

**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

**REPLY IN SUPPORT OF MOTION FOR EXPEDITED ORDER STAYING THE
ADMINISTRATIVE APPROVAL OF CIMAREX'S APDS PENDING ISSUANCE OF A
POOLING ORDER**

Read & Stevens, Inc. and Permian Resources Operating, LLC ("Permian Resources") (collectively "Permian Resources"), through undersigned counsel, file this reply in support of its motion to stay administrative approval of Cimarex Energy Co.'s ("Cimarex") APDs and assignment of API numbers for its Loosey Goosey 4 9 Fed Com #204H, #301H, #302H, and #303H wells (the "Loosey Goosey wells") pending issuance of compulsory pooling orders in these contested cases. For the reasons stated in the motion and herein, the motion should be granted.

1. Permian Resources' motion establishes that each of the four considerations the Division evaluates favor granting a stay. *See* Commission Case No. 15519, Order R-14300-A (citing *Tenneco Oil Co. v. N.M. Water Quality Control Comm'n*, 1986-NMCA-033, 736 P.2d 986 (listing four consideration justifying a stay)).

2. First, Permian Resources is likely to prevail on the merits of the contested cases. In contrast to Permian Resource's development proposal, the correlative rights of owners in the Wolfcamp formation will be irreparably impaired under Cimarex's plan. *See* Mot. ¶¶ 5-6. Cimarex's plan will also cause waste by leaving unrecovered reserves in place by failing to separately develop the Wolfcamp and not co-developing the Lower Bone Spring and Upper Wolfcamp together, resulting in parent-child effects. *Id.* ¶ 7.

3. Second, Cimarex has made no showing it will suffer irreparable harm from a stay. To the contrary, Cimarex even makes its own alternative suggestion to an administrative stay, confirming Cimarex will not suffer irreparable harm. *See* Resp. ¶ 35 (proposing a "temporary condition" to Cimarex's BLM APDs that has been previously adopted and imposed by the Division).

4. Third, a stay will maintain the status quo, ensuring no harm will come to either party, mineral owners, or owners of a working interest within the subject acreage pending a decision by the Division awarding operatorship in these cases.

5. For the same reasons, a stay will ensure no harm will come to any public interest, as no drilling or surface activity will be permitted until the Division issues orders.

6. While the motion raises specific merits issues only for the purpose of establishing the basis for approving an administrative stay, Cimarex's response consumed considerable space restating their arguments that have no bearing on the elements of a stay. In doing so, Cimarex's reiterating its misplaced assertion that their approach to development is necessary to address a "unique" or "anomalous" geologic circumstance that presents an issue of first impression for the Division. *See, e.g.,* Resp. ¶ 7.¹ Cimarex's geology witness refuted this erroneous contention at

¹ Cimarex's response uses the word "unique" nine times and "anomalous" or "anomaly" 11 times to describe the geology in the area.

the hearing in response to a direct question from Cimarex's counsel. The geology at issue is not "unique"; it is, in fact, "pretty common in many places in the Delaware Basin" *See* Hearing Transcript, attached as **Exhibit A** (testimony of Staci Mueller).

7. In short, Cimarex raises no factual or legal basis to deny a stay.² Instead, recognizing that a stay is likely prudent, Cimarex suggests adding a condition of approval to the approved APDs that has previously been adopted and imposed by the Division pending issuance of an order granting operatorship:

Proposed Temporary Condition:

The Operator identified herein **shall not exercise its right to drill under the APD** until (1) the Division issues an order granting operatorship consistent with the APD, and (2) all appellate rights under both NMSA 1978 Section 70-2-13 and Section 70-2-25, pertaining to the order issued, have been exhausted or expired.

See Resp., Exhibit B (emphasis added).

8. In the event the Division prefers to add a "temporary condition" to Cimarex's approved APDs rather than issuing an order staying the APDs, Permian Resources agrees a "temporary condition" is an appropriate means to maintain the status quo in these cases and will protect all interests.

WHEREFORE, Permian Resources requests that the Division Director or Chair of the Oil Conservation Commission grant this motion and issue an expedited order staying administrative approval of APDs and the assignment of API numbers on the Division Form C-102 for

² In its response, Cimarex's raises the issue that Permian Resources had proposed an agreement not to seek de novo review. Permian Resources did so in a good-faith effort to achieve timely development and to avoid a drawn out de novo process, not because it is concerned about the merits of its proposed co-development approach.

each of Cimarex's Loosey Goosey wells or, in the alternative, add a temporary condition to the APDs pending issuance of compulsory pooling orders in these cases.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2024, I served a copy of the foregoing document to the following counsel of record via Electronic Mail:

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Adam G. Rankin

1 MR. SAVAGE: Okay. Have you reviewed
2 Permian Resources' geologist's testimony and exhibits?

3 MS. MUELLER: Yes, I have.

4 MR. SAVAGE: Okay. And have you
5 reviewed any of the other exhibits that relate to
6 geology?

7 MS. MUELLER: Yes.

8 MR. SAVAGE: Okay. And you mention in
9 your testimony and exhibits that the geology is unique
10 in the subject lands and surrounding area of interest.
11 Because -- well, why is it unique in the subject
12 lands?

13 MS. MUELLER: There's no frac baffle
14 present between the Third Bone Spring target and the
15 upper Wolfcamp target.

16 That's pretty common in many places in
17 the Delaware Basin, and we also see that here.

18 MR. SAVAGE: Okay. And do you see in
19 Mr. Bradford's testimony discussion of lack of frac
20 baffles?

21 MS. MUELLER: He doesn't explicitly say