

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

**APPLICATION OF CHISHOLM ENERGY OPERATING, LLC
FOR A NON-STANDARD SPACING AND PRORATION
UNIT AND COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO.**

**CASE NO. 16027 (*de novo*)
ORDER NO. R-14719-A**

ORDER OF THE COMMISSION

THIS MATTER came before the New Mexico Oil Conservation Commission (“Commission”) on the application of Cimarex Energy Co. (“Cimarex”) for de novo review of Order No. R-14719. The Commission, having conducted a hearing on August 21, 2018, at Santa Fe, New Mexico, and having considered the testimony and the record in this case, enters the following findings, conclusions and order.

THE COMMISSION FINDS THAT:

1. Due notice has been given, and the Commission has jurisdiction over this case under the Oil and Gas Act, NMSA 1978, §70-2-13 (1981).
2. Chisholm Energy Operating, LLC (“Chisholm”) seeks approval of a non-standard 638.16-acre oil spacing and proration unit and project area (the “Unit”) in the Purple Sage Wolfcamp Gas Pool. The Unit is comprised of the W/2 of Section 3 and the W/2 of Section 10, Township 24 South, Range 26 East, NMPM, Eddy County, New Mexico. Chisholm further seeks the pooling of all uncommitted interests in the Unit for the Wolfcamp formation.
3. The Unit will be dedicated to the Chisholm’s Black River 3-10 Federal Com WCA No. 4H Well (API No. 30-015-44971), a horizontal well drilled from a surface location in Lot 3, Section 3, Township 24 South, Range 26 East, NMPM to a terminus in Unit N, Section 10, Township 24 South, Range 26 East, NMPM, Eddy County, New Mexico.
4. The Unit is located in the Purple Sage-Wolfcamp Gas Pool (Pool Code 98220). Spacing in the Purple Sage-Wolfcamp Gas Pool is governed by Order No. R-14262, which provides for standard 320-acre units each comprising a governmental half section. The Unit and project area consists of two adjacent standard units.
5. The Oil Conservation Division (“Division”) held a hearing on April 5, 2018 on the original application of Chisholm for approval of the Unit and, on June 8, 2018, granted the application in Order No. R-14719.

6. Cimarex entered an appearance in the Division proceeding. Cimarex filed an application with the Commission for a hearing *de novo* on Order No. R-14719. Cimarex participated in the proceeding before the Commission.

7. At the hearing on August 21, 2018, Chisholm presented three witnesses and offered the following evidence:

(a) Notice of the proposed Unit was provided to all surrounding affected parties within the Wolfcamp formation.

(b) Notice of the compulsory pooling application was provided to all uncommitted working interest owners and overriding royalty interest owners in the Unit.

(c) The mineral estate within the Unit is federal acreage under three leases administered by the Bureau of Land Management.

(d) Chisholm owns approximately 67.53% of the working interest in the proposed well, and another 4.7% of the working interest has voluntarily joined in the well. All remaining working interest owners except Cimarex, representing a 6.27% interest, made an election under the Order No. R-14719. Chisholm seeks to pool the remaining 21.5% of the working interest, owned by Cimarex.

(e) Chisholm has been negotiating with the working interest owners in the Unit since January 2018 to obtain their voluntary joinder. There have been substantial contacts between Chisholm and Cimarex, including letters, emails, and phone contacts.

(f) The biggest issue between Chisholm and Cimarex is the language of a proposed Letter Agreement effectuating a Term Assignment and acreage trade. The parties have been unable to reach an agreement.

(g) Chisholm has made a good faith effort to obtain the voluntary joinder in the proposed well of all working interest owners.

(h) The well has already been drilled and completed. The target zone was the upper and lower Wolfcamp A formation.

(i) The well was drilled using advanced geo-steering techniques to target discrete areas of the upper and lower Wolfcamp A.

(j) While the Wolfcamp is geologically present in this area, the target formation deteriorates to the South.

(k) The proposed well classifies only as probable, and not proved, reserves, under Security and Exchange Commission regulations.

(l) The area is suitable for development by horizontal drilling.

(m) All tracts within the Unit are expected to be equally productive in the Wolfcamp, so that formation of the Unit will not impair correlative rights.

(n) Few two-mile Wolfcamp formation horizontal wells exist in the area.

(o) The 200% risk charge against non-consenting working interest owners is justified because the well has already been drilled; accordingly, the geologic, drilling, and operation risk has already been incurred.

(p) Supervision rates of \$7,000/month for a drilling well and \$700/month for a producing well are fair and reasonable.

8. At the hearing on August 21, Cimarex presented three witnesses and offered the following evidence:

(a) The parties had reached an agreement on certain, but not all, provisions of a deal in principle. Cimarex believes Chisholm did not entirely negotiate in good faith.

(b) Chisholm's change from proposing three simultaneously drilled wells in its original application to its current proposal to drill a single well in the Unit requires another notice to pooled parties.

(c) The Wolfcamp A formation is productive approximately 1 mile to the North of the proposed Unit. The location of the proposed Unit indicates that the geologic and reservoir risk is very low.

