

**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

**APPLICATION OF READ & STEVENS, INC. FOR CREATION
OF A SPECIAL POOL IN SECTIONS 4, 5, 8 AND 9
IN TOWNSHIP 20 SOUTH, RANGE 34 EAST, NMPM
LEA COUNTY, NEW MEXICO**

Case No. 24528

**APPLICATION OF CIMAREX ENERGY CO. FOR THE CREATION
OF A SPECIAL POOL, A WOLFBONE POOL, PURSUANT TO
ORDER NO. R-23089 AND TO REOPEN CASE NOS. 23448 – 23455,
23594 – 23601, AND 23508 – 23523, LEA COUNTY, NEW MEXICO**

Case No. 24541

**MOTION PROPOSING A PATHWAY FORWARD THAT SATISFIES NOTICE AND
ALLOWS THE DIVISION TO RULE EXPEDITIOUSLY ON THE PENDING POOLING
APPLICATIONS WITHOUT AN ADDITIONAL HEARING**

Cimarex Energy Co., (“Cimarex”), through its undersigned attorneys, respectively submits its Motion Proposing a Pathway Forward that Satisfies Notice and Allows the Division to Rule Expeditiously on the Pending Competing Applications Without an Additional Hearing (“Motion”). Cimarex is submitting this Motion to the Oil Conservation Division (“Division” or

“OCD”) in response to a request made by the Hearing Examiner at the hearing for the creation of a Wolfbone pool that was held on October 3, 2024. This Motion proposes a means of proceeding expeditiously with the above-referenced cases (“Present Cases”) in a manner that satisfies the remaining issue of notice thereby placing all the exhibits and evidence before the Division, thus allowing for a final ruling in the Present Cases without a further evidentiary hearing.

Under the approach proposed herein, the remaining requirements for notice would be satisfied and the two applicants, Cimarex and Read & Stevens, Inc., would submit updated closing statements for the competing applications in order to account for any issues associated with the creation of the new Wolfbone pool. By proceeding in this manner, the Division would have all exhibits and evidence before it while the creation of the Wolfbone Pool is pending, thus allowing the Division, upon creation of the Wolfbone Pool, to make its ruling on the competing applications based on the existing record and updated closing arguments.

In support of its Motion, Cimarex submits the following:

I. Factual and procedural background:

1. On or about March 7, 2023, Cimarex filed applications in Case Nos. 23448-23455, to pool and develop the Bone Spring formation underlying all of Sections 4, 5, 8 and 9, Township 20 South, Range 34 East, N.M.P.M., Lea County, New Mexico (“Subject Lands”), reflecting a development plan that targeted the reservoir located predominately in the Bone Spring. In addition to proposed wells that targeted the First and Second Bone Spring, Cimarex focused on the Third Bone Spring by proposing to complete four wells (the Mighty Pheasant wells) in the Third Bone Spring formation of Sections 5 and 8 and complete four wells (the Loosey Goosey wells) in the Third Bone Spring formation of Sections 4 and 9.

2. On or about April 13, 2023, after Cimarex filed its Pooling Applications for the Bone Spring, Read & Stevens, Inc., in conjunction with its operator, Permian Resources Operating, LLC (collectively “Read & Stevens”), submitted competing pooling applications for the Subject Lands in Case Nos. 23508-23523 that proposed to locate wellbores (the Bane and Joker wells) in the Third Bone Spring with a second set of wellbores in the Upper Wolfcamp XY, just below the base of the Third Bone Spring.

