

**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:**

**CASE NO. 14582
ORDER NO. R-13357-A**

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

ORDER OF THE DIVISION

BY THE DIVISION:

The Motion of Cimarex Energy Co. of Colorado ("Cimarex") to Quash Subpoena in this case came on for consideration on April 18 and April 24, 2012, at Santa Fe, New Mexico, before Examiners Richard Ezeanyim and David K. Brooks.

NOW, on this 30th day of April, 2012, the Division Director, having considered the motion and responses and the recommendations of the Examiners,

FINDS THAT:

- (1) Due notice has been given, and the Division has jurisdiction of the subject matter of this case.
- (2) This is a compulsory pooling case in which the Division, on February 11, 2011, issued Order No. R-13357, approving a non-standard oil spacing and proration unit in the South Lea-Bone Spring Pool, comprising the E/2 E/2 of Section 23, Township 20 South, Range 34 East, NMPM, in Lea County, New Mexico ("the Unit"), and pooling the Unit for the drilling of Cimarex's Lynch 23 Federal Well No. 2H ("the existing well").
- (3) Cimarex has proposed an additional well on the Unit. As a result of this proposal Nearburg Exploration Company, L.L.C. ("Nearburg"), a non-consenting pooled party under Order No. R-13357, has filed a Motion to Re-Open the case. In connection therewith, Nearburg procured a subpoena from the Division directing Cimarex to produce the mud log and other information developed in the course of drilling the existing well.

Nearburg asserts that it needs this information to make an election with respect to participation in the proposed new well.

(4) Cimarex has requested the Division to quash the subpoena.

(5) It is undisputed that cumulative proceeds of production from the existing well exceed the costs incurred by Cimarex in drilling and completing the existing well and operating the well to date. However, it is also undisputed that those proceeds have not yet paid out the total amount Cimarex is allowed to recover from Nearburg's share of production pursuant to Order No. R-13357, since that amount would include the 200% risk charge provided in the order.

(6) No party requested to present evidence, and the Motion to Quash was considered on arguments of counsel.

The Division concludes that:

(7) The decision of this motion is controlled by Order No. R-13156, issued in Case No. 14331, in which the Division denied discovery of "well-specific data" in a compulsory pooling case in the absence of a showing that the well-specific data was necessary for presentation of a party's case at a hearing.

(8) The Division said, in Order No. R-13156, that:

a co-tenant does not have a right to compel disclosure of information regarding the jointly owned property acquired by the efforts of another co-tenant, when it has not reimbursed, or offered to reimburse, the co-tenant for a prorata share of the costs the other co-tenant incurred in acquiring the information."

(9) In this case, Nearburg had the option of paying its share of the well costs of the existing well in advance or out of production. It elected to pay those costs out of production. Had production proved insufficient to reimburse Cimarex for well costs, Nearburg would have had no obligation to make up the difference.

(10) As a consequence of Nearburg's decision not to reimburse or to offer to unconditionally reimburse Cimarex for its share of well costs, Nearburg elected to defer its rights to participation in the existing well until such time as Cimarex recovers the entire amount provided in the Order, including the risk charge.

(11) Since Nearburg would not have developed the well-specific information if it had not drilled the well, and would not have drilled the well if it had not intended to complete it for production in the event it appeared to be capable of commercial production, the cost of developing the well-specific information necessary includes all well costs, and the entire risk charge, for the existing well.

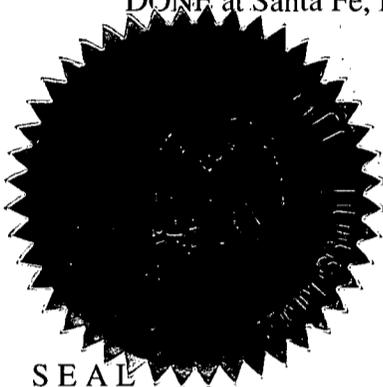
IT IS THEREFORE ORDERED THAT:

(1) Cimarex's Motion to Quash the subpoena heretofore issued for well-specific information relating to Cimarex's Lynch 23 Federal Well No. 2H is hereby granted except to the extent, if any, that it requires production of well-specific information required to be filed with the Division and not already so filed.

(2) This Order may be re-considered if the case is re-opened and Nearburg demonstrates that it needs particular information to present its case to the Division.

(3) 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in cursive script, appearing to read "Jami Bailey".

JAMI BAILEY
Director