

**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 CIMAREX ENERGY CO. OF COLORADO FOR
APPROVAL OF A NON-STANDARD OIL SPACING AND PRORATION UNIT,
AN UNORTHODOX LOCATION, AND COMPULSORY POOLING, LEA
COUNTY, NEW MEXICO**

**CASE NO. 14764
ORDER NO. R-13533**

ORDER OF THE DIVISION

BY THE DIVISION:

This matter came on for hearing at 8:15 a.m. on January 19, 2012 and again on March 1, 2012, in Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 19th day of March, 2012, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

- (1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.
- (2) This case was presented by Cimarex Energy Co. of Colorado ("Cimarex" or "Applicant") through counsel on January 19, 2012, and continued until the March 1, 2012 hearing docket due to the need to notify additional parties. An amended affidavit of notice was filed at the March 1 hearing.
- (3) Cimarex seeks an order:
 - (a) creating a non-standard 160-acre, more or less, oil spacing and proration unit and Project Area (the "Project Area") for oil production from the Bone Spring formation, South Quail Ridge-Bone Spring Pool (Pool Code 50461), comprising the E/2 E/2 of Section 33, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico;

(b) approving a non-standard surface and pool penetration point location within Unit A of Section 33 for oil production from the Bone Spring formation, South Quail Ridge- Bone Spring Pool; and

(c) pooling all uncommitted interests within this non-standard unit and Project Area.

(4) The proposed non-standard proration unit and Project Area are to be dedicated to Applicant's Chaparral 33 Federal Com. Well No. 3 (API No. 30-025-40253) ("the proposed well"), to be drilled at non-standard surface and pool penetration point locations, 230 feet from the North line and 810 feet from the East line (Unit A) of Section 33, to the Bone Spring formation, and then drilled horizontally in a southerly direction in the Bone Spring formation (at approximately 10,833 feet true vertical depth) to a standard terminus, 330 feet from the South line and 660 feet from the East line (Unit P) of Section 33.

(5) The Project Area consists of portions of three separate federal leases below depths of 5320 feet as follows. The leases encompass, respectively, the NE/4, the N/2 S/2, and the S/2 SE/4 of Section 33. The proposed non-standard proration unit and Project Area consist of four standard-sized 40-acre oil spacing and proration units.

(6) Within the proposed Project Area, all parties have been located, but not all working interest owners have agreed to participate in the drilling of the proposed well.

(7) Cimarex sees potential to increase production and recover additional hydrocarbons by drilling horizontally in the Third Bone Spring Sand member of the Bone Spring formation. All four 40-acre tracts are prospective, and all are expected to contribute reserves, more or less equally, to this well.

(8) Notice of the non-standard proration unit application was provided to all affected persons in all offsetting spacing units within the Bone Spring formation

(9) Notice of the compulsory pooling application was provided to those parties not already committed to the drilling of the proposed well.

(10) Read & Stevens, Inc., First Century Oil, Inc., Charles B. Read, Diamond Star Production Co., LLC, Betty Read Young, and Laura K. Read entered an appearance through counsel, Vandiver & Bowman, P.C.

(11) CLM Production Company entered an appearance by its President, John C. Maxey.

(12) Thomas M. Beall, Carolyn R. Beall, Fuel Products, Inc., Pear Resources, and Gardenia Investments, Ltd. entered an appearance through counsel, Holland & Hart LLP, who appeared for these parties at the hearings.

(13) Spiral Inc. entered an appearance through counsel, Padilla Law Firm, P.A.

(14) No other party appeared at the hearing, or otherwise opposed the granting of this application.

(15) On February 15, 2012, after the first hearing in this case, amendments to Division Rule 19.15.16 NMAC became effective such that a horizontal well is now deemed to be at a standard location if every point within the "completed interval," as defined in amended 19.15.16.7 NMAC, of the horizontal well is located at a distance greater than the prescribed setbacks from the outer boundaries of the project area. The evidence in this case indicates that the proposed well will be a cased-hole completion, and that the first perforation will be more than 330 feet from the North line of Section 33. Accordingly, the location of the proposed well will be standard. Applicant's request for approval of a non-standard location is therefore moot and should be dismissed.

(16) The proposed non-standard 160-acre oil spacing and proration unit and Project Area will enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the Project Area, thereby preventing waste, and will not impair correlative rights.

(17) The proposed non-standard 160-acre oil spacing and proration unit and Project Area should be approved for production of oil and gas from the Bone Spring formation within the South Quail Ridge-Bone Spring Pool.

(18) Two or more separately owned tracts are embraced within the Project Area, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Project Area that are separately owned.

(19) Applicant is an owner of an oil and gas working interest within the Project Area. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Project Area at the proposed location.

(20) There are interest owners in the Project Area that have not agreed to pool their interests.

(21) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to each interest owner the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the proposed non-standard 160-acre, more or less, Bone Spring oil spacing and proration unit and Project Area.

(22) Cimarex Energy Co. of Colorado (OGRID 162683) should be designated the operator of the proposed well and of the Project Area.

(23) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(24) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

IT IS THEREFORE ORDERED THAT:

(1) A non-standard 160-acre, more or less, oil spacing and proration unit and Project Area (the "Project Area") is hereby established for oil and gas production from the Bone Spring formation, South Quail Ridge-Bone Spring Pool (Pool Code 50461), consisting of the E/2 E/2 of Section 33, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico.

(2) All uncommitted interests, whatever they may be, in the oil and gas within the Bone Spring formation, South Quail Ridge-Bone Spring Pool, underlying this non-standard unit and Project Area, are hereby pooled.

(3) This Project Area shall be dedicated to Applicant's Chaparral 33 Federal Com. Well No. 3 (API No. 30-025-40253) ("the proposed well"), to be spudded at a non-standard location, 230 feet from the North line and 810 feet from the East line (Unit A) of Section 33 and drilled horizontally in a southerly direction in the Bone Spring formation (at approximately 10,833 feet true vertical depth) to a standard terminus 330 feet from the South line and 660 feet from the East line (Unit P) of Section 33.

(4) The location of the proposed well being standard under now governing rules, the application for approval of a non-standard location is moot and is hereby dismissed.

(5) Cimarex Energy Co. of Colorado (OGRID 162683) is hereby designated the operator of the well and of the Project Area.

(6) The operator of the Project Area shall commence drilling the proposed horizontal well on or before March 15, 2013, and shall thereafter continue drilling the well with due diligence in a horizontal, southerly direction to test the Bone Spring formation.

(7) In the event the operator does not commence drilling the proposed well on or before March 15, 2013, Ordering Paragraphs (1), (2) and (3) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(8) Should the proposed well not be drilled and completed within 180 days after commencement thereof, then Ordering Paragraphs (1), (2), and (3) shall be of no further effect, and the non-standard unit and Project Area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not completed in all of the quarter-quarter sections included in the Project Area within 120 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Project Area so that it includes only those quarter-quarter sections in which the well is completed.

(9) Upon final plugging and abandonment of the proposed well and any other well drilled on the Project Area pursuant to 19.15.13 NMAC, Sections 9 through 11, the pooled unit and Project Area created by this Order shall terminate, unless this order has been amended to authorize further operations.

(10) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Project Area, including unleased mineral interests, who are not parties to an operating agreement governing the Project Area.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Project Area an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(11) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(12) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(13) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs

exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(14) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(15) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(16) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(17) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(18) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(19) The operator of the well and Project Area shall notify the Division in writing of the subsequent voluntary agreement of any party subject to the forced pooling provisions of this order.

(20) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

JAMI BAILEY
Director

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