3. Cimarex, based on its geological analysis, determined that the Third Bone Spring and the Upper Wolfcamp represented a single reservoir and had requested a pre-hearing conference to address questions regarding the nature of the reservoir. Read & Stevens opposed having a pre-hearing conference to discuss the implications of the unique geology. The Division denied Cimarex’s request.¹

4. Cimarex concluded that it was not necessary to drill wells in the Upper Wolfcamp in order to develop the single reservoir, but because Read & Stevens had submitted pooling applications for the Wolfcamp, Cimarex also submitted, as its Option II, pooling applications in Case Nos. 23594 - 23601 for the Wolfcamp formation to counter Read & Stevens’ plan and to account for production from the Upper Wolfcamp should it be viewed as production instead of incidental drainage as Cimarex described in its Option I. Cimarex presented its Options I and II in the original hearing to assist the Division with negotiating the difficult situation of having the bottom part of the Bone Spring reservoir severed by the upper limit of the Wolfcamp pool which

¹ See Cimarex’s Motion to Continue Hearing, ¶¶ 5-6, filed July 18, 2023 (Cimarex requesting a Pre-hearing Conference pursuant to 19.15.4.16B NMAC in order to address a number of unresolved questions regarding lack of baffles and open communication between the Third Bone Spring and Upper Wolfcamp to determine whether the designation of two pools needed to be reconsidered); *see also* Read & Stevens’ Response in Opposition to Motion to Continue, at pp. 1, 5 (Read & Stevens’ vigorously opposing a continuance for a pre-hearing conference arguing there is no novel issue in the cases because the geology and engineering in this acreage are neither complex nor unique).

encroaches upon the reservoir, to wit: Option I was provided if the Division viewed product from the Upper Wolfcamp as incidental drainage while Option II was provided if the Division viewed the product as actual production.

5. The original hearing for the competing sets of applications was held on August 9 – 11, 2023. The Division issued Order No. 23089 on April 8, 2024, in which it denied both sets of applications because it found that the “lands proposed for drilling by both parties lacks natural barriers that would prevent communication between the Third Bone Spring Sand and the Upper Wolfcamp, thereby creating a single reservoir or common source of supply located predominately in the Third Bone Spring Sand.” Order No. 23089, ¶ 6. As result, the Division invited the applicants to submit a proposal for “a Wolfbone pool, that would account for the lack of frac baffles between the Bone Spring and Wolfcamp formations in this area,” and that such a proposal would “prompt a reopening of the hearing record on both applications.” *See id.* at ¶¶ 21 and 22.

6. Cimarex filed a notice of intent to submit an application to create a Wolfbone pool on April 19, 2024, and Read & Stevens followed suit by filing its intent to submit an application for the same purpose on April 22, 2024. On May 9, 2024, Read & Stevens submitted an application in Case 24528 in which it asked for the creation of a Wolfbone pool and that the Division approve “Read & Stevens’ [pooling] applications under Case Nos. 23508-23523 and deny Cimarex’s competing applications in Case Nos. 23448-23455 and 23508-23523, based on arguments asserted in its Wolfbone application that Cimarex’s development plan would violate correlative right² and arguments that Cimarex’s proposed allocation formula violated the pooling statute.³

7. Cimarex responded to Read & Stevens’ arguments and allegations asserted in its Wolfbone application by submitting a competing application for a Wolfbone pool in which it

² *See* Read & Stevens’ original Wolfbone application, ¶¶ 38 – 40.

³ *See id.* at ¶ 17-18.

countered the arguments, demonstrating why Cimarex's development plan was the better plan and asking the Division to approve its set of applications and deny Read & Stevens' competing applications. At the August 13, 2024, hearing on the Wolfbone pool, the Division informed the parties that the two Wolfbone applications should have focused solely on the creation of the Wolfbone pool and therefore the parties exceeded the scope of the Order by submitting competing applications and written testimony and evidence in support thereof.

8. In addition, at the August 13 hearing the Division entered into a discussion with the parties about how it planned to move forward to address both the formation of the Wolfbone pool and the evaluation of the competing applications. Specifically, the Division directed the parties to limit their Wolfbone applications and exhibits to the creation of the Wolfbone pool, and once submitted, the Division would make a decision on its creation.⁴ The Division also stated that it "expects the parties will be resubmitting competing pooling applications based on the special pool creation."⁵

9. After the Division presented this pathway for proceeding (first the creation of the Wolfbone pool followed by the resubmission of the competing pooling applications), Read & Stevens raised a question about the allocation formula that Cimarex had presented in its Wolfbone application, asking whether Cimarex will request the incorporation of an allocation formula in the creation of the Wolfbone pool.⁶ Based on the assumption the parties would be resubmitting competing pooling applications and in order to expedite the creation of the Wolfbone pool, Cimarex offered that it would propose "the allocation formula separately in the compulsory pooling" so that "[the parties] can proceed at the OCD's discretion with the special pool."⁷ The

⁴ See Tr. (Cases 24528, 24541 dated 8-13-24) 40: 1-3.

