

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

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

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

Case No. 22853

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

Case No. 23295

CLOSING STATEMENT OF PRIDE ENERGY COMPANY

This closing statement is submitted by Pride Energy Company (“Pride”) as required by the Oil Conservation Division.

I. BACKGROUND.

In Case No. 22853 Pride seeks an order pooling all uncommitted mineral interest owners in the Wolfcamp formation in a horizontal spacing unit underlying the W/2W/2 of Section 12 and the W/2W/2 of Section 13, Township 19 South, Range 34 East, NMPM. The unit will be dedicated to the Go State Com. Well No. 401H (the “Go State well”). The Division has placed the well in the WC-025 G-09 S203435D; Wolfcamp Pool (Pool Code 98247). See Application. It will be completed in the Upper Wolfcamp, which is generally acknowledged to be the best, most productive Wolfcamp zone. **Transcript (“Tr.”) at 219.**

In Case No. 23295 Cimarex Energy Co. (“Cimarex”) seeks an order pooling all mineral interest owners in the Bone Spring formation in a horizontal spacing unit underlying the same acreage: the W/2W/2 of Section 12 and the W/2W/2 of Section 13, Township 19 South, Range

34 East, NMPM. The unit will be dedicated to three Showbiz 13-12 State Com. Wells, one each in the First, Second, and Third Bone Spring sands. The Division has placed the wells in the Scharb; Bone Spring Pool (Pool Code 55610). The well of interest in the Pride case is the Showbiz 13-12 State Com. Well No. 301H (the “301H well”), which will be completed in the Lower Third Bone Spring sand. See Application.

Cimarex asserted at hearing that Pride’s application should be denied because drilling and completing the Go State well in the Upper Wolfcamp will adversely affect the correlative rights of the interest owners in the Bone Spring formation, because the Go State well will drain reserves from the Third Bone Spring. Pride disagrees, and asserts that if its application is denied Pride’s correlative rights will be nullified.

Ownership between the Bone Spring and Wolfcamp differ as follows: In the 301H well Cimarex owns 50% of the working interest and Pride owns 0% in the Bone Spring; in the Go State well Pride owns 25% of the working interest and Cimarex likewise owns 25% in the Wolfcamp. **Pride Exhibit 2-B; Cimarex Exhibit A-2; Tr. at 104, 114.**

Pride’s intent is to land the Go State well about 100 feet or so below the top of the Wolfcamp, and Cimarex’s intent is to land the 301H well about 50 feet above the top of the Wolfcamp. **Cimarex Exhibit C-4.**

II. ARGUMENT.

Cimarex’s request to deny Pride’s application should be rejected for the reasons stated below.

A. Cimarex is requesting relief not requested in its application.

Cimarex’s application requested (a) approval of a standard 320 acre horizontal spacing unit, and (b) pooling of all uncommitted interest owners in the Bone Spring formation in the unit. Nothing more. Yet at hearing Cimarex requested (a) that Pride be denied the right to drill and

complete the Go State well in the Upper Wolfcamp formation, (b) permission to produce the Upper Wolfcamp reserves in Pride's well unit via the 301H well, and (c) overall denial of Pride's application.

Simply put, the relief requested by Cimarex is beyond the scope of its application and the Division's Rules. A pooling order shall "identify the pool or pools to which it applies." **NMSA 1978 §70-2-17.C**. Further, Division Rules require that horizontal spacing units be comprised of tracts "that the horizontal oil well's completed interval penetrates." **NMAC 19.15.16.15.B(1)(a)**. Cimarex only requested pooling of a Bone Spring pool. There is no Wolfbone pool covering the subject acreage (**Tr. at 106.**), and it did not request pooling of the Wolfcamp formation. Thus it has no right to produce from the Wolfcamp or request dismissal of Pride's application.

In addition, if Cimarex plans on producing all Upper Wolfcamp reserves from its 301H well, the well unit is non-standard because it would cover two formations, and it has not requested approval thereof. Therefore, Cimarex's request at hearing is improper and should be denied.

