

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. 16292  
OF COLORADO FOR A NONSTANDARD SPACING  
AND PRORATION UNIT AND COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 1, 2018

Santa Fe, New Mexico

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

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner, Phillip Goetze, Technical Examiner, and David K. Brooks, Legal Examiner, on Thursday, November 1, 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  
                  Albuquerque, New Mexico 87102  
                  (505) 843-9241

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES

FOR APPLICANT CIMAREX ENERGY COMPANY OF COLORADO:

DEANA M. BENNETT, ESQ.  
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.  
500 4th Street, Northwest, Suite 1000  
Albuquerque, New Mexico 87102  
(505) 848-1800  
deanab@modrall.com

FOR INTERESTED PARTY CHISHOLM ENERGY OPERATING, LLC:

JORDAN L. KESSLER, ESQ.  
HOLLAND & HART, LLP  
110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 87501  
(505) 988-4421  
jlkessler@hollandhart.com

INDEX

PAGE

Case Number 16292 Called	3
Case Presented by Affidavit	3
Proceedings Conclude	17
Certificate of Court Reporter	18

EXHIBITS OFFERED AND ADMITTED

Cimarex Energy Company of Colorado Numbers 1 through 3	17
---	----

1 (11:09 a.m.)

2 EXAMINER JONES: Okay. Let's call Case  
3 16292, which was continued from October 18th,  
4 application of Cimarex Energy Company of Colorado for a  
5 nonstandard spacing and proration unit and compulsory  
6 pooling in Eddy County, New Mexico.

7 Call for appearances.

8 MS. BENNETT: Deana Bennett, on behalf of  
9 the Applicant, from Modrall, Sperling.

10 MS. KESSLER: Mr. Examiners, Jordan  
11 Kessler, from Holland & Hart, on behalf of Chisholm  
12 Energy Operating, LLC.

13 The parties have reached an agreement.

14 MS. BENNETT: Yes, we have. And I'll be  
15 addressing that in the affidavit of the landman, Caitlin  
16 Pierce. She addresses the agreement reached with  
17 Chisholm.

18 So I'll be presenting this case by  
19 affidavit. There are three affidavits, each of which  
20 has exhibits. The affidavits are the affidavit of the  
21 landman, the affidavit of the geologist and my affidavit  
22 about notice, and I'll ask to move all the exhibits in  
23 at the end of the presentation.

24 EXAMINER JONES: Okay.

25 MS. BENNETT: The first affidavit is

1 prepared by -- has been prepared by Caitlin Pierce. As  
2 I mentioned at the last hearing, Caitlin Pierce has been  
3 qualified by the Commission as an expert and was  
4 accepted at the last hearing by the Division as an  
5 expert petroleum landman, and I ask that her affidavit  
6 be accepted as such in this case as well.

7 She has prepared and provided for the  
8 Division several exhibits. As her affidavit notes,  
9 Cimarex is seeking an order creating a spacing and  
10 proration unit in the Wolfcamp Formation comprised of  
11 the east half of Sections 3 and 10, Township 24 South,  
12 Range 26 East in Eddy County. And this unit will be  
13 dedicated to the Cherry Hills 10-3 Fed Com 1H well.

14 So Exhibit A is a plat that shows the  
15 tracts, as well the ownership of the tracts. And I do  
16 want to point out on Exhibit A that there are seven  
17 names in red, and those names were just identified as  
18 potential working interest owners by Cimarex this week,  
19 and they are working with their title attorney to  
20 confirm the amount of their interests. And so I will be  
21 asking that this case be continued for notice purposes  
22 because those names in red have not yet received notice,  
23 but they will be getting notice. So I'll be asking for  
24 this case to be continued to the November -- I'm  
25 sorry -- the December 6th docket for notice only.

1           Exhibit A also has a list of the -- the  
2 second page of Exhibit A has a list of the  
3 then-understood-to-be working interest owners. Exhibit  
4 A was prepared before I knew about the additional  
5 working interest owners, the offsets and the overriding  
6 royalty interests.

7           Exhibit B is the C-102, and it shows that  
8 this is a Purple Sage; Wolfcamp Gas Pool, Pool Code  
9 98220. Exhibit B also has the surface-hole location and  
10 the bottom-hole location for the proposed well.