⁵ *Id.* at 40: 3-6.

⁶ *Id.* at 40: 16-24; 41: 1-4.

⁷ *Id.* at 41: 6-9.

Division accepted Cimarex's statement, informing Read & Stevens that the matter has been "clarified."⁸

10. It was the removal of Cimarex's allocation formula from the Wolfbone application and allowing it to be placed in resubmitted pooling applications that provided the two applicants with the ability to submit a joint application for the creation of the Wolfbone; if an allocation formula had not been allowed to be presented separately with notice to the owners but remained a part of the application for the creation of the Wolfbone pool, then Cimarex and Read & Stevens would not have agreed to the submission of a joint application for creation of the Wolfbone. In sum, the submission of the joint application for the creation of a Wolfbone pool was predicated on Cimarex being able to separately resubmit a pooling application that included the allocation formula.⁹

11. On April 8, 2024, the Division issued Order No. R-23132 in related Case Nos. 22853 and 23295, two cases very similar to the Present Cases because they also involved open communication between the Third Bone Spring and Upper Wolfcamp formation and required the creation of a special Wolfbone pool in order to proceed. In Case Nos. 22853 and 23295, as in the Present Cases, the Division denied the development plans of both competing applicants, Cimarex and Pride Energy Company ("Pride"), and invited the parties to submit applications for the creation of a Wolfbone pool, which were docketed as Case Nos. 24721 and 24736. During a subsequent status conference held on August 22, 2024, Cimarex and Pride, whose plans require allocation formulas because they are drilling wells either below or above a depth severance but not both above and below, asked the Division if it wanted the allocation formulas in the application for the

⁸ *Id.* at 41: 10-11.

⁹ *See, e.g.*, discussion at Tr. (Cases 24528, 24541 dated 8-13-24) 40: 16-24; 41: 1-11.

creation of the Wolfbone pool or if it wanted the allocation formulas proposed separately in pooling applications submitted subsequent to the creation of the Wolfbone pool.

12. The Division responded that it would be cleaner and preferable to include the allocation formula in the pooling applications submitted after the Wolfbone pool is created.¹⁰ As a result, Cimarex and Pride were able to submit a joint application for the creation of the Wolfbone pool that did not include an allocation formula based on the condition that the parties would be able to submit their allocation formulas separately and provide notice to owners separately after the joint Wolfbone application had been submitted.

13. On October 10, 2024, the Division heard Cimarex's and Pride's joint application for a special Wolfbone pool in Case Nos. 24721 and 24736 and took the application under advisement. At the hearing, the Division continued discussions with the parties about how to proceed with the evaluation of the competing pooling applications upon creation of the Wolfbone. Both Cimarex and Pride pointed out that the allocation formula was not incorporated into the joint Wolfbone application based on the assumption that it would be presented to the owners by way of subsequent pooling applications and that there was a notice issue that still needed to be addressed *See, e.g.,* Tr. (Cases 24721 and 24736 dtd 10-10-2024) 52: 18-25; 53: 1-25; 54: 1-25; 55: 1-25; and 56: 1-25.

