

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

**APPLICATIONS OF AVANT OPERATING, LLC FOR
COMPULSORY POOLING AND APPROVAL
OF AN OVERLAPPING NON-STANDARD
HORIZONTAL SPACING UNIT, LEA COUNTY,
NEW MEXICO.**

CASE NOS. 24632 - 24633

**APPLICATIONS OF MAGNUM HUNTER
PRODUCTION, INC. FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.**

**CASE NOS. 24756 – 24759
CASE NOS. 24913 - 24916**

**APPLICATIONS OF MRC PERMIAN
COMPANY FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO**

CASE NOS. 24760 -24767

**MANGUN HUNTER PRODUCTION, INC.’S
PRE-HEARING STATEMENT**

Magnum Hunter Production, Inc. (“MHPI”) submits this Pre-Hearing Statement for the above-referenced consolidated cases, in particular, its own applications in Cases 24913 – 24916 and 24756-24759 pursuant to the rules of the Oil Conservation Division. MHPI has objected to the applications filed by Avant Operating, LLC (“Avant”) and MRC Permian Company (“MRC”) proceeding by affidavit and will also be presenting evidence at hearing as to why Avant’s and MRC’s applications should be denied.

APPEARANCES

APPLICANT

MHPI (Cases 24913-24916,
24756-24759)

OPPONENT

Avant Operating, LLC

MRC Permian Company

**OTHER PARTIES
WITH AN EOA IN
MHPI'S CASES**

COG Operating LLC &
Concho Oil and Gas

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STATEMENT OF CASES

These cases are set for hearing on November 5, 2024. MHPI is a subsidiary of Coterra Energy, Inc. (“Coterra”) and MHPI and Coterra often use Cimarex Energy Co. of Colorado (“Cimarex”) as their registered operator in New Mexico. Here, MHPI is the applicant in Cases 24913-24916 and 24756 – 24759 and MHPI asks that Cimarex be appointed as operator of the proposed spacing units in each of these cases. MHPI’s applications compete with cases filed by Avant and MRC.

In these competing cases, MHPI and Cimarex seek to develop west to east whereas Avant and MRC seek to develop north to south in Sections 32 and 33, Township 18 South, Range 34 East. In cases 24913-24916 and 24756-24759, MHPI has filed eight (8) applications proposing laydown development covering all of Sections 32 and 33 which will be dedicated to its Turnpike wells (the "Turnpike Development Area"). Whereas, Avant has filed two (2) cases (24632 and 26633), pursuing stand up development in Sections 29 and 32 for the development of its Daytona wells and MRC has filed eight (8) cases (24760- 24767), pursuing stand up development in Sections 28 and 33 for the development of its Bobby Pickard wells. As a result, Avant's and MRC's proposed spacing units overlap in part with MHPI's and Cimarex's proposed spacing units.

MHPI owns significant working interests in the spacing units that it has proposed in Sections 32 and 33. Additionally, MHPI has obtained support from a majority of working interest owners in Sections 32 and 33 for its east to west development plans. MHPI and Cimarex have focused their development plans on two sections where MHPI owns the largest working interest stake.

In comparison, Avant and MRC seek to develop in Sections where they own small percentages of working interests. Avant owns less than 1% working interest in the Bone Spring formation in Section 32 and MRC owns less than 7% of the working interests in Section 33. In the Wolfcamp formation, Avant owns a small percentage interest in Section 32. MRC *does not own any interests* in the Wolfcamp formation in Section 33. Nevertheless, Avant seeks to obtain operatorship over development in Section 32 and MRC seeks to obtain operatorship over development in Section 33.

In evaluating competing development plans, the Division considers the following factors:

1. A comparison of geologic evidence presented by each party as it relates to the proposed well location and the potential of each

proposed prospect to efficiently recover the oil and gas reserves underlying the property.

