present in the proposed spacing unit and including only wells completed in analogous intervals, Spur conducted an analysis of wells with 90 barrel per foot completions against wells with 60 barrel per foot completions. That analysis confirms that the larger completion design proposed by Longfellow

[6] Longfellow's witness testified that its completion design is about $520,000 more expensive per well than Spur's design, or about $2.6 million more for its proposed five wells. *See* Tr. Vol. 1 at 101:5-13.

does not translate into greater ultimate recovery and that 60 barrels per foot completions result in essentially the same, or slightly greater, ultimate recovery. Tr. Vol. 2 at 331:7-331:25. That means the substantial additional costs for the larger completions Longfellow proposes are not justified. *See* Spur Rebuttal Exhibit 2 at 1-3; Tr. Vol. 2 at 329:16-23; 330:22-331:25.

As to the number of wells and spacing required to develop the spacing unit, Longfellow's proposed plan creates a gap in the development of the Blinebry interval, leaving economic and valuable reserves in place. *See* Spur Exhibits D-7, D-8, D-9; *see also* Tr. Vol. 2 332:11-333:2. While initially testifying that its proposal is expected to "completely develop the unit,"[7] Longfellow's witness later admitted that its planned spacing will result in a development gap that will require an additional well to drain the acreage that may or may not be drilled. *See* Tr. Vol. 1 at 147:11-149:4; *see also* Spur Rebuttal Ex. 2 at 6. As proposed, Longfellow's plan is therefore incapable of fully developing the unit and will require additional expenditures above their estimated costs. *See* Spur Exhibit D-8, Spur Rebuttal Ex. 2; *see also* Tr. Vol. 2 at 372:8-22. Longfellow's plan is incomplete and risks stranding substantial reserves, resulting in waste.

In contrast, Spur's proposed Blinebry wells are spaced in a manner that will allow the most efficient development and drainage not just within the proposed spacing unit but also in the gap between the spacing units created by Longfellow's existing Blinebry well spacing in the S/2 of Section 13. Tr. Vol. 2 at 333:6-333:10. Spur's plans accommodate existing and future spacing units and will develop all economic zones. *See* Spur Exhibits D-5, D-7, E-2.

[7] *See* Tr. Vol. 1 at 91:10-11.

C. Spur Has Significantly More Experience Drilling and Operating Horizontal Wells in the Yeso formation.

Spur's broad experience across the Yeso formation is extensive and demonstrates that Spur is the most qualified and experienced operator of the two. Tr. Vol. 2 at 323:8-15; *see also* Spur Exhibits E-E4; Tr. Vol. 2 at 141:11-142:7 (testifying that Longfellow has plans to test and "de-risk" zones in the Blinebry, but is admittedly "a little bit behind Spur in our entry into the basin");.

Spur operates more than 3,000 wells across approximately 85,000 net acres in New Mexico's Yeso trend, including nearly 350 horizontal wells. *See* Spur Exhibit E-2, E-4. It has drilled and completed more than 30 horizontal wells to date, compared to only five horizontal wells drilled and completed by Longfellow. *See id.* In the Township where the proposed spacing unit is located, Spur has drilled and is operating substantially more horizontal wells than Longfellow in the Yeso formation. *See* Spur Exhibit E-3, E-4. By comparison, Longfellow has just initiated its horizontal drilling program in the Yeso in 2021. Tr. Vol. 1 89:6-14 (stating that the recently drilled spacing unit to the south which started flowing *See* back in June 2021 "kicked off our activity in this area for Longfellow Energy")

Spur's more substantial experience as an operator drilling and completing horizontal wells in the Yeso formation translates into a better, more appropriate, cost-effective plan of development. This factor heavily favors Spur.

D. AFEs and Other Operational Costs Favor Spur.

Spur's completion design is demonstrated through recent trial and error to be more cost-effective and appropriate for the geology in this area. As discussed above, Spur has demonstrated that wells with analogous completions in comparable targets meet or exceed production results from wells with larger completions analogous to those proposed by Longfellow. Tr. Vol. 2 at

331:7-331:25; Spur Rebuttal Ex. 2 at 1-3. That means the extra $800,000 completion cost per well proposed by Longfellow is not justified because it is not likely to result in greater recovery. *See* Spur Rebuttal Exhibit 2 at 1-3; Tr. Vol. 2 at 329:16-23; 330:22-331:25.