11           Ms. Pierce notes in her affidavit that she  
12 conducted a diligent search of the public records in the  
13 county where the well is located, searched phone  
14 directories and conducted computer searches to locate  
15 contact information for parties entitled to  
16 notification. She also noted that there were no  
17 unlocatable working interest owners. All of the  
18 proposals were received. And she mentions in her  
19 affidavit, as I just explained, that there were certain  
20 working interest owners who were not provided notice  
21 letters -- or proposal letters.

22           Exhibit C identifies Ms. Pierce's summary  
23 of attempted contacts.

24           And Exhibits D and E are the proposal  
25 letter that was sent out and the AFE. And Ms. Pierce

1 testifies in her exhibit that the estimated costs of the  
2 wells -- of the well set forth in the AFE is fair and  
3 reasonable and comparable to the cost of other wells in  
4 this area of New Mexico.

5 She requests or she notes in her testimony  
6 that Cimarex requests overhead and administrative rates  
7 of 7,000 per month for drilling a well and 700 per month  
8 for producing. And she notes that these rates are fair  
9 and comparable to rates charged by other operators in  
10 this area and that Cimarex requests that these rates be  
11 adjusted periodically as provided in the COPAS  
12 accounting procedure.

13 Cimarex requests the maximum cost, plus 200  
14 percent risk charge be assessed against nonconsenting  
15 working owners, but as we mentioned at the outset,  
16 Cimarex has reached an agreement with Chisholm Energy  
17 Holdings, LLC regarding the risk charge and has agreed  
18 to cost, plus 150 percent risk charge for Chisholm.

19 Cimarex requests that it be designated  
20 operator of the well.

21 And Ms. Pierce testifies that the  
22 attachments to her affidavit were prepared by her or  
23 were compiled from company records, that the information  
24 she included in her affidavit is correct and complete to  
25 the best of her knowledge and that the granting of this

1 application, in her opinion, is in the interest of  
2 conservation and the prevention of waste.

3 Are there any questions I can answer about  
4 the landman's affidavit before I turn to the geology  
5 affidavit and exhibits?

6 EXAMINER BROOKS: Let's see. You covered  
7 overrides, did you?

8 MS. BENNETT: Yes, I did. And we sent  
9 notice -- well, we sent notice to the overrides of this  
10 hearing, which is in my affidavit.

11 EXAMINER BROOKS: Yeah. You said you had  
12 no unlocatable parties, but I thought you said you  
13 limited it to unlocated working interest owners. I  
14 wasn't sure.

15 MS. BENNETT: That's what I understood from  
16 Ms. Pierce. I can ask her for more detailed  
17 information.

18 EXAMINER BROOKS: If it's covered in the  
19 affidavit, it's okay, but if it's not, we need to --  
20 need to cover that.

21 MS. BENNETT: Uh-huh.

22 EXAMINER BROOKS: Okay. Go ahead.

23 EXAMINER JONES: Ms. Kessler, did you want  
24 to state that your client has agreed upon the cost, plus  
25 150 percent?

1 MS. KESSLER: Certainly, Mr. Examiners.  
2 Chisholm and Cimarex have entered into an  
3 agreement where the subject well and any infill wells  
4 will be a separate risk penalty, so they've agreed to  
5 cost, plus 150 percent.

6 EXAMINER JONES: Cost, plus 100 percent for  
7 this well --

8 MS. KESSLER: And any infill wells.

9 EXAMINER JONES: -- and any infill wells.

10 MS. BENNETT: And it's cost, plus 150  
11 percent.

12 EXAMINER JONES: Okay. 150.

13 Okay. Thank you.

14 You list two ownership to be determined?

15 MS. BENNETT: Right. Those -- O'Neill and  
16 Warwick, it's my understanding that Cimarex is still  
17 trying to determine what their ownership interest is,  
18 but they were sent proposals to join in the well. But  
19 they haven't yet entirely determined their ownership  
20 interest.

21 EXAMINER JONES: So the proposal that they  
22 sent just proposed the well and the JOA, but it didn't  
23 tell them what their percentages are?

24 MS. BENNETT: Right. Yeah. Uh-huh.  
25 Right.

1                   EXAMINER JONES: They've got to know their  
2 own percentages. What a world we live in.

3                   EXAMINER BROOKS: Well, you're always  
4 supposed to know your own percentages, but in practice,  
5 the operator has a much better handle on them than the  
6 nonoperating owner does.

7                   EXAMINER JONES: But at some point, they  
8 will have this figured out?

9                   MS. BENNETT: Yes, at some point they will.

10                   (Laughter.)

