

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

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING:

APPLICATION OF CIMAREX ENERGY COMPANY           CASE NO. 16291  
OF COLORADO FOR A NONSTANDARD SPACING  
AND PRORATION UNIT AND COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

October 18, 2018

Santa Fe, New Mexico

BEFORE:   WILLIAM V. JONES, CHIEF EXAMINER  
          DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, William V. Jones,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, October 18, 2018, at the New Mexico Energy,  
Minerals and Natural Resources Department, Wendell Chino  
Building, 1220 South St. Francis Drive, Porter Hall,  
Room 102, Santa Fe, New Mexico.

REPORTED BY:   Mary C. Hankins, CCR, RPR  
                  New Mexico CCR #20  
                  Paul Baca Professional Court Reporters  
                  500 4th Street, Northwest, Suite 105  
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APPEARANCES

FOR APPLICANT CIMAREX ENERGY COMPANY OF COLORADO:

DEANA M. BENNETT, ESQ.  
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1 (1:52 p.m.)

2 EXAMINER JONES: Let's call Case Number  
3 16291, application of Cimarex Energy Company of Colorado  
4 for a nonstandard spacing and proration unit and  
5 compulsory pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MS. BENNETT: Deana Bennett on behalf of  
8 the Applicant.

9 EXAMINER JONES: Any other appearances?  
10 Presenting by affidavit today?

11 MS. BENNETT: Yes, sir.

12 I thought I understood -- before I get  
13 started, I thought I understood from this morning's  
14 opening remarks from you that you were interested in  
15 having the affidavit cases go a little bit more quickly.

16 EXAMINER JONES: Yes. That sounds good.

17 MS. BENNETT: Okay.

18 EXAMINER BROOKS: I was talking to Will  
19 that we ought to have a meeting about that in the  
20 bureau, because it's not a good idea to have the lawyers  
21 exposed to differing requirements from differing  
22 examiners, but I think there is a general consensus on  
23 the general proposition that they ought to be shorter.

24 EXAMINER JONES: Yeah. Yeah. We have  
25 different -- legally, you can do them by affidavit, but

1 we have concerns, especially with the lack of a landman  
2 here, a land person here.

3 EXAMINER BROOKS: Well, that's Will's  
4 concern.

5 EXAMINER JONES: That's only my concern.  
6 Mr. Brooks --

7 EXAMINER BROOKS: I'm not concerned about  
8 it unless the landman's affidavit is inadequate, and  
9 I'll find that out when I look at it later. Of course,  
10 then you'll have to bring them.

11 MS. BENNETT: Right. Well, my plan was to  
12 proceed rather summarily then, but to still touch on  
13 some of the high points in the affidavits --

14 EXAMINER BROOKS: That would be a good  
15 idea.

16 MS. BENNETT: -- that I think you might  
17 have questions about. And, of course, feel free to ask  
18 me questions while I'm going through.

19 As I mentioned, my name is Deana Bennett,  
20 and I'm here on behalf of the Applicant, Cimarex Energy  
21 Company of Colorado. And I have three affidavits in the  
22 materials that I presented to you, the affidavit of the  
23 landman, geologist and an affidavit of my own regarding  
24 notice.

25 The first affidavit is the affidavit of

1 Ms. Caitlin Pierce. She's the landman, And she has been  
2 qualified as an expert in a hearing before the  
3 Commission but not before this Division. But I would  
4 ask that she be considered an expert for the purposes of  
5 her affidavit today.

6 EXAMINER BROOKS: Has she set out her  
7 qualifications in the affidavit?

8 MS. BENNETT: She did not because she was  
9 previously qualified as an expert in a de novo hearing  
10 before the Commission.

11 EXAMINER BROOKS: I guess that works.

12 MS. BENNETT: If you'd like, I'd be happy  
13 to get her qualifications.

14 EXAMINER JONES: No. She's so --

15 EXAMINER BROOKS: I thought she testified  
16 here. I thought I remembered her. I guess I'm thinking  
17 about someone else.

18 EXAMINER JONES: I dealt with some Pierce  
19 attorneys up in North Dakota one time. She's a land  
20 person, though, I guess.