(d) Drilling and operation risk is low and is no greater than other horizontal wells.

(e) The reduced risks do not justify the maximum 200% risk charge and a much lower risk charge should be assigned.

(f) Even though the risk involved in drilling the proposed well is low, Cimarex would not necessarily join in drilling the well.

THE COMMISSION CONCLUDES THAT:

9. Approval of the Unit will result in efficient production of the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights.

10. Two or more separately owned tracts are embraced within the Unit and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

11. Chisholm Energy Operating, LLC is the owner of an oil and gas working interest within the Unit. Thus, Chisholm had the right to drill the well to a common source of supply within the Unit.

12. There are interest owners in the Unit who have not agreed to pool their interests.

13. 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 Unit.

14. The Unit should include the entire Wolfcamp formation.

15. Chisholm Energy Operating, LLC (OGRID 327137) should be designated the operator of the proposed well and of the Unit.

16. The non-consenting working interest owners pooled pursuant to this Order are entitled to a new 30-day election period.

17. NMSA 1978, §70-2-17(C) allows a risk charge for drilling and completing a well, which “shall not exceed two hundred percent of the nonconsenting working interest owner’s or owners’ prorate share of the cost of drilling and completing the well”. 19.15.13.8(D) NMAC allows a person contesting a risk charge to seek a different risk charge.

18. Evidence presented by both parties proves there are risks involved in drilling and completing the well, but the geologic and reservoir risks are reduced. The Commission, in a prior case involving a horizontal well in the Wolfcamp formation, found that the reduced geologic and operational risks for horizontal drilling in this formation supported a 150% risk charge. The Commission concludes that the same risk charge should be applied to this well. *In re Application of Matador Production Company*, Order No. R-14053-E (Nov. 10, 2016).

19. Any pooled working interest owner who does not pay its share of estimated costs should have withheld from production its share of reasonable well costs plus an additional 150% thereof as a reasonable charge for the risk involved in drilling and completing the proposed well.

20. Reasonable charges for supervision (combined fixed rates) should be fixed at \$7000 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. The application of Chisholm Energy Operating, LLC ("Chisholm") for approval of a non-standard 638.16-acre oil spacing and proration unit and project area (the "Unit") in the Purple Sage-Wolfcamp Gas Pool (Pool Code 98220) comprised of the W/2 of Section 3 and the W/2 of Section 10, Township 24 South, Range 26 East, NMPM, Eddy County, New Mexico, and the pooling of all uncommitted interest in the Unit for the Wolfcamp formation, is hereby approved.

2. The Unit shall be dedicated to the Chisholm's Black River 3-10 Federal Com WCA No. 4H Well (API No. 30-015-44971), a horizontal well drilled from a surface location in Lot 3, Section 3, Township 24 South, Range 26 East, NMPM, to a terminus in Unit N, Section 10, Township 24 South, Range 26 East, NMPM, Eddy County, New Mexico. The completed interval of the well is within the prescribed setbacks from the outer boundaries of the project area.

3. Chisholm Energy Operating, LLC (OGRID 327137) is hereby designated the operator of the proposed well and of the unit.

4. Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to 19.15.13.9 NMAC, the pooled Unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

5. Infill wells within the Unit shall be subject to the terms and conditions of this Order.

6. 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 Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing, and equipping the proposed well ("well cost").

7. Within 30 days from the date the schedule of estimated well cost is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to Chisholm in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his 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".

8. The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the 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 said scheduled, the actual well costs shall be the reasonable well costs; provided, however, that if there is objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

9. Within 60 days following the determination of reasonable well costs, any pooled working interest owner who has paid his or its share of estimated costs in advance as provided above shall pay to Chisholm his or its share of the amount that reasonable well costs exceed estimated well costs or shall receive from Chisholm the amount, if any, that the estimated well costs that he or it has paid exceed his or its share of reasonable well costs.

10. 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 and completing the well, 150% of the above costs.

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

12. Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$7000 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 is reasonable, that are attributable to the pooled working interest owners.

13. Except as provided in Paragraphs (9) and (10) above, all proceeds from production from the well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978, §§ 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required under the Uniform Unclaimed Property Act (NMSA 1978, §§ 7-8A-1 through 7-8A-28, as amended).

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

15. The operator of the well and Unit shall notify the Commission in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

16. Jurisdiction over this case is retained for the entry of such further orders as the Commission or Division may deem necessary.

DONE at Santa Fe, New Mexico, on the 13th day of September, 2018.

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OIL CONSERVATION COMMISSION**



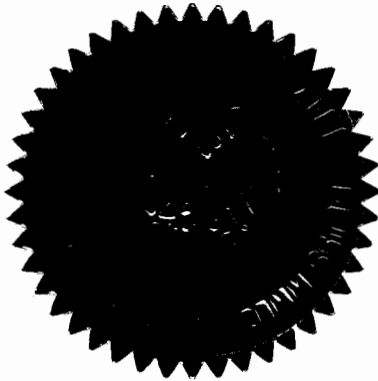
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