

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

**APPLICATIONS OF CIMAREX ENERGY CO.
FOR A HORIZONTAL SPACING UNIT
AND COMPULSORY POOLING, LEA COUNTY, NEW MEXICO**

Case Nos. 23448 – 23455

**APPLICATIONS OF CIMAREX ENERGY CO.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

Case Nos. 23594 – 23601

**APPLICATIONS OF READ & STEVENS, INC.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

Case Nos. 23508 – 23523

REPLY TO RESPONSE TO MOTION TO CONTINUE

Cimarex Energy Co., (“Cimarex”), through its undersigned attorneys, submits to the New Mexico Oil Conservation Division (“Division”) its Reply to the Response in Opposition to Motion to Continue, the “Response” having been filed by Read & Stevens, Inc. (“Read & Stevens”) and Permian Resources Operating, LLC (“Permian Resources”) (also collectively referred to as “Permian Resources”). In support of its Reply, Cimarex provides the following:

1. Both the content and tenor of Permian’s Resource’s Response show that Permian Resources appears to care little about the quality of the adjudicatory process or the critical responsibilities and obligations of the Division. Permian Resources has proposed an overall development plan for the subject lands that costs -- and burdens working interest owners -- with almost a quarter of a billion dollars (approximately 225 million) more than Cimarex’s overall development plan; they have proposed a plan for which hard geological and engineering data

provided by Cimarex demonstrate that their drilling of wells in both the Upper Wolfcamp and 3rd Bone Springs undermine production and contribute nothing to the EUR. And, in the same breath, they claim to care and be concerned about the rights of the working interest owners. Permian Resources in effect is undermining the working interest owners through their costly, over-spaced, and inefficient development plan.

2. Spending an extra quarter of a billion dollars of working interest owners' money to drill wells in the Upper Wolfcamp in accordance with an artificial demarcation between the Wolfcamp and Bone Spring that fails to reflect the actual geology does not protect correlative rights; on the contrary, such extravagant expenditures proposed by Permian Resources directly violate correlative rights and cause waste, underproduction, the drilling of unnecessary wells, and the risk of damage to the reservoir when the geological and engineering data clearly demonstrate that, because the geology is unique, the oil and gas that resides in the primary reservoir does not behave as one would expect nor does it abide by the conventional demarcations between the 3rd Bone Spring and Upper Wolfcamp.

3. Permian Resources had neither the imagination nor the concern for correlative rights to propose a plan that would provide the optimal balance for the number of wells necessary to develop the reservoir, but instead has proposed additional and unnecessary wells at great cost to all working interest owners.

4. In Comparison, Cimarex understood the nature of the geology and engineering in detail. During its discussions about how to devise the best development plan, Cimarex considered drilling wells in the Upper Wolfcamp, but rejected that approach, because it was neither financially nor geologically justified. Deciding not to drill in the Upper Wolfcamp was not an oversight, as claimed by Permian Resources, it was an informed decision based on the best data available in an

effort to protect correlative rights and prevent waste. Cimarex stood its ground that it would be wasteful and unproductive to drill the Upper Wolfcamp, and accordingly, Cimarex filed its applications proposing its development plan, focusing on the Bone Spring, with emphasis on the 3rd Bone Spring.

5. When Permian Resources filed its competing Bone Spring applications and its Wolfcamp applications after Cimarex had filed its Bone Spring applications, Cimarex faced the challenge of trying to protect the primary reservoir by preventing Permian Resources from unnecessarily drilling the Upper Wolfcamp using the options available to Cimarex under statute and regulation. It is true that the Division is a creature of statute and regulations and must abide by and adhere to the rules; but it is also true that the state legislature incorporated flexibility into Oil and Gas Act to allow the Division the creative latitude and license, when appropriate, to fashion creative solutions as necessary; the Division is authorized “to do whatever may be reasonably necessary” to protect correlative rights, prevent waste, and prevent the drilling of unnecessary wells. *See* NMSA 1978 Section 70-2-11.

6. Cimarex is respectfully asking the Division to exercise its authority to take the necessary time and consideration to evaluate, determine, and approve the best approach for the development of the subject lands in a manner that upholds the purpose of the Oil and Gas Act and reinforces the integrity of the adjudicatory process. The Division’s Rules, pursuant 19.15.4.16(B) NMAC, provide for a Pre-hearing Conference to address the kinds of issues and concerns that Cimarex has raised. For example, in these proceedings, Cimarex has proposed in these cases the need for establishing a protective buffer zone across parts of the Upper Wolfcamp, a novel and important consideration that is within the authority of the Division to consider and implement.

The Division does not have the time or resources to sufficiently evaluate such a proposal during a full multi-day hearing involving over a thousand pages of exhibits.

7. In addition, Permian Resources raises important legal questions regarding the application of NMSA Section 70-2-17 to the present cases that must be fully considered and evaluated prior to the hearing in order for the Division to be provided the proper background. *See, i.e.*, Permian Resource's Response at Para. 4. This Statute provides for the allocation of production in the proportion that the number of surface acres included within the tract bears to the number of surface acres included in the entire unit. *See* Section 70-2-17. There may be several approaches that the Division could sanction which would allow Cimarex to drill the 3rd Bone Spring with fewer wells at substantially less cost and achieve optimal production while satisfying the Statute.

8. Cimarex's applications for pooling the Wolfcamp are still active and have not been dismissed, and Cimarex's Motion to Dismiss the Wolfcamp applications could easily be rescinded if the Division were willing to review the matter and consider these issues at a Pre-hearing conference where it can exercise its authority to rule on such matters.

9. The alternative is to allow Permian Resources to rush prematurely into the adjudicatory process and risk making decisions without sufficient transparency and data that could result in massive additional costs, unnecessary wells, waste, and a violation of correlative rights. Permian Resources states that the onus is on the applicant to propose a development plan that prevents waste and protects correlative right. On the face of its proposed development plan, Permian Resource has failed to meet this burden.

10. In contrast, Cimarex in these proceedings has been working in good faith to forge the best path forward to arrive at a development plan that best protects correlative rights, prevents waste, and provides optimal production.

Respectfully submitted,

ABADIE& SCHILL, PC

/s/ Darin C. Savage

Darin C. Savage

Andrew D. Schill
William E. Zimsky
214 McKenzie Street
Santa Fe, New Mexico 87501
Telephone: 970.385.4401
Facsimile: 970.385.4901
darin@abadieschill.com
andrew@abadieschill.com
bill@abadieschill.com

Attorneys for Cimarex Energy Co.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record via electronic mail on July 17, 2023:

Michael H. Feldewert – mfeldewert@hollandhart.com
Adam G. Rankin – agrankin@hollandhart.com
Julia Broggi – jbroggi@hollandhart.com
Paula M. Vance – pmvance@hollandhart.com

*Attorneys for Read & Stevens, Inc.;
and Permian Resources Operating, LLC*

Blake C. Jones – blake.jones@steptoe-johnson.com

Attorney for Northern Oil and Gas, Inc.

Sealy Cavin, Jr. – scavin@cilawnm.com
Scott S. Morgan – smorgan@cilawnm.com
Brandon D. Hajny – bhajny@cilawnm.com

Attorneys for Sandstone Properties, LLC

/s/ Darin C. Savage

Darin C. Savage