14. However, during the discussions on October 10, 2024, Cimarex and Pride arrived at a possible pathway forward that would provide the necessary notice to the owners and allow the parties to proceed based on an evaluation of the original pooling applications and record of the original hearing in the previous competing Case Nos. 22853 and 23295. This procedural pathway, as discussed at the October 10, 2024 Cimarex/Pride hearing, would consist of (1) the parties

¹⁰ *See* Tr. (Cases 24721, 24736 dtd 8-22-24) 44: 6-7 (the OCD stating this approach would be "cleaner" and "preferred").

providing notice to the owners of the allocation formula that was removed from the joint Wolfbone application with the expectation and assumption that it would be provided to the owners at a later date in the proceedings; (2) the parties providing and exchanging any remaining exhibits, including exhibits of the allocation formula; and (3) the parties providing the Division with updated closing arguments that take into account the new Wolfbone pool. *See* Tr. (Cases 24721 and 24736 dtd 10-10-2024) 58: 1-25; and 59: 1-25.

II. A similar but more streamlined version of the procedural pathway described in Paragraph 13, *supra*, should be applied to the Present Cases involving Cimarex and Read & Stevens in order to expedite a resolution of the cases in a manner that would avoid burdening the OCD with an extended additional hearing.

15. Although the procedural approach of the Present Cases between Cimarex and Read & Stevens had contemplated the parties' submitting new pooling applications in order to account for the new Wolfbone pool, *see* Paragraphs 8-9, *supra*, and to insure the remaining requirements for proper notice, Cimarex submits that there is a pathway forward to expedite the Division's review and evaluation of the existing applications in the Present Cases that would avoid another hearing. Both Cimarex and Read & Stevens have expressed their interest in moving forward expeditiously with the cases in order to develop the Subject Lands. However, any procedural pathway forward must account for notice and procedural requirements in a manner that is fundamentally fair and upholds principles of due process.

16. In Case Nos. 23508-23523, Read & Stevens, viewing the Bone Spring and Wolfcamp as separate pools, submitted original applications that proposed to drill and complete wells in the Bone Spring formation and to pool the Bone Spring formation and also submitted original applications that proposed to drill and complete eight wells the Wolfcamp formation and to pool the Wolfbone formation. Assuming that the Division creates the Wolfbone formation as

proposed by both parties, Read & Stevens will have proposed drilling 16 wells in the Wolfbone pool and additional wells in the remaining upper part of the Bone Spring formation that is not part of the Wolfbone pool.

17. In Case Nos. 23448-23455, Cimarex submitted original applications that proposed to drill and complete eight wells in the Third Bone Spring formation along with proposing additional wells in the upper part of the Bone Spring and to pool the Bone Spring formation. Because it realized early on that it would be developing a single reservoir with its Third Bone Spring wells, Cimarex did not propose to drill additional wells in the Upper Wolfcamp formation; Cimarex recognized that the Upper Wolfcamp constituted the lower part of the same reservoir as the Third Bone Spring and determined that drilling additional wells in this reservoir would constitute economic waste. Instead, in Case Nos. 23594-23601, Cimarex, as part of its Option II, submitted applications to pool the Wolfcamp formation, so that the single reservoir covering the Third Bone Spring and Upper Wolfcamp would be accounted for, but Cimarex dedicated its Third Bone Spring wells to the production of the Upper Wolfcamp since its Bone Spring wells would develop the reservoir consisting of the Third Bone Spring and Upper Wolfcamp, *i.e.*, the proposed Wolfbone pool.

18. Thus, with the advent of the new Wolfbone formation, Cimarex, like Read & Stevens, will have proposed wells in the Wolfbone pool, along with wells in the remaining upper part of the Bone Spring after the Third Bone Spring has been contracted.

19. Consequently, because both applicants have previously submitted pooling applications that cover the relevant formations (Third Bone Spring and Upper Wolfcamp) that will comprise the Wolfbone pool and both applicants have provided notice for these original pooling applications, the notice Cimarex provided for the original pooling applications, combined with the

notice that was provided for the applicants' joint Wolfbone application, satisfies a large part of the notice requirements for these proceedings. The original applications should allow for a pooling order that pools the Wolfbone and pools the remaining upper part of the Bone Spring consisting of the First and Second Bone Spring.

