

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

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

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

Case No. 22853

MOTION FOR CONTINUANCE AND TO VACATE THE PREHEARING ORDER

Coterra Energy, Inc., and its subsidiaries, including Cimarex Energy Co. (collectively referred to herein as “Cimarex”), through its undersigned attorneys, moves the New Mexico Oil Conservation Division (“Division”) to continue the above-referenced case and to vacate the Prehearing Order dated September 16, 2022, in order to accommodate the continuance requested. In support of its Motion, Cimarex states the following:

I. Facts and procedural history:

1. On May 3, 2022, Pride Energy Company (“Pride”) filed its Application in Case No. 22853 for the compulsory pooling of uncommitted mineral interest owners in the Wolfcamp formation underlying the W/2 W/2 of Section 12 and the W/2 W/2 of Section 13, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico (“Subject Lands”).
2. On July 5, 2022, Cimarex filed its objection to hearing of the Case by affidavit.
3. Cimarex owns a significant, majority (50%) interest in the 3rd Bone Spring formation directly abuts and is above the Wolfcamp formation. It is the location of the landing zone in Pride’s Go State Com. Well No. 401H, positioned within 100 ft of Cimarex’s mineral

interest in the 3rd Bone Spring that has raised concern about Pride's development plan, as proposed, and that continues to cause Cimarex concern.

4. In most circumstances involving geologic strata and adjacent formations, the degree of communication of hydrocarbons between the formations is substantially restricted so that drainage from an abutting formation, such as the 3rd Bone Spring, does not pose a concern when developing the formation directly abutting, such as the Wolfcamp. However, in certain unique areas, of which the Subject Lands herein are one such area, the communication and exchange of hydrocarbons between the adjacent formations can be substantial and significant to the point of violating and undermining an owner's correlative rights; thus, potentially causing the abutting formation to become damaged to the point of being uneconomical for future development. Cimarex submits that this is the current situation created by Pride's compulsory pooling application involving the Subject Lands.

5. Review by Cimarex of the nature of the communication between the Wolfcamp and 3rd Bone Spring is showing that Pride's development plan, as proposed, both directly violates Cimarex's correlative rights and threatens to create substantial waste by draining the reservoir of the 3rd Bone Spring to the point where it would likely be no longer economical for future development. This should be particularly concerning to the State of the New Mexico considering that the Subject Lands are under State leases.

6. Cimarex has discussed these matters with Pride on a number of occasions, most recently, this week, offering options for a resolution, including (1) lowering the landing zone of the well so that it is approximately 300 feet from the bottom of the 3rd Bone Spring, allowing for a reasonably protective buffer, analogous to the Division's horizontal setback requirements, an option which would still allow Pride to develop the Wolfcamp but without excessive and

improper drainage of the 3rd Bone Spring, and (2) entering into an agreement that would allow the two parties to harmonize their mineral interests, compensating Cimarex for the drainage while still allowing Pride to receive the benefit of development. Pride and Cimarex have not been able to reach an agreement on these proposals.

7. As Cimarex further analyzes the matter and risk to the 3rd Bone Spring, Cimarex is discovering that the development of the Wolfcamp and development of the Bone Spring may be mutually exclusive given the nature and extent of the drainage. In adjacent formations where communication is restricted and limited, as in most cases, owners have the option to develop both formations without concern over correlative rights and waste. However, in those unique situations where communication between the formations is significant, as in the present case, the development of one formation, such as the Wolfcamp, may likely eclipse and preclude the development of the adjacent formation, the 3rd Bone Spring.

8. Therefore, Cimarex has recently begun to view the development of the Wolfcamp and 3rd Bone Spring as mutually exclusive plans, along with other options such as lowering Pride's landing zone to protect correlative rights or enter into an agreement that would account for and harmonize the drainage. Therefore, an additional option for protecting correlative rights and preventing waste would be for Cimarex to propose a development plan for the 3rd Bone Spring, showing that since Pride's development of the Wolfcamp would preclude the economic development of the 3rd Bone Spring (what Cimarex views as the primary reservoir for optimal production of the Subject Lands), the two development plans would be *de facto* competing applications given the unique geology of the Lands. Cimarex requests additional time to propose an alternative development plan and application for the Subject Lands.

