

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

**APPLICATIONS OF 3R OPERATING, LLC FOR
APPROVAL OF STANDARD HORIZONTAL
SPACING UNIT AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NOS. 25123 & 25124

**APPLICATIONS OF WPX ENERGY PERMIAN, LLC
FOR A COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO**

CASE NOS. 25204 & 25205

**3R OPERATING, LLC'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF
LAW**

In accordance with the Hearing Examiner's request at the April 29-30, 2025, hearing in Case Nos. 25123, 25124, 25204, and 25205, 3R Operating, LLC ("3R") submits the following Proposed Findings of Fact and Conclusions of Law for inclusion in the New Mexico Oil Conservation Division's ("Division") order in this matter.

Findings of Fact

1. In Case No. 25123, 3R seeks an order to approve a standard 640-acre, more or less, horizontal spacing unit ("HSU") composed of the N/2 of Sections 32 and 33, Township 23 South, Range 26 East, N.M.P.M. (the "Crystal North Unit"), and (2) pooling all uncommitted mineral interests in the Wolfcamp Formation, designated as a gas pool, underlying said HSU. 3R seeks to dedicate the HSU to the following proposed wells:

a. **Crystal 33 32 Fed Com 701H** (API No. Pending), which is a gas well that will be horizontally drilled from a surface location in the NE/4 of Section 33, Township 23 South, Range 26 East, to a bottom hole location in the Wolfcamp Formation in the NW/4 NW/4 (Unit D) of Section 32, Township 23 South, Range 26 East;

b. **Crystal 33 32 Fed Com 702H** (API No. Pending), which is a gas well that will be horizontally drilled from a surface location in the NE/4 of Section 33, Township 23 South, Range 26 East, to a bottom hole location in the Wolfcamp Formation in the SW/4 NW/4 (Unit E) of Section 32, Township 23 South, Range 26 East;

c. **Crystal N 33 32 Fed Com 801H** (API No. Pending), which is a gas well that will be horizontally drilled from a surface location in the NE/4 of Section 33, Township

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23 South, Range 26 East, to a bottom hole location in the Wolfcamp Formation in the NW/4 NW/4 (Unit D) of Section 32, Township 23 South, Range 26 East, and;

d. **Crystal N 33 32 Fed Com 802H** (API No. Pending), which is a gas well that will be horizontally drilled from a surface location in the NE/4 of Section 33, Township 23 South, Range 26 East, to a bottom hole location in the Wolfcamp Formation in the SW/4 NW/4 (Unit E) of Section 32, Township 23 South, Range 26 East.

2. In Case No. 25124, 3R seeks an order to approve a standard 640-acre, more or less, HSU composed of the S/2 of Sections 32 and 33, Township 23 South, Range 26 East, N.M.P.M. (the “Crystal South Unit”), and (2) pooling all uncommitted mineral interests in the Wolfcamp Formation, designated as a gas pool, underlying said HSU. 3R seeks to dedicate the HSU to the following proposed wells:

a. **Crystal SW 33 32 Fed Com 703H** (API No. Pending), which is a gas well that will be horizontally drilled from a surface location in the SE/4 of Section 33, Township 23 South, Range 26 East, to a bottom hole location in the Wolfcamp Formation in the NW/4 SW/4 (Unit L) of Section 32, Township 23 South, Range 26 East;

b. **Crystal SW 33 32 Fed Com 803H** (API No. Pending), which is a gas well that will be horizontally drilled from a surface location in the SE/4 of Section 33, Township 23 South, Range 26 East, to a bottom hole location in the Wolfcamp Formation in NW/4 SW/4 (Unit L) of Section 32, Township 23 South, Range 26 East, and;

c. **Crystal SW 33 32 Fed Com 804H** (API No. Pending), which is a gas well that will be horizontally drilled from a surface location in the SE/4 of Section 33, Township 23 South, Range 26 East, to a bottom hole location in the Wolfcamp Formation in SW/4 SW/4 (Unit M) of Section 32, Township 23 South, Range 26 East.

3. On February 10, 2025, WPX Energy Permian, LLC, (“WPX”) filed an entry of appearance and objection to hearing by affidavit and requested a status conference be held on the cases in lieu of a scheduled hearing. Additionally, on February 10, 2025, Marathon Oil Permian, LLC, filed an entry of appearance for the cases in question but did not object.

