

**-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

RESPONSE TO CIMAREX ENERGY CO.'S MOTION FOR A CONTINUANCE

Read & Stevens, Inc. ("Read & Stevens") and Permian Resources Operating, LLC ("Permian Resources"), through undersigned counsel, submit this response in opposition to Cimarex Energy Co.'s ("Cimarex") motion for a continuance. The motion should be denied for at least two simple reasons.

First, the notice letter to the two working interest owners, CLM Production ("CLM") and Warren Associates ("Warren"), that Cimarex neglected to send as required by the Division's regulations has been cured by waiver. *See Exhibit A.* Both parties have long been fully apprised of Cimarex's competing applications and development plans and have agreed to waive formal notice required under the regulations. Further, these parties have already provided letters of support

to Read & Stevens and Permian Resources Operating,¹ and Cimarex itself has had ongoing communications with them regarding their interests in these contested cases.²

Second, Cimarex's inclusion of the incorrect pool name and pool code is not a material defect warranting further delay in these proceedings. The OCD Notice Letter³ referred to in Cimarex's motion lists "Failure to completely and accurately notice as required by 19.15.4.12 NMAC" as a material defect. Further review of this rule points to the adjudicatory hearing notice requirements under 19.15.4.9 NMAC, which requires an applicant seeking compulsory pooling to include a "brief description of the hearing's purpose" and the "legal description of the spacing unit or geographical area the applicant seeks to pool" 19.15.4.9.A.(5) and (8) NMAC.

Cimarex met these requirements by clearly stating in its applications the interval and formation it seeks to pool, *i.e.*, the "stratigraphic equivalent of 9,373 feet (that being the top of 1st Bone Spring) . . . to a stratigraphic equivalent of 10,845 feet, . . . , that being the base of the Bone Spring formation." *See* Cimarex's Applications in Case Nos. 23452–23455 and 23448–23451. While the specific pool name and pool code might have been incorrect, there is no confusion that Cimarex is seeking to pool the Bone Spring formation in this acreage based on its brief description.

Typical compulsory pooling applications only require that the formation being pooled is identified. The fact that Cimarex included *additional*—in hindsight, incorrect—information does not constitute a material change such that it implicates a "consequence to the public notice or substantive rules for the application." *See* OCD Notice Letter. Whether Cimarex included the pool

¹ *See* Read & Steven's Exhibit C-12.

² *See* "Cimarex's Memo. Br. at 11. ("CLM and Warren only own a very small interest in the W/2 W/2 units of the Subject Lands and do not own in any other units that have been proposed; however, Cimarex has an open offer to CLM and Warren to provide them the same working interest in the Bone Spring that each of them own in the Wolfcamp formation" (emphasis added)).

³ "Notice: Material Changes or Deficiencies in Applications Submitted to the OCD Engineering Bureau" (June 11, 2020).

name and code or the incorrect pool name and code, their applications and notice clearly state that they seek to pool the Bone Spring formation. It would be unnecessarily duplicative and potentially confusing for Cimarex to file new applications restating that they are seeking to pool the Bone Spring formation.

The only corrective action that Cimarex should be required to take is to revise their compulsory pooling checklists to reflect the correct pool name and code. Other than that, this motion appears to be an effort to unnecessarily delay the contested hearing in these cases that would further prejudice Read & Stevens and Permian Resources, who are ready to move forward with the contested hearing as mutually agreed upon and stipulated by the amended prehearing order.

CONCLUSION

No notice issues need to be cured. Cimarex's motion is merely a delay tactic to manufacture a further continuance of these contested cases. The hearing should go forward as planned and Cimarex's motion should be denied.

Respectfully submitted,

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**ATTORNEYS FOR READ & STEVENS, INC. &
PERMIAN RESOURCES OPERATING, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2023, I served a copy of the foregoing document to the following counsel of record via Electronic Mail:

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Paula M. Vance

EXHIBIT A

From: johnmark warrenincnm.com <johnmark@warrenincnm.com>
Sent: Tuesday, August 1, 2023 1:42 PM
To: Travis Macha
Subject: -EXTERNAL- Waiving requirement to be notified by Cimarex

WARNING: The sender of this email could not be validated and may not match the person in the "From" field.

Permian Resources team,

I am aware of Cimarex's plans for the acreage I own in Section 5 of T20S R34E and was aware of the previously scheduled hearing on July 20th. I hereby waive any requirement to notify Warren Associates of such.

Best,
John Mark Warren
Owner & Managing Member
Warren Associates

CAUTION: This email originated from outside of the organization. If it appears to be internal, check directly with assumed source

EXHIBIT A

From: John M <jcm@maxeyengineering.com>
Sent: Tuesday, August 1, 2023 2:49 PM
To: Travis Macha
Subject: -EXTERNAL- Section 5 et al, T20S R34E

WARNING: The sender of this email could not be validated and may not match the person in the "From" field.

Travis,

CLM Production was actually aware of Cimarex's development plans on the subject acreage and the subsequent July 20th hearing, weeks before the actual hearing date. So retroactively speaking, CLM waives the required notice for that hearing, and is looking forward to the expedited development of our WC rights.

--

John C. Maxey P.E.
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