9. Cimarex has other wells in this area that have successfully developed the 3rd Bone Spring, and a survey of development plans in the area show that a large majority of the operators, when they have the option of choosing to develop the 3rd Bone Spring or the Wolfcamp, have chosen to develop the 3rd Bone Spring. Operators historically develop the 3rd Bone Spring in this area and very rarely develop the Wolfcamp. According to Cimarex, there are very few units in this area that have developed the Wolfcamp, because in Cimarex's opinion and as reflected by the drilling data, the 3rd Bone Spring is preferable for optimizing total production, and the nature of the geology allows for the practical development of only one formation.

10. A primary example of this practice is from Pride itself: Pride has drilled six wells in Section 13 of the Subject lands, Go State Com 101H, 102H, 203H, 204H, 305H, and 306H Wells, and all of the wells target the Bone Spring formation, with the 305H Well (API No. 30-025-48908) and 306H Well (API No. 30-025-48909) specifically targeting the 3rd Bone Spring. None of the six Wells target the Wolfcamp, and the other two wells drilled by Pride in Section 13 (Go State 001H and 002H Wells) do not target the Wolfcamp.

11. Cimarex submits that Pride's development plans in Section 13 demonstrate and confirm that the Bone Spring is the primary pool for optimal production in the Subject Lands, and that Pride is aware of this as evidenced by its targeting the Bone Spring formation, and never the Wolfcamp. Cimarex further submits that Pride is aware that for the W/2 W/2 of Sections 12 and 13, it does not have sufficient interest in the Bone Spring to prevail as operator because Cimarex has the majority interest in the Bone Spring; and therefore, Pride in its development plan for the 401H Well in the Subject Lands is approaching the 3rd Bone Spring through the top of the Wolfcamp by placing its landing zone within 100 ft of the bottom of the 3rd Bone Spring

and intentionally exploiting the open communication between the formations to drain Cimarex's mineral interest from the 3rd Bone Spring.

12. Furthermore, Cimarex is intending to demonstrate to the Division the superior production potential of the 3rd Bone Spring through the use of Pride's production records in the Subject Lands for the 305H Well and the 306H Well which have been actively flaring for the past 10 months, since January 2022, but there has been no Completion Report (C-105 filed), no C-104 form approved, nor any monthly reports for production filed during this time period. Cimarex finds this to be a rather extended period of time for such lack of data, which is making it difficult for Cimarex to collect the relevant data to present to the Division in exhibit form, another factor that should favor Cimarex's request for a continuance.

II. Legal Arguments:

A. **A continuance will promote and reinforce the Division's efforts to protect correlative rights, prevent waste, and ensure optimal development of the Subject Lands.**

13. When the facts show, as they do herein, that the protection of correlative rights and prevention of waste are at stake, the Division should exercise its obligation to protect correlative rights and prevent waste pursuant to the Oil and Gas Act ("Act") and its relevant rules. *See* NMSA 1978 Sec. 70-2-2 (stating waste is prohibited); NMSA 1978 Sec. 70-2-6 (showing the Division has authority over all matters relating to the enforcement of the Act and the conservation of oil and gas); *Continental Oil Co. v. Oil Conservation Comm'n*, 1962-NMSC-062, ¶ 11 (basis of Commission's power is founded on the duty to prevent waste and to protect correlative rights).

14. Cimarex has been making good faith efforts to evaluate and assess the technical matters of the unique geology in the 3rd Bone Spring and Wolfcamp under the Subject Lands,

while also investing time and energy to work with Pride to reach a satisfactory agreement and resolution in these matters. During its efforts, Cimarex has been attempting to ascertain the full extent to which the hydrocarbons communicate between the formations and is trying to assess the full scope of drainage of the Bone Spring that will occur under the Pride's proposed plan, which Cimarex anticipates will result in damage to the 3rd Bone Spring and cause waste of product and production from the adjacent formation.

15. Cimarex believes options available for protecting correlative rights and preventing waste likely include: (1) relocating the landing zone of the Go State well so that it targets more precisely and develops the Wolfcamp rather than the 3rd Bone Spring; (2) Pride and Cimarex entering into an agreement that would harmonize the interests being drained with the interests being produced; or (3) Cimarex providing a competing application that proposes to develop the 3rd Bone Spring formation as a plan both superior to Pride's plan for the Wolfcamp and mutually exclusive due to the geology.