20. However, there remains the matter of providing notice to the owners of Cimarex's allocation formula that was conditionally removed from the joint application for creation of the Wolfbone. Read & Stevens was informed that Cimarex would remove the allocation formula from the joint application on the condition that it would later be included in a subsequent submission in order to expedite the proceedings and allow the Wolfbone application be filed jointly. *See* Paragraph 8-9, *supra*. Furthermore, Cimarex's offer to remove the allocation formula from the Wolfbone application and include it in a subsequent submission complied with the Division's procedural preference. *See* Paragraph 11, *supra*.

21. Thus, although the Division has contemplated Cimarex resubmitting a pooling application that would include its allocation formula in order to satisfy notice to the owners, Cimarex submits that, based on its review of the record of the Present Cases and consideration of these issues in related Case Nos. 24721 and 24736, notice of the allocation formula can also be satisfied by providing the owners with a separate letter that outlines Cimarex's allocation formula.

22. It should be noted that on June 7, 2024, Cimarex sent a letter notifying the owners about the upcoming hearing on the original competing Wolfbone applications; this notice letter had as an attachment Cimarex's original Wolfbone application which described Cimarex's allocation formula to the owners. Furthermore, on July 31, 2024, Cimarex sent an additional letter to the owners of the Subject Lands explaining that it had proposed a special Wolfbone pool and had also attached to the letter Cimarex's original competing application for creation of the

Wolfbone pool that fully described the proposed allocation formula. A copy of both letters with pertinent excerpts from the original Wolfbone application describing the allocation formula is attached hereto as Exhibit 1. The owners received these two letters and had opportunity to appear at the August 13, 2024, hearing if they had any concerns or objections. Since the owners, as well as Read & Stevens, have already been informed of the allocation formula as it would have been applied to the Wolfbone pool, a follow up letter – a letter informing the owners in the Subject Lands that the allocation formula described in Cimarex’s proposal for the Wolfbone will be applied to Cimarex’s existing pooling applications if Cimarex’s competing development plan is the one to be selected – would satisfy notice for the allocation formula.

III. Conclusion:

23. Based on the foregoing and as an alternative to the Division conducting another hearing addressing the resubmitted competing applications in the Present Cases as originally contemplated, Cimarex respectfully requests that the Division expedite the review and evaluation of the pending competing applications for a final decision through a streamlined procedural process that avoids an additional hearing by (1) allowing Cimarex to inform the owners of the allocation formula that was removed from the joint Wolfbone application would be applied to Cimarex’s request for pooling if its development plan is selected; and (2) allowing the parties to submit to the Division updated closing legal arguments that account for how the original pooling applications and the merits of the applicants’ competing development plans would apply to the new Wolfbone pool.

24. Furthermore, for the sake of efficiency and to expedite a decision in the Present Cases, Cimarex respectfully requests that the Division allow the parties to complete the proposed procedural process and submit the updated closing statements promptly so all submissions would

be available before the Division for review and ruling at the time the order creating the Wolfbone pool is issued.

Respectfully submitted,

ABADIE& SCHILL, PC

/s/ Darin C. Savage

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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 Oil Conservation Division and was served on counsel of record via electronic mail on October 29, 2024:

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/s/ Darin C. Savage

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For the Pursuit of Energy

ABADIE | SCHILL PC

Colorado	New Mexico
Louisiana	Texas
Nebraska	Kansas
Montana	Wyoming
Oklahoma	California
	North Dakota

June 7, 2024

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

TO: ALL INTEREST OWNERS SUBJECT TO POOLING PROCEEDINGS

Re: Application of Cimarex Energy Co. for the Creation of a Special Pool, a Wolfbone Pool, pursuant to Order No. R-23089 and to reopen Case Nos. 23448 – 23455, 23594 – 23601, and 23508 – 23523, Lea County, New Mexico

Case No. 24541:

Dear Interest Owners:

This letter is to advise you that Cimarex Energy Co., (“Cimarex”), has filed the enclosed application, Case No. 24541, with the New Mexico Oil Conservation Division (“Division”) for the Creation of a Special Pool, a Wolfbone Pool, covering all of Sections 4, 5, 8 and 9, in Township 20 South, Range 34 East, NMPM, Lea County, New Mexico (“Subject Lands”).