4. A status conference was held on February 27, 2025, between 3R and WPX, after which the Hearing Examiner determined that a contested hearing would be necessary to resolve disputed

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issues. The contested hearing was subsequently scheduled for April 29, 2025, at 9:00 a.m. on a trailing docket intended to also span April 30, 2025, should the hearing so require.

5. Additionally, on February 27, 2025, the Hearing Examiner issued a pre-hearing order that consolidated 3R's cases and WPX's competing cases and required the filing of pre-hearing statements no later than 9:00 a.m. four business days prior to the hearing that included: all evidentiary exhibits, documents, affidavits, and full-written testimony of any witness a party offers at the hearing, among other orders. Lastly, the pre-hearing order determined that all evidentiary objections must be filed no later than 48 hours before the hearing.

6. On April 22, 2025, 3R and WPX filed consolidated prehearing statements and exhibit packets for the cases in question.

7. On April 24, 2025, WPX filed its objections with the Division to certain exhibits submitted by 3R.

8. On April 25, 2025, 3R filed an amendment to the evidentiary record detailing rebuttal exhibits in response to WPX's initial prehearing statements and exhibit packets.

9. On April 28, 2025, WPX filed a request for the approval of the addition of a rebuttal witness and additional rebuttal exhibits.

10. The cases were heard at a special Division hearing docket on April 29 and 30, 2025, where both 3R and WPX presented witnesses and exhibits. Tr. at 5, 10 (Apr. 29, 2025).

Preliminary Matters - Objection to Specific 3R Evidentiary Exhibits by WPX

11. WPX objected to 3R exhibit slide numbers 33 through 36, as well as 54 and 55, covering 3R company history, 3R's management team, the Division's factors considered in contested hearings, and 3R's comparison to development activity in the area to WPX. Tr. at 10-20 (Apr. 29, 2025).

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12. Upon hearing the stipulations offered by WPX, the Hearing Examiner ruled to prevent only Exhibit 34 – “The Division’s Factors Weigh in 3R’s Favor” – from being entered into evidence as the other exhibits could be modified or supported by witness testimony. Tr. at 20, 23 (Apr. 29, 2025).

Preliminary Matters – Motion Requesting Leave to Allow WPX’s Rebuttal Witness with Rebuttal Exhibit

13. In support of its application, WPX requested approval from the Division regarding the late addition of a rebuttal witness, Mr. Michael Tanner Womack, to testify as an expert witness as a Completion Engineer. Tr. at 7, 21, 26 (Apr. 29, 2025).

14. The Hearing Examiner ruled that all 3R and WPX rebuttal witnesses and testimony were to be admitted into evidence. Tr. at 25, 26 (Apr. 29, 2025).

General Matters

15. In support of its Applications, 3R presented the testimony and exhibits of Brian Atwell (Geologist); Jon Slagle (Reservoir Engineer); Tyler Lane (Operations Engineer); and Brian Van Staveren (Landman). Tr. at 8 (Apr. 29, 2025).

16. In support of its Applications, WPX presented the testimony and exhibits of Andy Bennet (Landman); Joe Dixon (Geologist); Keevin Barnes (Reservoir Engineer); Paul Melland (Facilities Construction Engineer); and Michael Tanner Womack (Completion Engineer). Tr. at 7 (Apr. 29, 2025).

3R Company History, Management, and Experience

17. 3R provided testimony and evidence showing 3R and its affiliates have operated in New Mexico for over eight years and have drilled and completed over 20 wells in the immediate Township at issue. Tr. at 50, 3R Exhibit 35 (Apr. 29, 2025).

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18. 3R provided testimony and evidence showing 3R and its affiliates are well funded and positioned to actively develop the acreage in question. *Id.*

19. 3R provided testimony and evidence showing 3R's management team has over 35 years of experience in New Mexico, specifically in Eddy and Lea Counties. Tr. at 51, 3R Exhibits 36 (Apr. 29, 2025).

Geology in the Wolfcamp XY and B Benches – 3R and WPX Proposals

20. 3R provided testimony and evidence showing the presence of both the XY and B benches of the Wolfcamp formation in the project area. Tr. at 61, 3R Exhibit 47 (Apr. 29, 2025).