16. Given the unique geology of the Subject Lands and the challenges it presents, and the lack of public data available on Pride's 3rd Bone Spring (Sand) offset Go State 305H Well (API No. 30-025-48908) and 306H Well (API No. 30-025-48909), Cimarex needs additional time to evaluate the full extent of communication of hydrocarbons between the formations in order to fully inform the Division of the options available for protecting correlative right and preventing waste, including filing a competing application for developing the 3rd Bone Spring. Furthermore, Cimarex needs additional time to show the Division the extent to which the development of the two formations is mutually exclusive and that the development of the Wolfcamp formation would likely result in irreparable harm to correlative rights and the

possibility of permanent damage to the primary reservoir of the underlying the Subject Lands, which Cimarex contends is the 3rd Bone Spring and not the Wolfcamp.

B. A continuance will allow the Division opportunity to review Cimarex's competing development plan necessary for preventing waste, protecting correlative rights, and ensuring optimal production from the Subject Lands.

17. If the development of the Wolfcamp or the 3rd Bone Spring are mutually exclusive given the nature of the existing geology, as Cimarex contends based on the drilling data in the area and the amount of communication between the formations, then the Division should allow two mutually-exclusive development plans to be presented to the Division for purposes of determining the best option for developing the Subject Lands in a manner that optimizes production, prevents waste and protects correlative rights.

18. Under current policy of the Division and Commission for reviewing applications, the Division acknowledges the importance and need to review of all relevant applications, whether filed or to be filed, in order to determine which plans are best for optimizing production, protecting correlative rights, and preventing waste. *See* Order R-21454 (August 25, 2020) (“competing applications, including those that have yet to be filed, should be heard by the Division prior to the Commission hearing the applications”) (emphasis added). Cimarex respectfully submits that given the geology of the Subject Lands, a review of a development plan for the 3rd Bone Spring as an alternative to Pride’s plan for the Wolfcamp is necessary since for all practical purposes, production from the 3rd Bone Spring is what Pride is actually targeting through the close proximity of its landing zone, and if a continuance is not granted, the Division would not have the opportunity to hear Cimarex’s alternative plan for the Subject Lands prior to any appeal to the Commission.

19. Cimarex initially considered Pride's application in the present case as presenting a garden variety drainage issue that would affect Cimarex's correlative rights and loss of future revenue from the 3rd Bone Spring but not create permanent damage or preclude Cimarex from development of the Bone Spring; however, as Cimarex began reviewing the geology and its implications more closely, it has become apparent that the extent of the drainage from and damage to the 3rd Bone Spring is more threatening and likely permanent to the Subject Lands than originally anticipated, and as a result, Cimarex believes an alternate development plan for the 3rd Bone Spring is warranted to protect the overall development of the Subject Lands; evidence is pointing to the fact that the nature and extent of communication of hydrocarbons between the formations is extensive, and Cimarex respectfully requests additional time to confirm the evidence and file an alternative development plan for the 3rd Bone Spring.

20. Counsel has been notified of this Motion. Pride objects to the request for a continuance. COG Operating LLC/ConocoPhillips and Marathon Oil Permian LLC do not object.

III. Conclusion.

21. For the foregoing reasons, Cimarex respectfully requests that the Division grant its Motion for Continuance and to Vacate the Prehearing Order. Cimarex needs additional time to evaluate the full nature and extent of the communication of the hydrocarbons between the 3rd Bone Spring and the Wolfcamp formation. Only a proper evaluation of the communication issue will provide Cimarex, Pride and the Division with information necessary to determine how best to protect correlative rights, prevent waste, and ensure that the Subject Lands provide optimal development. Furthermore, Cimarex requests that the Division grant a continuance of sufficient duration to allow Cimarex to propose a competing development plan in the 3rd Bone Spring

underlying the Subject Lands. Accordingly, Cimarex respectfully asks that Case No. 22853 be continued to the February 16, 2023, Docket, or other appropriate docket that would allow time to address and accommodate the concerns expressed herein.

Respectfully submitted,

ABADIE & SCHILL, PC

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Conservation Division and was served on counsel of record via electronic mail on November 9, 2022:

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