In Case No. 24541, Cimarex seeks an order for the creation of a special Wolfbone Pool, an oil pool, to be designated as the “Quail Ridge; Wolfbone Pool.” The vertical extent of the Wolfbone pool would encompass both the Third Bone Spring and Upper Wolfcamp formations as referenced in Cimarex’s Pooling Applications filed in Case Nos. 23448-23455 and 23594-23601. The purpose of filing and hearing Case No. 24541 is to reopen Case Nos. 23448-23455, 23594 – 23601 and 23508 - 23525 (“Related Cases”) as provided for by OCD Order No. R-23089. The Related Cases were the focus of a contested hearing for purposes of granting operatorship of units in the Subject Lands. This Case No. 24541 should provide the means for initiating further consideration of operatorship as the proposal for the creation of a special pool is reviewed.

EXHIBIT 1

abadieschill.com

214 McKenzie Street, Santa Fe, New Mexico, 87501

O : 970.385.4401 • F : 970.385.4901

Cimarex's Application for a Wolfbone Pool was filed within the timeline for the Division's June 2024 docket, but because of the case being contested, the Division scheduled a contested hearing for August 13, 2024. The status of the hearing, including any status conferences prior to the hearing date, can be monitored through the Division's website. Division hearings will commence at 8:30 a.m., in the Wendell Chino Building, Pecos Hall located on the 1st Floor, at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505. If so desired, you can attend the hearing in person at Pecos Hall or you can attend virtually through remote online access. For information about attending by remote access and reviewing the status of the case, you can visit the Division's website at: <https://www.emnrd.nm.gov/ocd/hearing-info/> or call (505) 476-3441.

You are being notified as an interest owner (subject to title examination) and are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases are required by Division Rule 19.15.4.13.B NMAC to file a Pre-hearing Statement at least four business days in advance of a scheduled hearing, but in no event later than 5 p.m. Mountain Time on the Thursday preceding the scheduled hearing date. This statement must be filed at the Division's Santa Fe office at the above specified address and should include: The names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

If you have any questions about this matter, please contact Bella Sikes at (432) 620-1639 or at Bella.Sikes@coterra.com.

Sincerely,



Darin C. Savage

Attorney for Cimarex Energy Co.

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

**APPLICATION OF CIMAREX ENERGY CO. FOR THE CREATION
OF A SPECIAL POOL, A WOLFBONE POOL, PURSUANT TO
ORDER NO. R-23089 AND TO REOPEN CASE NOS. 23448 – 23455,
23594 – 23601, AND 23508 – 23523, LEA COUNTY, NEW MEXICO**

Case No. 24541

APPLICATION FOR A SPECIAL POOL

Cimarex Energy Co. (“Cimarex”), OGRID No. 215099, through its undersigned attorneys, hereby files this Application with the Oil Conservation Division (“Division” or “OCD”) pursuant to the guidance of Order No. R-23089, NMSA 1978 § 70-2-17 (regarding the pooling applications referenced herein), and 19.15.4.8 NMAC seeking an order for the creation of a special Wolfbone Pool, an oil pool, to be designated as the “Quail Ridge; Wolfbone Pool.” Upon creation of the Wolfbone Pool, the proposed wells, units, and pooled minerals interests would be developed within the Wolfbone Pool whose vertical extent encompasses both the Third Bone Spring and Upper Wolfcamp formations as referenced in Cimarex’s Pooling Applications. The purpose of this Application is to reopen the above-referenced cases (“Subject Cases”) as provided for by OCD Order No. R-23089. Cimarex requests that the Division designate Cimarex as the operator of the wells and units described in the Pooling Applications it filed in Case Nos. 23448-23455 and 23594-23601.