21. 3R provided testimony and evidence showing the presence of an existing WPX well (the "Frontier" well) that was poorly landed between the Wolfcamp XY and B benches. Tr. at 62, 3R Exhibit 46 (Apr. 29, 2025). 3R plans to drill an eighth well in the southernmost XY bench slot, the Crystal Fed Com 704H Well, after consultation and coordination with WPX to protect WPX's existing Frontier 431H Well. 3R Exhibit 45, Tr. at 67:1-12, 126:11-127:19 (April 29, 2025).

22. 3R provided testimony and evidence showing the primary geological benches for development consisting of the Wolfcamp XY and the B benches as being economic at present day and forecasted economic conditions. Tr. at 67 (Apr. 29, 2025).

23. 3R provided testimony and evidence showing the proposals of WPX which lacked immediate plans to develop the Wolfcamp B in addition to the Wolfcamp XY, leading to the stranding of reserves, potential parent-child issues in wells, and waste resultant from failing to develop the benches simultaneously. Tr. at 68, 3R Exhibit 46 (Apr. 29, 2025).

3R's Proposed Development Plans

24. 3R provided testimony and evidence showing its proposed development plans, both immediate and future, that focused on Township 23S, Range 26E, N.M.P.M., Eddy County, New

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Mexico, while contrasting WPX's plans which are focused on areas located three Townships east of the lands in question. Tr. at 81, 3R Exhibit 54 (Apr. 29, 2025).

25. 3R provided testimony and evidence showing the recent actions of WPX in allowing leases to expire in the immediate vicinity of the lands in question and not participating in recent lease sales located near the lands in question. Tr. at 82, 3R Exhibit 55 (Apr. 29, 2025).

26. 3R provided testimony and evidence showing the existence of 20 active wells drilled by the 3R team compared to a single well drilled or operated by WPX in the Township. Tr. at 83-84, 3R Exhibit 55 (Apr. 29, 2025).

27. 3R provided testimony and evidence showing its immediate plans to place the proposed unit on internal 3R drill schedules to execute a spud target date in August 2025 in order to avoid a lease expiration in October 2025. Tr. at 143-144, 3R Exhibit 65 (Apr. 29, 2025).

28. 3R provided testimony and evidence showing WPX protesting federal drilling permits (APDs) resulting in the halting of the Bureau of Land Management in processing 3Rs proposed drilling plans. Tr. at 144, 3R Exhibit 66 (Apr. 29, 2025).

Geology

29. 3R provided testimony and evidence showing its proposed comprehensive development strategy that focused on developing the Wolfcamp XY and B benches together as a package to ensure the capture of the reserve is maximized. Tr. at 86, 3R Exhibit 56-57 (Apr. 29, 2025).

30. 3R provided testimony and evidence showing that as a result of its proposed development plan, resource capture from the Wolfcamp XY and B benches will result in roughly double the amount of reserve output than compared to the plan proposed by WPX, which proposes to develop only the Wolfcamp XY bench. Tr. at 87, 3R Exhibit 58 (Apr. 29, 2025).

Good Faith Negotiations

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31. 3R provided testimony and evidence showing the refusal of WPX to entertain offers by 3R for the lands and acreage in question. Tr. at 91, 3R Exhibit 119 (Apr. 29, 2025).

Preventing Economic Waste and Avoiding the Drilling of Unnecessary Wells

32. 3R provided testimony and evidence showing the similarity of type curves offered by 3R and WPX. Tr. at 92, 3R Exhibit 120 (Apr. 29, 2025).

33. 3R provided testimony and evidence showing that staging development of the Wolfcamp XY and B wells to be developed at separate times can result in interference and offset frac hits impacting XY bench wells when developing B bench wells. Tr. at 88, 3R Exhibit 58 (Apr. 29, 2025). This negatively impacts the ultimate recovery of XY bench wells and leads to economic waste by damaging XY bench wells during subsequent B bench development. *Id.*

Prudent Operator

34. 3R provided testimony and evidence showing the noticeable differences in capital expenditures between 3R and WPX being a result of higher drilling and completion costs (3R) versus higher day-to-day operating costs (WPX). Tr. at 92 (Apr. 29, 2025).

35. 3R provided testimony and evidence showing WPX's proposed AFE costs as being questionably low compared to peers and 3R's proposal, likely based on the lack of stimulation and proppant planned per-foot of each well design Tr. 153:1-5 (Apr. 29, 2025).