In addition to the unjustified completion costs, Longfellow's plan will require at least one additional well to drain the Blinebry. *See* Tr. Vol. 1 at 147:11-149:4. That will require an additional expenditure of approximately $4.58 million, *see* Tr. Vol. 1 at 5-6, making Longfellow's proposal far more expensive than the full plan of development presented by Spur. That acknowledged deficiency does not address Longfellow's additional failure to target economic reserves in the lower portion of the middle Blinebry that Spur plans to develop.

With these inefficiencies in spacing and unjustified completion costs, and using Longfellow's own estimates, Spur's combined cost of development is significantly below the costs that would be incurred under Longfellow's plan—by at least $4.8 million. *See* Tr. Vol. 1 at 5-6 ($4.58 million x 6 wells for Longfellow compared to $3.78 million x 6 wells for Spur). This factor heavily favors Spur.

III. Longfellow Cannot Demonstrate a Compelling Basis that Warrants Awarding Operations to Longfellow as a Minority Working Interest Owner.

Operatorship is not and cannot be determined based on one party's subjective opinion about who is the "best" operator, especially when that subjective opinion is based on cherry-picked data. In the absence of indisputable evidence demonstrating waste, the working interest owner that will bear the largest share of development costs should be the designated operator. *See* Order No. R-10731-B; Order No. R-11869 at ¶ 23; Order No. R-13603 at ¶17(f). Longfellow has presented no evidence or data demonstrating that Spur's proposal, as presented, will result in waste. Longfellow's engineering witness instead testified that that he is unable to "say our way is definitely superior and their way is definitely inferior," but that Longfellow's "belief and [their]

studies are pointing us one way[.]" Tr. Vol. 2 at 393:21-24. But the studies that are pointing Longfellow in one direction appear to be mostly based on modeling, not analysis of production data. *See* Tr. Vol. 96:23-97:2 (using fracture geometry to model resource recovery).

A. Longfellow Admits that it has no Data that Vertically "Stacked" Wells Cause Waste.

Longfellow attacked Spur's plan of development for being vertically stacked in a manner it alleges will lead to well waste. Tr. Vol. 1 at 97:3-20 (stating that there is plenty of good data out there . . . that support vertical well connectivity . . . . Stacking a well one above the other creates wellbore interference."). When pressed, their witness admitted he is not aware of studies demonstrating that vertically stacked wells impair production in the Yeso formation. Tr. Vol. 1 at 131:14-133:6. In fact, vertical stacking is prevalent in the northwest shelf where there are approximately 60 Paddock-Blinebry well pairs with less than 100-foot horizontal offset. *See* Spur Rebuttal Exhibit 2 at 4.

B. Longfellow's Data is Cherry-Picked and not Comparable.

Longfellow's analysis attacking Spur's proposal to develop the middle Blinebry relied on wells that were not comparable and were up to 20 miles away from the subject spacing unit. *See* Longfellow Rebuttal Exhibit C-21 at 22. Longfellow admitted that it did not confirm that the rock quality targeted by these was of similar quality, did not adjust the production values for completion size, and did not normalize the data for the lateral length of the wells. *See* Tr. Vol. 2 at 386:3-387:4.

As Spur's geologist witness explained, the demonstrated productivity of the middle Blinebry in Spur's wells just five miles to the east provides compelling evidence that not developing this zone "would result in substantial destruction of value." Spur Rebuttal Ex. 2 at 5. These Spur-operated Dodd Unit wells reflect Spur's ability to prudently and economically

operate wells targeting the same interval in the adjacent Township. *See generally*, Spur Rebuttal Exhibit 2 at 5.

CONCLUSION

Spur's ownership of 46.25% of the working interest in the subject acreage and superior development plan mandates under Division and Commission precedent that Spur's pooling applications be granted, and that Spur be designated operator of the proposed spacing unit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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