In support of its Application for a Wolfbone Pool, Cimarex states the following:

1. The proposed Wolfbone Pool would comprise approximately 2,562.40 federal acres, more or less, in Lea County New Mexico, under lease with the Bureau of Land Management

on PhiH porosity, accurately accounts for the depth severance, providing all owners in the Wolfbone Pool with their just and equitable shares of oil, including Warren and CLM. *See* Cimarex's Closing Statement at p. 29. Cimarex's allocation formula provides the small number of working interest owners, who own different amounts in the Bone Spring and Wolfcamp or no interest in one or the other, their just and equitable share of production in a manner that satisfies the requirements of the pooling statute, which for "determining the portions of production owned by persons owning interest in the pooled oil and gas," requires that production "be allocated to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit." § 70-2-17C, but which also requires that the rules and regulations of the Division "afford to the owner of each property in a pool the opportunity to produce his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined." § 70-2-17A.

20. Under its proposed allocation formula, Cimarex uses PhiH porosity to determine and allocate the percentages of production that would come from the Third Bone Spring formation in the Wolfbone Pool, determined to be 72.8%, and production from the Wolfcamp XY formation, determined to be 27.2% of production. *See* Exhibit B at p. 6, ¶ 15, Cimarex's Hearing Packet I; *see also* Exhibit B-10, Cimarex's Hearing Packet I. Read & Stevens itself stands by the accuracy of PhiH analysis for determining the percentage of contribution of each formation in the Wolfbone Pool to the overall production, having asked the Division to adopt as a finding that "[u]sing porosity height (Phi*H) is a valid basis to predict reserves in production because it represents the total storage of pore space that can be accessed by a well." Read & Stevens' Proposed Findings and Conclusions at p. 8, ¶ 38.

21. Accordingly, Cimarex would apply its PhiH-based allocation formula to the ownership depth severance in the proposed Wolfbone Pool, a depth severance that separates the interval in the Wolfbone Pool containing the Bone Spring formation (“Bone Spring Interval”) from the interval in the Wolfbone containing the Upper Wolfcamp formation (“Wolfcamp Interval”). The ownership of the entire Bone Spring Interval is uniform, and the ownership of the Wolfcamp Interval is also uniform, because each owner in each Interval owns a uniform acre tract in that Interval so that production for the Interval can be allocated in the proportion that the surface acres of said tract bear to the surface acres of the entire unit, thus conforming to the pooling statute. *See* § 70-2-17C.

22. The following is an example of how the allocation formula will work. HOG Partnership owns a different number of net acres in the Bone Spring Interval (142.30 acres of the total 2562.40 acres of the Subject Lands) than in the Wolfcamp Interval (166.30 acres of the total 2562.40 acres), *see* Read & Stevens’ Exhibit I. Under Cimarex’s allocation formula, HOG Partnership would receive $142.30/2562.40$ (or 5.55%) of production from the Bone Spring Interval and would be allocated $166.30/2562.40$ (or 6.49%) of production from the Wolfcamp Interval. Since the Bone Spring Interval accounts for 72.8% of total production from the Wolfbone Pool, while the Wolfcamp Interval accounts 27.2% of total production, HOG’s just and equitable share of the oil produced from the Wolfbone Pool based on its Bone Spring working interest would be 5.55% of 72.8% of Wolfbone production, which equals 4.04%. HOG’s just and equitable share of oil produced from the Wolfbone Pool based on its Wolfcamp working interest would be 6.49% of 27.2% of the Wolfbone production, which equals 1.77%. Thus, HOG would receive a total of 5.80% of total production from the Wolfbone based on Cimarex’s allocation formula that conforms to the pooling statute. Thus, Warren and CLM, both of which own only in the Wolfcamp

formation, would receive their just and equitable share of production from the Wolfbone Pool pursuant to statutory requirements based on actual amounts produced from each formation “so far as can be practically determined.” § 70-2-17A.