36. 3R provided testimony and evidence showing the historical practice of WPX in under-stimulating wells in the lands located near and around the immediate vicinity. Tr. at 95, 3R Exhibit 127-129 (Apr. 29, 2025).

3R Proposed Facility Engineering and Surface Management Plans

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37. 3R provided testimony and evidence showing its surface facility and location design as being protective of sensitive wildlife, karst, and environmental factors located in southeastern New Mexico. Tr. at 146-148, 3R Exhibit 68 (Apr. 29, 2025).

38. 3R provided testimony and evidence showing its regulatory compliance history in New Mexico and 3R's operational philosophy to commit to zero-routine flaring in its operations. Tr. at 145-146 (Apr. 29, 2025).

39. 3R provided testimony and evidence showing its proposed comprehensive plan for oil, gas, and water takeaway, and provided examples of existing contracts for a 100% reuse-recycling system for water. Tr. at 149, 3R Exhibit 69-70 (Apr. 29, 2025).

40. 3R provided testimony and evidence showing its status as "anchor tenants" of a new water recycling and delivery system as evidence of 3R's plans to invest significant capital and resources into the planned areas. Tr. at 167-169, 3R Exhibit 69 (Apr. 29, 2025).

3R Ownership

41. 3R provided testimony and evidence showing that it has a 43.75% working interest in the Crystal North Unit. Tr. at 174, 3R Exhibit 93 (Apr. 29, 2025).

42. 3R provided testimony and evidence showing that it has a 50.00% working interest in the Crystal South Unit. Tr. at 174, 3R Exhibit 92 (Apr. 29, 2025).

43. 3R provided testimony and evidence showing WPX owns a 50.00% working interest in the Crystal North Unit and a 50.00% working interest in the Crystal South Unit. Tr. at 174, 3R Exhibits 93 and 95 (Apr. 29, 2025).

44. 3R provided testimony and evidence showing that BLM lease number NMNM134858 is set to expire on October 1, 2025. Tr. at 175, 3R Exhibit 91-92 (Apr. 29, 2025).

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45. 3R provided testimony and evidence showing that lease extensions are not a foregone conclusion and thus should be a major consideration in development planning. Tr. at 174, 3R Exhibits 91-92 (Apr. 29, 2025).

46. 3R provided testimony and evidence showing its proactive negotiations with WPX regarding joint development of the unit and area beginning as far back as November 2023 and the lack of interest from WPX until presently. Tr. at 177, 3R Exhibit 97 (Apr. 29, 2025).

Summary of 3R's Case

47. 3R seeks approval of an initial development plan that will result in the drilling and completion of 7 wells in two benches of the Wolfcamp formation over the six months. 3R Exhibits 11-15.

48. 3R provided testimony and evidence showing it met its burden to demonstrate that (i) its Application and notice were proper; and (ii) approval of its Application will prevent waste or protect correlative rights. NMAC 19.15.16.15, 3R Exhibits 1-128.

49. 3R provided testimony and convincing evidence showing that its application will prevent waste and protect correlative rights by testifying and presenting evidence that

a. 3R has imminent development plans and is ready to begin development of the proposed unit as soon as August 2025. Tr. at 74-137 (Apr. 29, 2025);

b. 3R has secured adequate pipeline capacity, which will enable 3R to efficiently and economically bring oil and natural gas production to market and to recycle produced water. Tr. at 138-172 (Apr. 29, 2025);

c. Proximate wells drilled and completed using modern completion designs on four-wells-per-section per bench spacing perform well and are highly economic to the operator as well as the operating partners. Tr. at 86:10-19 (Apr. 29, 2025), 3R Ex. 118 and 120 (Apr. 29, 2025); and;

d. Lack of Wolfcamp B bench development can result in lost value to the company, operating partners, and stranded minerals that would be difficult to develop without damage to XY bench. Tr. at 68:12-20 (Apr. 29, 2025).

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50. 3R provided testimony and evidence showing its development plan has sufficient gas takeaway capacity and 3R has committed significant capital into investment infrastructure for water, gas and oil so as to prevent waste and reduce surface impacts. 3R Exhibits 69 and 70.

51. WPX provided no cross or contradictory evidence that the ultimate recovery from 3R's development plan will be less than the Wolfcamp XY only bench plan proposed by WPX. Tr. at 288:6-15, WPX Exhibit R-2 (Apr. 29, 2025) (stating WPX's volumes equal 3R's only upon the addition of Bone Spring wells, which are not the subject of the applications).