2. A comparison of the risk associated with the parties' respective proposal for the exploration and development of the property.
3. A review of the negotiations between the competing parties prior to the applications to force pool to determine if there was a "good faith" effort.
4. A comparison of the ability of each party to prudently operate the property and, thereby, prevent waste.
5. A comparison of the differences in well cost estimates (AFEs) and other operational costs presented by each party for their respective proposals.
6. An evaluation of the mineral interest ownership held by each party at the time the application is heard.
7. A comparison of the ability of the applicants to timely locate well sites and to operate on the surface (the "surface factor").¹

Additionally, the Division focuses on whether there are concerns about stranding acreage and choosing a development option where each party has the best opportunity to develop their own respective interests. In Cases 22519, 22520, 22343, 22344, resulting in Order R-22204, Chevron U.S.A., Inc. ("Chevron") and Cimarex had a dispute involving overlapping spacing units. In those cases, Cimarex proposed the spacing unit with longer lateral and Chevron chose to propose a smaller spacing unit in which it owned a higher percentage of interests. Both parties, however, needed a force pooling order to consolidate their interests in the proposed spacing units. The order issued by the Division concluded that the prevailing applications were the applications that prevented waste and protected correlative rights by presenting the best opportunity for each party to develop its own acreage. In this type of situation each party will be left in control of units where they have the significant majority, or the entirety, of the working interest control. In Cases 22179,

¹ See, e.g., Order No. R-20223.

22180, 22382, 22313, 22314, 22315, 22316, resulting in Order R-22205, a similar conclusion was reached by the Division.

Similarly, in cases 21344 and 21371, resulting in Order R-21826, COG and WPX Energy Permian, LLC (WPX) filed competing compulsory pooling applications for units that overlapped in Eddy County, New Mexico. Order R-21826 issued in that case held that in the absence of other compelling factors, "working interest control...should be the controlling factor in awarding operations". Order R-10731-B, ¶ 24.

In these cases, Cimarex will show that it is a responsible operator and that it should be afforded the opportunity to develop Section 32 and 33 where it owns a majority of the working interests. At hearing, MHPI's and Cimarex's evidence will also show that the above factors weigh in its favor because:

- The underlying geology is suitable for both stand-up or lay-down development.
- Cimarex is an experienced oil and gas operator in Lea County with robust operations.
- MHPI's and Cimarex's authorizations for expenditure ("AFEs") propose costs that are significantly lower than the costs proposed by Avant and MRC, resulting in millions of dollars of savings for working interest owners in Sections 32 and 33.
- In Section 33, MHPI and Cimarex have proposed plans to drill wells in more benches than what has been proposed by MRC.
- Cimarex's operations result in a reduction of surface waste. In 2023, Cimarex significantly outperformed both MRC and Avant in publicly reported gas capture metrics filed with the United States Environmental Protection Agency ("EPA") under Subpart W. Additionally, Cimarex uses significant amounts of recycled produced water in its completions activities.

- Cimarex has worked diligently to gain interest owner support for its applications. It is the only operator in this case who has furnished complete Joint Operating Agreements (“JOAs”) to all of the working interest owners in its proposed spacing units, including a complete proposed Exhibit A to the JOA that fully discloses each party’s mineral interests within the proposed units.
- Finally, there is a risk that the Second Bone Spring interval will not be developed in Section 32 if MHPI’s applications are not granted, resulting in waste and unrecovered resources for interest owners (including the New Mexico State Land Office, which is a major royalty owner in Section 32).

MHPI’s applications are summarized as follows:

- **Case 24913:** In this application, Magnum Hunter Production, Inc. is seeking a standard 320-acre, more or less, horizontal spacing unit comprised of the S/2 N/2 of Sections 33 and 32, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico. The proposed well to be dedicated to the horizontal spacing unit is the Turnpike 33-32 State Com 213H Well, an oil well, to be horizontally drilled from a surface location in SE/4 NE/4 (Unit H) of Section 33 to a bottom hole location in the SW/4 NW/4 (Unit E) of Section 32. Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. The unit overlaps with an existing vertical well, the Union State Com #001 (API 30-025-24992) in the W/2 NW/4 of Section 32, for which Applicant will seek approval. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.