23. In comparison, Read & Stevens attempts to account for the ownership depth severance by drilling 8 wells in the Third Bone Spring formation above the severance and drilling at tremendous cost and unnecessary expense 8 additional wells below the depth severance in the Wolfcamp XY formation. *See* Read & Stevens’ Closing Argument at p. 3. This is the plan Read & Stevens proposed in its pooling applications and at the hearings claiming the additional Upper Wolfcamp wells were needed to produce the two pools and to account for the depth severance, *see id.*, and this is the same plan Read & Stevens proposes in its Application for a special pool filed in Case No. 24528, a plan originally designed for two pools that Read & Stevens is now attempting to use for the development of a single pool, the Wolfbone, and its single reservoir.

24. Under its plan, as is the case for any plan designed for two pools, Read & Stevens would allocate all (100%) of the production captured and produced by its Third Bone Spring wells to the Bone Spring owners in an effort to maintain the uniformity of ownership in the Third Bone Spring Interval, and likewise, allocate all (100%) of the production captured and produced by its Upper Wolfcamp wells to the Wolfcamp owners, in an effort maintain the uniformity of Upper Wolfcamp ownership. However, after the Division confirmed, based on the evidence that Cimarex presented at the hearing, that the Third Bone Spring and Upper Wolfcamp together did in fact constitute a single reservoir located predominately in the Third Bone Spring, serious problems with Read & Stevens’ plan become readily apparent.

25. First, a single reservoir, such as the Wolfbone Pool, with open communication throughout its three-dimensional space does not need to be drilled with two sets of wells in order

Cimarex Energy Co.
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Suite 300N
Midland, Texas 79706



July 31, 2024

Ard Oil, Ltd.
P.O. Box 101027
Fort Worth, TX 76185

Via Certified Mail

Re: Mighty Pheasant 5-8 Fed Com Wells & Loosey Goosey 4-9 Fed Com Wells
Lea County, New Mexico
Support of Application for Special Wolfbone Pool (Case No. 24541)

Dear Working Interest Owner:

I am writing to seek your support for Cimarex's proposed development plan for drilling oil and gas wells in Sections 4, 5, 8 and 9, T20S-R34E (the "Subject Lands"). We believe that our proposed development plan will provide all working interest owners with a superior return on investment than the competing development plan.

By way of background, after an evidentiary hearing on the competing development proposals, the New Mexico Oil Conservation Division ("OCD") stated that "the lands proposed for drilling by both parties lacks natural barriers that would prevent communication between the Third Bone Spring Sand and Upper Wolfcamp, thereby creating a single reservoir or common source of supply located predominantly in the Third Bone Spring Sand." The OCD's finding confirmed our original geological analysis that the Third Bone Spring and Upper Wolfcamp underlying the Subject Lands consist of one reservoir and rejected the opposing applicant's position that the Third Bone Spring and Wolfcamp formations were separate pools.

The OCD decided that the manner in which the single reservoir extends from the Third Bone Spring formation into the upper part of the Wolfcamp warrants the need to create a new special pool and invited the competing Parties to submit proposals for a new Wolfbone pool that encompasses both the Third Bone Spring and Upper Wolfcamp formations.

Cimarex's proposal submitted to the OCD on May 13, 2024, is attached to this letter for your review. Our proposal explains why Cimarex views its plan as the better plan that will generate more revenue for the owners by targeting a single drilling location in Third Bone Spring formation for optimal production of the Wolfbone Pool while avoiding the duplicate drilling of

unnecessary wells in the Upper Wolfcamp formation, the cost of which would be imposed on the owners.

After its review, if you choose to support Cimarex's Application for a Special Pool and its development plan, you may elect your support below in the indicated space and return a copy to Bella.Sikes@coterra.com or the mailing address provided below.

For additional information and for ease of access, the application can also be viewed in the address below:

Cimarex Wolfbone Application:

<https://ocdimage.emnrd.nm.gov/imaging/CaseFileView.aspx?CaseNo=24541>

If you have any questions or concerns, please do not hesitate to contact me at (432)-620-1639.

Sincerely,

Bella Sikes
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