Cimarex would "permit" Pride to drill if Pride agreed to lower its landing point 200+ feet or more into the Wolfcamp. Pride will not do so, and Cimarex is not amenable to raising its landing point by 200+ feet in the Third Bone Spring. **Tr. at 118, 178-79, 253.**

B. Cimarex's proposal will not be an inadvertent "capture" of Wolfcamp reserves; it is intentional drainage.

Cimarex argues that producing Wolfcamp reserves from the 301H well is just incidental, permissible "capture" of reserves. That is false, for several reasons:

1. First, it is not incidental. In related cases (the Cimarex/Read & Stevens cases in 20S-34E, set for hearing on August 9) Cimarex sent a letter to CM Resources (attached

hereto as **Exhibit A**) explicitly stating that Cimarex has “determined that due to extensive communication between the [Third] Bone Spring and the Wolfcamp, the [Third Bone Spring] Wells, as proposed, will produce primary concentrations of hydrocarbons in the Wolfcamp, those being in the Upper Wolfcamp.” Cimarex’s geologist (Staci Mueller) testified that a Third Bone Spring well will pull hydrocarbons from the Upper Wolfcamp. **Tr. at 205.** In the present matter, it is Cimarex’s stated intent to produce Upper Wolfcamp reserves from its 301H well, in which Pride owns 0% interest. Cimarex is proposing intentional drainage of the Upper Wolfcamp reservoir with no benefit to Pride.

2. Incidental drainage has always been thought of as occurring between two well units horizontally adjacent to each other. If Pride operated the W/2W/2 and Cimarex operated the E/2W/2 in a section of land, and both drilled Second Bone Spring wells, the statewide spacing and well location rules take care of that, and any drainage is unintentional and minor. That is not the case here.

In this matter, Cimarex intends to frac its well in the Third Bone Spring, which will inevitably frac down into the Wolfcamp. Cimarex’s own witness stated that he had “low confidence in ... any operator to have a ... controlled fracture network,” **Tr. at 263**, and that “fracs can grow in any direction.” **Tr. at 269.** This will allow Cimarex to produce Upper Wolfcamp reserves to Pride’s detriment. The fact of the matter is that Bone Spring and Wolfcamp wells will not be commercial if they are not fraced. Thus, the only way Cimarex can produce Wolfcamp reserves is to have its fracs grow downward into the Upper Wolfcamp.

3. Cimarex uses the term “capture,” and claims it is a term of art to justify its production of Wolfcamp reserves. There is also a dictionary definition: “**capture.** To take

captive; to seize or catch by force or craft.” **The American Heritage Dictionary of the English Language** ©1975. There seems to be an awful lot of “craft” going on in these cases.

To reiterate, Cimarex seeks to produce Wolfcamp reserves from its 301H well. In addition, under Cimarex’s proposal to allocate Wolfcamp reserves to the 301H well, Pride will receive 0% of that production rather than the 25% it is legally entitled to receive. Correlative rights is meant to afford “the owner of each property in a pool the opportunity to produce his just and equitable share of oil or gas, or both, in a pool.” **NMSA 1978 §70-2-17.A**. Cimarex’s plan is to deny all “opportunity” to Pride to recover its equitable share of reserves. That is a gross violation of Pride’s correlative rights.

3. No waste will occur if Pride is allowed to drill the Go State well.

In the Cimarex/Read & Stevens cases Cimarex is arguing that unnecessary wells will be drilled, causing economic waste. Pride assumes a similar point will be raised in these cases. However, the point is not valid in Pride’s case.

Yes, a second well will be drilled in these cases. But, that is necessary to protect Pride’s correlative rights. Protection of correlative rights is a necessary adjunct to prevention of waste. **Continental Oil Co. v. Oil Conservation Comm’n, 70 N.M. 310, 373 P.2d 809 (1962)** ([w]aste will result unless the [Division] can also act to protect correlative rights.”] Cimarex wants to protect its correlative rights to the exclusion of Pride’s rights.

4. The production allocation proposed by Cimarex is illegal and not based in fact.

Cimarex has proposed that, when it produces the Wolfcamp from its 301H well, 74% of production should be allocated to the Bone Spring formation and 26% to the Wolfcamp

formation. Regardless of the merits of this proposal, Cimarex cannot unilaterally enforce such allocation.

The pooling statute provides that allocation of production to tracts under a pooling order is based on surface acreage. **NMSA §70-2-17.C**. The statute then goes on to say that when the **owners** in a pool have agreed to a plan of distribution of any allowable, the Division may approve it. **NMSA §70-2-17.E**. By definition this requires voluntary agreement by **all** owners in a pool. Pride has not agreed to Cimarex's plan, and thus Cimarex cannot apply its proposed allocation.

Moreover, Cimarex's request to require Pride to complete its well 200 feet lower will cause waste. The testimony shows that this will require Pride to frac in a thick shale, and the frac may not reach the Upper Wolfcamp. **Tr. at 274**. In that situation, Pride will recover only a minimal amount of its Wolfcamp reserves, causing waste and impairing correlative rights.