52. 3R presented evidence that its proposed four-well-per-section bench development plan

- a. is consistent with the spacing pattern used by a vast majority of operators in the general area. 3R Exhibit 45; Tr. at 66:19-25 (Apr. 29, 2025);
- b. is justified by the reservoir quality of the XY and B bench of the Wolfcamp formation underlying the subject acreage. 3R Exhibits 44-46; Tr. at 69:1-16 (Apr. 29, 2025);
- c. will yield enhanced economic efficiency for the Wolfcamp XY and B wells. Tr. at 91:9-15 (Apr. 29, 2025), 94:19-25 (Apr. 29, 2025), 95:1-25 (Apr. 29, 2025), 3R Exhibits 117-121; and;
- d. will yield a higher total recovery than WPX's suggested 4-well Wolfcamp XY only bench development plan. Tr. at 97:19-25 (Apr. 29, 2025), 98:1-3 (Apr. 29, 2025), and 3R Exhibit 58.

53. 3R provided testimony and evidence showing that proximate units developed with density equal to or greater than WPXs immediate Wolfcamp XY and B bench development plan have resulted in economic wells, and that 3R's development plan will result in increased well economics and operational efficiencies. 3R Exhibit 125-126, Tr. at 100:8-21 (Apr. 29, 2025).

WPX's Requested Development Plan

54. WPX presented evidence of planned development in which development is limited to four-wells-per-section for the Wolfcamp XY bench only, contrary to the eight-well-per-section for the Wolfcamp XY and B benches development plan proposed by 3R. WPX Exhibit B-4. WPX did not

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rebut 3R evidence that the most recently established optimal development approach is utilizing a multiple Wolfcamp XY and B bench development pattern. 3R Exhibit 58.

55. WPX's witness testified that 3R's proposal was neither inferior nor deficient, only that, in WPX's opinion, 3R's proposal to develop the Wolfcamp B bench simultaneously with the Wolfcamp XY bench was potentially overestimating the amount of oil to be recovered. Tr. at 272:3-7 (Apr. 29, 2025).

56. WPX's witnesses testified to a lease reinstatement stipulation letter received from the BLM dated 4/18/2025 that WPX received on 4/25/2025. Tr. at 262:6-20 (Apr. 29, 2025). The letter did not grant a lease extension. *Id.* WPX did not provide a copy of the letter.

57. WPX's witnesses testified to WPX's Wolfcamp XY bench development plan, submitted after 3R's, as being similar and agreeable to 3R's proposals. Tr. at 265:14-19 (Apr. 29, 2025).

58. WPX's witnesses testified that 200 vertical feet of separation between WPX's existing Frontier 431H well and the proposed Wolfcamp XY wells will be adequate. Tr. 276:5-14 (Apr. 29, 2025), 3R Exhibit 45.

59. WPX's witnesses testified that actual costs of the WPX proposal would be higher than those costs stated on the authorizations for expenditures (AFE's) due to higher completion costs compared to lower end completion sizing included in the original proposals, but the matter of changing the AFE's submitted to the Division to reflect more accurate costs was reserved to the WPX landman. Tr. 282:5-20 (Apr. 29, 2025).

60. WPX's witnesses testified to the type curve for the Wolfcamp B bench, but did not propose to develop the Wolfcamp B bench through submitted well proposals of its own. Tr. 284:18-24 (Apr. 29, 2025).

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61. WPX's witnesses testified to the potential for a pressure sink to develop within the Wolfcamp XY bench if both benches are not developed near in time to one another. Tr. 298:4-23 (Apr. 29, 2025), Tr. 51:8-20 (Apr. 30, 2025).

62. WPX's witnesses testified to the gas-oil-ratios (GORs) used by 3R and WPX as being consistent with one another in the Wolfcamp XY and B benches. Tr. 300:5-10 (Apr. 29, 2025).

63. WPX's witnesses testified that it had not performed well specific drainage radius analysis to determine if 330' setbacks would be sufficient to prevent its wells from draining across the unit boundaries. Tr. 294-296, 297:1-4 (Apr. 29, 2025). WPX spaced its proposed wells approximately 1,320 feet apart, showing an expected drainage radius of approximately 660 feet, double the offset that WPX is planning for its northernmost well. 3R Exhibits 77, 81, 89. WPX's witness admitted that WPX did not do the analysis necessary to consider the impact of this offset on the correlative rights of adjacent mineral owners. Tr. at 295:23-296:3, 296:8-23 (April 29, 2025).