- **Case 24914:** In this case, Applicant seeks an order from the Division pooling all uncommitted mineral interests in the Bone Spring formation underlying a standard 320-acre, more or less, horizontal spacing unit comprised of the N/2 S/2 of Sections 33 and 32, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico. The proposed well to be dedicated to the horizontal spacing unit is the Turnpike 33-32 State Com 212H Well, an oil well, to be horizontally drilled from a surface location in SE/4 SE/4 (Unit P) of Section 33 to a bottom hole location in the NW/4 SW/4 (Unit L) of Section 32. Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.
- **Case 24915:** In this case, Applicant seeks an order from the Division pooling all uncommitted mineral interests in the Bone Spring formation underlying a standard 320-acre, more or less, horizontal spacing unit comprised of the S/2 S/2 of Sections 33 and 32, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico. The proposed well to be dedicated to the horizontal spacing unit is the Turnpike 33-32 State Com 211H Well, an oil well, to be horizontally drilled from a surface location in SE/4 SE/4 (Unit P) of Section 33 to a bottom hole location in the SW/4 SW/4 (Unit M) of Section 32. Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.
- **Case 24916:** In this case, Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. This unit overlaps with an existing vertical well, the Union State Com #001 (API 30-025-24992) in the W/2 NW/4 of Section 32, for which the Applicant will seek approval. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.

- **Case 24756:** In this case, Applicant seeks an order from the Division pooling all uncommitted mineral interests in the Wolfcamp formation, an oil pool, underlying a standard 320- acre, more or less, horizontal spacing unit comprised of the S/2 S/2 of Sections 33 and 32, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico. The proposed well to be dedicated to the horizontal spacing unit is the **Turnpike 33-32 State Com 701H Well**, an oil well, to be horizontally drilled from a surface location in SE/4 SE/4 (Unit P) of Section 33 to a bottom hole location in the SW/4 SW/4 (Unit M) of Section 32. Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.
- **Case 24757:** In this case, Applicant seeks an order from the Division pooling all uncommitted mineral interests in the Wolfcamp formation, an oil pool, underlying a standard 320- acre, more or less, horizontal spacing unit comprised of the N/2 S/2 of Sections 33 and 32, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico. The proposed well to be dedicated to the horizontal spacing unit is the **Turnpike 33-32 State Com 702H Well**, an oil well, to be horizontally drilled from a surface location in SE/4 SE/4 (Unit P) of Section 33 to a bottom hole location in the NW/4 SW/4 (Unit L) of Section 32. Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.
- **Case 24758:** In this case, Applicant seeks an order from the Division pooling all uncommitted mineral interests in the Wolfcamp formation, an oil pool, underlying a standard 320- acre, more or less, horizontal spacing unit comprised of the S/2 N/2 of Sections 33 and 32, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico. The proposed well to be dedicated to the horizontal spacing unit is the **Turnpike 33-32 State Com 703H Well**, an oil well, to be horizontally drilled from a surface location in SE/4 NE/4 (Unit H) of Section 33 to a bottom hole location in the SW/4 NW/4 (Unit E) of Section 32. Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.

- **Case 24759:** In this case, Applicant seeks an order from the Division pooling all uncommitted mineral interests in the Wolfcamp formation, an oil pool, underlying a standard 320- acre, more or less, horizontal spacing unit comprised of the N/2 N/2 of Sections 33 and 32, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico. The proposed well to be dedicated to the horizontal spacing unit is the **Turnpike 33-32 State Com 704H Well**, an oil well, to be horizontally drilled from a surface location in SE/4 NE/4 (Unit H) of Section 33 to a bottom hole location in the NW/4 NW/4 (Unit D) of Section 32. Applicant seeks to designate Cimarex Energy Co. of Colorado as the operator of the well and unit. The completed interval and first take and last take points for the well will comply with setback requirements under statewide rules. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs thereof; actual operating costs and charges for supervision; and a 200% charge for the risk involved in drilling and completing the well. The well and lands are located approximately 20.5 miles Southwest of Lovington, New Mexico.

UNDISPUTED FACTS

- MHPI is seeking an order pooling the uncommitted interests in 8 spacing units underlying Sections 32 and 33, Township 18 South, Range 34 East; NMPM, Lea County, New Mexico.
- MHPI is, by-far, the largest working interest owner in Sections 32 and 33.
- MHPI has proposed a robust development plan with eight initial wells and twelve infill wells in Sections 32 and 33.