Cimarex's assertion that its wells landed in the Third Bone Spring will be the most efficient method of capturing optimum recovery from both above and below the depth severance line is highly suspect. **Tr. at 271**. A high SoPhiH is good, but there are numerous other factors that influence the actual production that comes out of the ground. These include permeability, reservoir pressure, and presence of natural fractures. Plus, you are dealing with conditions two miles underground. In those conditions it is unreasonable to rely on one factor to allocate production.

In fact, Cimarex's position is contrary to the results from the nearest Upper Wolfcamp wells to Sections 12 and 13. Mewbourne Oil Company's Hereford Wolfcamp wells in Sections 20 and 29, Township 19 South, Range 35 East, N.M.P.M., immediately to the East of the Go State well, have produced over 400,000 BBO in approximately two years. And, the Bone Spring

section is much thinner there, which negates any substantial contribution from the Third Bone Spring to those wells. **Tr. at 271.** This defies Cimarex's testimony as to the "limited potential" of the Wolfcamp. **Tr. at 128-29, 142.**

5. Solution.

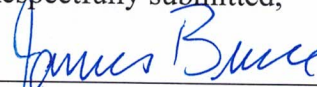
Testimony in the record on the "parent-child" relation between wells completed in the same zone shows that completing potentially competing wells at the same time minimizes the effect or pressure draw-down adversely affecting a later completed well. **Tr. at 133-34.** The Division should allow both the Go State well and the 301H well to be drilled (co-development), but they should be completed more or less simultaneously. This allows both wells to fairly compete for reserves and removes any possible correlative rights issue. The Division must act to prevent drainage which is not equalized by counter-drainage. **Continental Oil Co., supra.**

Cimarex is essentially asking to ban operators from landing wells in the Upper Wolfcamp. That is a dangerous precedent to set for the Permian Basin in Lea and Eddy Counties. At the least, that issue needs to be decided by the Commission as a rules change. More likely, it requires an amendment to the Oil and Gas Act by the Legislature.

III. CONCLUSIONS.

1. Cimarex's application does not cover the relief it requested against Pride, and its plan is contrary to statute and Division rules.
2. Each operator has the right to drill and produce its own well, and the applications as filed should be granted.
3. Both the Go State well and the 301H well to be drilled (co-development), but they should be completed during the same week of the year. If an operator decides not to drill its well it shall promptly inform the other operator in writing.

Respectfully submitted,



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Attorney for Pride Energy Co.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 7th day of August, 2023 by e-mail:

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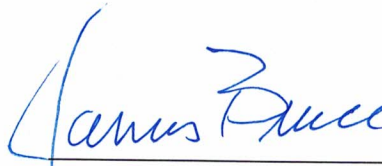
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June 15, 2023

CM Resources II, LLC
Attn: Land Department
300 N. Marienfeld, Ste. 1000
Midland, TX 79701

Re: Supplement to Proposal to Drill

Re: Supplement to Proposal to Drill
Mighty Pheasant 5-8 Fed Com 301H, 302H, 303H, and 304H Wells
Sections 5 & 8, Township 20 South, Range 34 East
Lea County, NM

Dear Working Interest Owner:

Cimarex Energy Co. ("Cimarex") is providing this Supplement to the Proposal to Drill for the above referenced wells ("Supplement") to be incorporated into the original Proposal to Drill that was sent on August 25, 2022 in order to clarify the extent and scope of projected production from the Wells given their respective depths and locations described in the original proposal.

The Mighty Pheasant 5-8 Fed Com 301H, 302H, 303H and 304H Wells ("Wells") were originally proposed for production from the Bone Spring formation. However, our geologists and engineers have thoroughly evaluated the Bone Spring formation in relation to the Wolfcamp formation in the above-referenced lands ("Subject Lands") and have determined that due to the extensive communication between the Bone Spring and the Wolfcamp, the Wells, as proposed, will produce the primary concentrations of hydrocarbons in the Wolfcamp, those being in the Upper Wolfcamp, and Cimarex believes they will do so more optimally given their current location within the 3rd Bone Spring than if additional and unnecessary wells were drilled into the Wolfcamp itself. Cimarex has determined that drilling new wells into the Wolfcamp would be an improper use of resources, and result in significant financial waste in developing in the most prudent manner the hydrocarbons contained within both formations underlying the Subject Lands, as is confirmed by the recent historical development of wells in the area surrounding the Subject Lands.

All specifications of the Wells, including location and depth, as described in the original Proposal to Drill remain the same, and this Supplement is provided to confirm that the target formations, based on the originally proposed specifications, include both the Bone Spring and Wolfcamp.

Please call the undersigned with any questions or comments.

Respectfully,

John Coffman

John Coffman

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