64. WPX's witnesses testified to 3R's assumptions regarding WPX's completion sizes, which appeared to be low for the area, as being correct. WPX's witnesses also acknowledged its need to revise said completion designs upwardly in size as part of internal WPX procedures. Tr. 24:17-21 (Apr. 30, 2025).

65. WPX's witnesses testified to outdated frac design costs being included in WPX's initial AFEs and proposals sent out with WPX's original application. Upon realizing the need for an increased frac design, WPX modified both the pounds per foot and expected actual costs upward. WPX increased the design from 2,000 pounds per foot to 2,500 pounds per foot and revised the projected costs accordingly. Tr. 30:14-22 (Apr. 30, 2025), Tr. 37-38 (Apr. 30, 2025).

66. WPX did not present evidence that 3R's four-well-per-section per Wolfcamp XY and B bench development plan will result in waste. 3R Exhibit 58. WPX's witness failed to establish a

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connection between 3R's proposed simultaneous development of the Wolfcamp XY and B benches and waste. *Id.* Additionally, WPX conceded that its proposal could result in interference with WPX's existing well and future wells in the Wolfcamp B bench, if developed later in time, due to a pressure sink. Tr. 298:4-23 (Apr. 29, 2025), Tr. 51:8-20 (Apr. 30, 2025).

67. WPX's witnesses testified that it commonly uses a "zipper" fracking technique to develop multiple benches simultaneously, but due to the proposed WPX development plan involving only the Wolfcamp XY bench, the increased efficiencies obtained from zipper fracking will not be obtained. Tr. 61-63 (Apr. 30, 2025).

68. WPX's proposed development plans are not reliable because:

- a. WPX has increasingly allowed a high volume (64%) of drilling permits to expire in the immediate development area. Tr. at 84:1-5 (Apr. 29, 2025).
- b. WPX has increasingly allowed its acreage position in the immediate area to decrease due to lease cancellations and missed rental payments. Tr. at 81:22-25, 82:1-7 (Apr. 29, 2025).
- c. WPX is not actively engaged in pursuing additional leases in the immediate areas as evidenced by their lack of participation in recent New Mexico State Land Office lease sales. Tr. at 81:12-21 (Apr. 29, 2025).

69. WPX presented no evidence that its Wolfcamp XY proposal will result in more ultimate recovery than 3R's Wolfcamp XY and B bench development plan and did not rebut 3R's evidence that 3R's plan will yield more ultimate recovery than WPX's proposal.

70. WPX spent the majority of its efforts focusing on 3R's well-developed and drill-ready plan rather than offering a viable alternative, further showing that WPX did not become interested in developing this area until 3R proactively began efforts to develop this area as a lynchpin in 3R's long-term development program.

Conclusions of Law

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71. The Division has jurisdiction to issue this Order pursuant to NMSA 1978, § 70-2-12, NMSA 1978, § 70-2-17, and NMAC 19.15.16.15.

72. 3R has the right to drill the Wells as owner of oil and gas working interest within the Unit.

73. 3R's Application satisfied the requirements of NMAC 19.15.16.15.

74. Proper public notice of the Application and the Commission's hearing were given.

75. The Division satisfied the notice requirements for the hearing as required by 19.15.4.9 NMAC.

76. The pooling of uncommitted interests in the Crystal North Unit and the Crystal South Unit will prevent waste and protect correlative rights.

77. With competing pooling applications for the development of the same area, the Oil Conservation Commission has established precedent in Commission Order No. R-10731-B (Cases No. 11666 De Novo and No. 11677 De Novo) for comparing and assessing the evidence presented in support of the applications. The order identified the following list of criteria for use in the selection of the application with the best qualifications:

a. 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 [Findings Paragraph (23)(f)];

b. a comparison of the risk associated with the parties' respective proposal for the exploration and development of the property [Findings Paragraph (23)(h)];

c. a review of the negotiations between the competing parties prior to the applications to force pool in order to determine if there was a "good-faith" effort [Findings Paragraph (23)(g)];

d. a comparison of the ability of each party to prudently operate the property and, thereby, prevent waste [Findings Paragraph (23)(i)];

e. a comparison of the differences in well cost estimates (AFEs) and other operational costs presented by each party for their respective proposal [Findings Paragraph (23)(j)]; and

f. an evaluation of the mineral interest ownership held by each party at the time the application was heard [Findings Paragraph (23)(d) and (e)].