21 MS. BENNETT: Yes, she is, but she might be  
22 related.

23 So assuming for the moment that -- well,  
24 let's go with the fact that she is qualified and  
25 accepted as a witness -- or an expert.

1 EXAMINER JONES: Yes.

2 MS. BENNETT: She has prepared -- and I  
3 have submitted the usual suspects in terms of exhibits.

4 Exhibit A is a plat outlining the area and  
5 showing the working interest owners. And there is only  
6 one working interest owner who hasn't joined, and that's  
7 Marathon. And I spoke with Ms. Pierce, and you'll also  
8 see in her materials an exhibit identifying her outreach  
9 to the working interest owners. And it's her belief  
10 that she made good-faith efforts to reach out to  
11 Marathon and to work through that issue with Marathon.

12 EXAMINER JONES: Is that why Jennifer  
13 disappeared from the room?

14 MS. BENNETT: No. Although it is a little  
15 funny, isn't it? But no, that is not why Jennifer left.

16 The C-102 is attached as Exhibit B, and the  
17 C-102 shows -- one of the things I wanted to highlight  
18 for you-all is that this is a Purple Sage; Wolfcamp Gas  
19 Pool, and it's Pool Code 98220.

20 Exhibit C is the summary of contacts.

21 Exhibits D and E are the proposal letters  
22 and the AFEs. And Ms. Pierce testifies in her affidavit  
23 that the costs in the AFEs are consistent with those  
24 charged by other operators in the area for these types  
25 of wells.

1 I did want to let you-all know that when we  
2 filed this application, we filed it as an application  
3 for a nonstandard spacing unit, and we no longer are  
4 requesting a nonstandard spacing unit, just compulsory  
5 pooling.

6 EXAMINER JONES: Okay.

7 MS. BENNETT: I think those are the only  
8 points I wanted to talk about with Ms. Pierce's  
9 affidavit, which, again, were the fact that this is the  
10 Wolfcamp -- Purple Sage; Wolfcamp Gas Pool, that there  
11 is only one nonconsenting owner, there are no  
12 unlocatable owners, and we no longer seek a nonstandard  
13 proration unit.

14 EXAMINER BROOKS: Who are the people listed  
15 on page 2 of Exhibit A?

16 MS. BENNETT: Page 2 of Exhibit A?

17 EXAMINER BROOKS: Yes.

18 MS. BENNETT: Oh, this is the entire list  
19 of folks to whom we provided notice, and we provided  
20 notice to the offsets and to the overriding royalty  
21 interest owners and the working interest owners. So  
22 this is the entire kit and caboodle.

23 EXAMINER BROOKS: What is the land type  
24 here?

25 MS. BENNETT: It's federal.

1 EXAMINER BROOKS: Okay. Proceed.

2 MS. BENNETT: Ms. Pierce has asked that  
3 Cimarex be designated as the operator of the well.  
4 Cimarex requests overhead and administrative rates of  
5 7,000 per month for drilling and 700 a month for a  
6 producing well. And Ms. Pierce testifies that these  
7 rates are fair and reasonable and comparable to the  
8 rates charged by other operators in this area. And  
9 Cimarex requests that these rates be adjusted  
10 periodically as provided for in the COPAS accounting  
11 procedure.

12 EXAMINER JONES: Okay. How much did you  
13 say, again?

14 MS. BENNETT: 7,000 a month and 700 a  
15 month.

16 EXAMINER JONES: Thank you.

17 MS. BENNETT: And those costs are also set  
18 out in Cimarex's JOA that they send out.

19 If there are no other questions about the  
20 landman's affidavit, I'll move to the geologist's  
21 affidavit.

22 EXAMINER JONES: No, but the land -- is  
23 there somewhere that says 7,000 and 700?

24 MS. BENNETT: In her affidavit, it does, on  
25 page 3 of her affidavit, which is not marked as an

1 exhibit -- with an exhibit sticker at the bottom, but  
2 it's behind Tab 1.

3                   You're going just a little too far there.  
4 So if you go to Tab 1 and don't go to Tab A. Turn back  
5 just a few pages.