DISPUTED MATERIAL FACTS AND ISSUES

- The disputed facts and issues involve whether MHPI's or Avant's and MRC's proposed development plan will best prevent waste, protect correlative rights, and prevent the drilling of unnecessary wells based on the factors discussed above. Specifically, the parties dispute the following:
 - Optimal development of the Second Bone Spring interval and the First Bone Spring Sand.
 - How to best develop the minerals in Section 32 in the Bone Spring formation where

there are depth severances and pre-existing development.

- How to best address surface restrictions in Section 32, which limit the placement of facilities for development of that Section.
- And, which proposal will overall reduce surface waste and fully and efficiently develop the underlying reserves.

PROPOSED EVIDENCE

Avant Operating LLC, has filed an objection to MHPI presenting Cases 24756-24759 by affidavit. No parties have (yet) filed an objection to MHPI presenting its other cases by affidavit. Nonetheless, since there are competing development plans for the acreage involved in MHPI's applications.

Witness	Estimated Time	Exhibits
<i>Isabella Sikes - Landman</i>	Affidavit & approx. 60 min.	Exhibits A – A-15 E – E-4 & F – F-4
<i>Staci Frey - Geologist</i>	Affidavit & approx. 30 min.	Exhibits B – B-10
<i>Calvin Boyle – Facilities Engineer</i>	Affidavit & approx. 30 min.	Exhibits C – C-6
<i>Eddie Behm – Petroleum Engineer</i>	Affidavit & approx. 60 min.	Exhibits D – D-12

PROCEDURAL MATTERS

These cases have been consolidated for hearing. MHPI reserves the right to present rebuttal testimony and exhibits at hearing.

Additionally, MHPI has informed Avant that it has notable legal questions regarding Avant's application in Case 24632 which omits the middle of the Bone Spring formation from Avant's proposed non-standard spacing unit. The Division has previously held in several cases that parties cannot force pool only part of a formation. *See, e.g.,* NMOD Order R-13823-A. While the Division and Commission have allowed a few parties to exclude a small non-productive portion of a formation where one or two owners

in the non-productive zone have agreed to be excluded (*see* NMOCC Order R-14023-A), that holding was limited to the fact presented in a particular Commission case, and we have a very different fact pattern here. MHPI owns a large portion of the working interests in Section 32, that is a production part of the Bone Spring formation. And MHPI believes that its correlative rights in the Second Bone Spring will be impaired if this interval is not included in a spacing unit. MHPI also does not show that the interests in the Bone Spring formation in Section 32 within the 1st and 3rd Bone Spring intervals are uniform or common, as indicated in Avant's application. Avant's Bone Spring application also fails to reference a pre-existing Bone Spring spacing unit that is located within Avant's proposed spacing unit.

Additionally, MHPI (through its related entities) requested a Joint Operating Agreement from Avant this summer and has not yet received a proposed agreement. This fails to comport with paragraph 5(c) of Order R-13165, which requires a Joint Operating Agreement to be furnished when requested by a party being pooled. This requirement was adopted by the Commission in Order R-21679-D. Likewise, MHPI has requested a Joint Operating Agreement from MRC and it has only received an agreement with a partially complete Exhibit A. This exhibit is important because it lists MHPI's interest percentage under the proposed Joint Operating Agreement. It is unrealistic for a party to seek voluntary joinder to a unit by sending proposed agreements with incomplete exhibits.

Respectfully submitted,

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record via electronic mail on October 30, 2024:

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State of New Mexico
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QUESTIONS
 Action 397063

QUESTIONS

Operator: CIMAREX ENERGY CO. 6001 Deauville Blvd Midland, TX 79706	OGRID: 215099
	Action Number: 397063
	Action Type: [HEAR] Prehearing Statement (PREHEARING)

QUESTIONS

Testimony	
<i>Please assist us by provide the following information about your testimony.</i>	
Number of witnesses	Not answered.
Testimony time (in minutes)	Not answered.