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78. Of these, geologic evidence is “the most important consideration in awarding operations to competing interest owners” Order No. R-14518, citing to OCC Order No. R-10731-B, Findings Paragraph (23)(f).

79. 3R established that its proposed development plan will best prevent waste and protect correlative rights, as those terms are defined in NMSA 1978, § 70-2-3 and NMAC 19.15.2.7.

80. 3R presented evidence that its development plan will result in wells that will have a positive economic return when developing the Wolfcamp XY and B formations simultaneously, although WPX took the position that its proposal would be more cost-efficient. There appears to be a difference of opinion between the expert witnesses for 3R and WPX as to whether a plan to develop the Wolfcamp XY and B benches concurrently would recover more or less of the resource than a plan involving staggered development of the benches over longer periods of time. The Division concludes that concurrent development of the two benches offers opportunities, such as zipper fracking, that can increase completions efficiencies and recovery rates. The Division further concludes that development of the two benches years apart risks parent-child well issues such as less efficient completions and well interference, which ultimately lower recovery rates. While none of these are guaranteed, concurrent completions in adjacent benches lowers the risk of waste, whereas completing adjacent benches years apart increases the risk of waste.

81. WPX plans to locate its northernmost well the minimum required distance from the northern boundary of the Crystal North Unit, 330 feet, which is half the distance of the expected drainage radius of WPX’s well. WPX offered no analysis showing that the correlative rights of adjacent owners will be protected by WPX’s planned minimal offset. WPX’s planned well location is likely to impair the correlative rights of mineral owners adjacent to the Crystal North Unit.

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Conversely, 3R's planned wells locations are 660 feet from the boundaries of the HSUs, which is sufficient to protect the correlative rights of adjacent mineral owners.

82. Both 3R and WPX propose to drill in essentially the same target reservoir. The primary difference in these applications revolve around optimal development of the second bench, the Wolfcamp B, within the proposed spacing units and the timing of drilling and completing the wells. 3R rightfully contends that WPX's proposal not to develop the Wolfcamp B bench at the same time as the Wolfcamp XY bench will cause waste, thereby impairing the economic merits of the prospect.

83. When there is no clear geological or developmental advantage between competing applications and development plans, the Division will look to comparative interest ownership as an important factor when awarding operatorship. WPX owns 50.00% working interest compared to 3R's 46.875%. Meaning, the two working interests are functionally equivalent. Under previous Division precedent, when the working interest control under the unit (in a single formation) was relatively even between operators (e.g., 47.5% for Medallion, 52.5% to Yates), the Division looked to planned completions in all of the formations spaced to be a critical factor in operatorship. *See Medallion v. Yates (Ord. No. R-10731-B)*. The single formation to be spaced in the proposed applications is the Wolfcamp. Here, 3R's working interest is relatively even to WPX's. As such, the Division should consider 3R's immediate plans to drill up to four additional wells in the Wolfcamp B bench in addition to the Wolfcamp XY wells as evidence of additional planned completions in the formation spaced (i.e., the Wolfcamp). In light of this, WPX's planned proposal is deficient, results in waste, and pales in comparison to the immediate upside offered by 3R's proposal.

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84. A comparison of the risk associated with the competing applications reveals that 3R's proposal reflects less risk associated with co-development of the Wolfcamp XY and B benches compared to WPX's uncertain approach to leaving Wolfcamp B bench resources undeveloped. Previously, the Division established that a comparison of risk for competing applications is a critical factor in awarding operatorship. *Devon v. Pride Energy (Ord. No. R-20223)*. In addition to increased production, wells drilled from multiple benches in the same formation have advantages over resource recovery opportunities presented by the development of only one bench. Much like two-mile laterals having an economic advantage over one-mile laterals in terms of preventing waste, protecting correlative rights, and reducing surface disturbance, multi-bench development in the same formation offers similarly lucrative benefits. As such, WPX's proposal to come back to the Wolfcamp B bench at a date to be determined later offers much higher risk when compared to 3R's proposal.