6                   EXAMINER JONES: Her affidavit. Okay.  
7 Okay. Thanks.

8                   MS. BENNETT: Sure.

9                   Any other questions?

10                  EXAMINER BROOKS: No. Thank you.

11                  EXAMINER JONES: No.

12                  MS. BENNETT: Okay. So the second exhibit  
13 that I am presenting to you is the affidavit of Jason  
14 Asmus. Mr. Asmus has not previously testified before  
15 the Division, and he has laid out his qualifications in  
16 his affidavit, including that he attended Western  
17 Michigan University where he received a BS in  
18 geosciences in 2010 and an MS in geosciences in 2012.  
19 And he has worked for Cimarex since January 2015 as a  
20 geologist, and before that, he was employed by EOG  
21 Resources as a staff geologist.

22                  So I would like to tender Mr. Asmus as an  
23 expert petroleum geologist for the purposes of this  
24 case.

25                  EXAMINER JONES: Sounds good to me. So

1 qualified.

2 MS. BENNETT: Thank you.

3 Mr. Asmus has prepared three exhibits and  
4 the usual three exhibits. The structure map -- the  
5 structure map shows the location of the proposed well  
6 and the cross section going from A to A prime.

7 Exhibit B is his isopach map, and this  
8 shows the same proposed location for the well, the same  
9 A to A prime but also shows Wolfcamp wells in the area.

10 And Exhibit C is his cross section going  
11 from A to A prime. And what I'd like to point out on  
12 his cross section is that there is a blue-dashed line  
13 with the initials L-Z on the left-hand side. That  
14 stands for landing zone, and this is the target area for  
15 this well.

16 Any questions about the geology affidavit  
17 or exhibits?

18 EXAMINER BROOKS: Not from me.

19 EXAMINER JONES: No, no questions. Sounds  
20 good.

21 MS. BENNETT: The next affidavit is my  
22 affidavit, and this deals with the notice that we sent  
23 out for this hearing. And if you look behind Tab A, the  
24 first couple of pages, there is a certified mailing list  
25 of what we sent. The second page is the receipt showing

1 who received our mailings and who didn't. And you'll  
2 notice on this second page, which is the blue  
3 spreadsheet, there is a number, maybe six folks, who did  
4 not receive the mailing. And I went back and looked at  
5 our records and those folks are: M.M. Bradley, Doris  
6 Jean Barnes, Patricia Ann Kuhler, Tim and Tashina  
7 Lilley, Ellen Finer, Eero Bremer and Mindy Miller. And  
8 each of those are an overriding royalty interest owner.  
9 None are working interest owners. And each of those  
10 were provided notice pursuant to our notification, which  
11 is our next page in my affidavit. And it shows that  
12 each of those folks were named in the Affidavit of  
13 Publication.

14 EXAMINER BROOKS: Did somebody certify  
15 to -- or use diligence to certify to those people?

16 MS. BENNETT: Yes, sir. The landman does  
17 in her affidavit.

18 EXAMINER BROOKS: Okay.

19 MS. BENNETT: Any other questions? No?

20 With that, I would like to move the  
21 admission -- I should say that Ms. Pierce did testify --  
22 and you'll see it in her affidavit -- that it's her  
23 opinion that the granting of this application is in the  
24 interest of conservation and the prevention of waste.

25 I'd like to move the admission of Exhibits

1 1 through 3 and their attachments in Case Number 016291.

2 EXAMINER JONES: Exhibits 1, 2 and 3 are  
3 admitted in Case Number 16291.

4 (Cimarex Energy Company of Colorado Exhibit  
5 Numbers 1, 2 and 3 are offered and admitted  
6 into evidence.)

7 MS. BENNETT: Thank you. And I'd like to  
8 ask that this case be taken under advisement.

9 EXAMINER JONES: Case 16291 is taken under  
10 advisement.

11 Thank you very much.

12 MS. BENNETT: Thank you.

13 (Case Number 16291 concludes, 2:03 p.m.)  
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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

13 I FURTHER CERTIFY that the Reporter's  
14 Record of the proceedings truly and accurately reflects  
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.

20 DATED THIS 29th day of October 2018.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2018  
Paul Baca Professional Court Reporters

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