85. 3R's proposal offers greater surface protections and firmer contractual commitments for water, oil, and gas takeaway, whereas WPX offered little evidence or testimony to the surface design of the proposed facilities or takeaway commitments, thus showing the reactive approach of WPX to 3R's well planned proposal. The Division has previously established the "surface factor" when reviewing competing applications for operators. *Ascent Energy v. Centennial Resource Production (Ord No. R-14847)*. In its testimony and evidence, 3R showed firm plans in place for day one of operations that would enable complete third-party takeaway for oil, water, and gas volumes. 3R also showcased its ability to minimize flaring and protect sensitive environments, such as karsts, with full life cycle surface protections spanning construction through operations. Additionally, 3R has committed significant capital investment towards the build out of much

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needed produced water takeaway and recycling infrastructure in the area. WPX offered no such testimony. As such, the surface factor should weigh in favor of 3R.

86. Under Division precedent, in the absence of other controlling factors, the party who first developed a prospect and first proposed a well, should be designated operator. *Arrington v. Great Western (Ord. No. R-11870)*. In *Arrington*, the Division stated that minimal negotiations between parties might, in other cases, require dismissal of both applications. However, the proximity of the expiration of *Arrington's* interest held pursuant to a term assignment militated against dismissal. *Id.* Because *Arrington* initially proposed a well, and no other compelling factor existed, *Arrington* was awarded operatorship of the proposed well and unit. *Id.* Similarly, 3R was first to develop and propose the prospect, proactively engaging WPX as far back as Fall 2023. Moreso, 3R is facing an expiring federal lease in October 2025. Considering this, 3R should be granted operatorship as first to propose the prospect in time and due to exigent circumstances created by lease expiration and WPX's unwillingness to actively engage in fruitful, good faith negotiations.

87. 3R's development plan will prevent waste and protect correlative rights because developing the entire Wolfcamp Formation at four well spacing in each of the XY and B Wolfcamp intervals will fully develop the acreage and will maximize recovery of the underlying reserves.

88. WPX failed to establish that its proposal would prevent waste, as defined in NMSA 1978, § 70-2-3 and NMAC 19.15.2.7.

89. WPX failed to establish that its proposal would protect correlative rights, or that 3R's Application would harm correlative rights, as defined in NMAC 19.15.2.7.

90. WPX failed to establish that its development plan will protect correlative rights through the use of adequate setbacks due to the lack of proper well drainage radius calculations and a lack of comparison between WPX's proposed wells to the proximity of the unit boundaries.

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91. WPX failed to establish that its proposal would prevent the drilling of unnecessary wells.
92. 3R's proposed development plan will prevent waste more effectively than WPX's requested plan to drill only the Wolfcamp XY wells initially.
93. 3R's proposal protects correlative rights by having sufficient wells offsets, planning careful completions near the existing Frontier 431H well, and presenting the best opportunity for the development of the acreage at issue.
94. 3R's genuine interest, proactive approach, and development plans in the acreage is significantly greater as part of its overall development program than WPX's interest in its proposed units.
95. The geologic and reservoir engineer evidence and testimony presented by 3R demonstrates that 3R's proposed number of wells will more efficiently and more fully recover the oil and gas reserves underlying the acreage at issue.
96. The evidence and testimony presented by 3R demonstrates that it is a prudent operator.

For the foregoing reasons, 3R's Application is approved, and WPX's proposal to develop only the Wolfcamp XY bench is denied.

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By: 

James P. Parrot
Miguel A. Suazo
Jacob L. Everhart
Beatty & Wozniak, P.C.
500 Don Gaspar Ave.,
Santa Fe, NM 87505
(505) 946-2090
Fax: 800-886-6566
jparrot@bwenergylaw.com
msuazo@bwenergylaw.com
jeverhart@bwenergylaw.com
Attorneys for 3R Operating, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing was served to counsel of record by electronic mail this 21st day of May 2025, as follows:

Darin C. Savage
Andrew D. Schill
William E. Zimsky
214 McKenzie Street Santa Fe, NM 87501
(970) 385-4401
darin@abadieschill.com
andrew@abadieschill.com
bill@abadieschill.com
Attorneys for WPX Energy Permian, LLC

Elizabeth Ryan
Keri L. Hatley
ConocoPhillips
1048 Paseo de Peralta Santa Fe, New Mexico 87501
(505)780-8000
beth.ryan@conocophillips.com
keri.hatley@conocophillips.com
Attorneys for Marathon Oil Permian, LLC



Rachael Ketchledge