11                   MS. BENNETT: And like I said, they are  
12 working with their title attorney now to determine the  
13 ownership interest as to, in particular, the seven who  
14 they were not aware of before, the seven in red, but I  
15 imagine as part of that overall calculation, they will  
16 come up with the two.

17                   EXAMINER BROOKS: Even if somebody has to  
18 file a quiet title suit, they'll have it worked out at  
19 some point. It may be a long time before that happens.

20                   EXAMINER JONES: But the next two pages  
21 after the colored page is -- say again what those were?

22                   MS. BENNETT: Those are the names and  
23 addresses of the people to whom notice was sent.

24                   EXAMINER JONES: Okay.

25                   MS. BENNETT: And it's the same names and

1 addresses of people -- or entities to whom we sent  
2 notice.

3 EXAMINER JONES: Were those only pooling  
4 parties?

5 MS. BENNETT: No. That's -- well, it's  
6 offset --

7 EXAMINER JONES: That include offsets --

8 MS. BENNETT: -- and overrides.

9 EXAMINER JONES: -- overrides?

10 MS. BENNETT: Uh-huh.

11 EXAMINER JONES: It's standard location in  
12 the Purple Sage?

13 MS. BENNETT: Yes. I believe this has been  
14 continued -- well, we proposed -- we submitted this  
15 application some time ago, maybe perhaps in -- in June,  
16 it looks like. So I think that's why it was originally  
17 for a nonstandard and why we originally got the offset  
18 information. But we did have it, so we did send it out  
19 to the offsets as well.

20 EXAMINER JONES: So there is a newspaper  
21 notice?

22 MS. BENNETT: That'll be at the end of my  
23 affidavit, which is Exhibit 3.

24 EXAMINER GOETZE: No questions.

25 MS. BENNETT: Okay.

1 EXAMINER GOETZE: Thank you.

2 MS. BENNETT: So then turning to Exhibit 2,  
3 Tab 2, this is the exhibit of the geologist, Jason  
4 Asmus. And at the last hearing, I presented an  
5 affidavit by Mr. Asmus, and he was accepted by the  
6 Division for that hearing. I went ahead and included  
7 his educational and professional background again in his  
8 affidavit for purposes of this hearing. So you have  
9 that information again. He attended Western Michigan  
10 University where he received a BS in geosciences and an  
11 MS in geosciences in 2012. And he's worked for Cimarex  
12 since January 2015, and before that, he was employed by  
13 EOG.

14 So I would ask that his affidavit be  
15 accepted again and considered as an affidavit of an  
16 expert petroleum geologist.

17 EXAMINER JONES: Is that okay?

18 EXAMINER GOETZE: Well, yeah, it's okay,  
19 but we ought to make an effort to have Mr. Asmus appear  
20 before the Division or the Commission such that we can  
21 establish that and carry it on through. So have a plan  
22 to visit some day.

23 MS. BENNETT: Okay. Sure thing.

24 EXAMINER GOETZE: Thank you.

25 EXAMINER JONES: I agree with that in

1 principle, although I understand the legalities of the  
2 whole thing. But I agree with that.

3 EXAMINER BROOKS: We're just curious to see  
4 what he looks like.

5 (Laughter.)

6 EXAMINER GOETZE: We want them also to  
7 spend their money here, so at least one trip.

8 EXAMINER BROOKS: The Tourist Bureau will  
9 appreciate your efforts.

10 MS. BENNETT: Good New Mexico cuisine, good  
11 green chili, especially for somebody from western  
12 Michigan.

13 EXAMINER GOETZE: That's right. We also  
14 want to make him suffer, too.

15 MS. BENNETT: So he prepared three  
16 exhibits, which are attached to his affidavit.  
17 Exhibit A is a deep structure map, and it's on the top  
18 of the Wolfcamp or the base of the Bone Spring. The  
19 purple line is a little bit hard to see in this color  
20 because it runs between the teal and the yellow. It's  
21 above that red line. It intersects that red line.  
22 That's the location of the proposed two-mile well. And  
23 then he identifies some -- I thought -- it might be on  
24 the next map that he identifies additional wells in this  
25 area. But the blue line running A to A prime is the

1 cross-section line that you can see on that map. The  
2 map has 50-foot contour intervals, and his testimony is  
3 that the structure dips to the north-northeast.

4 Exhibit B is the Upper Wolfcamp isopach  
5 map, and he testifies, based on this map, that the  
6 thickness is uniform across the proposed well unit.

7 And then Exhibit C is his cross section  
8 that runs from A to A prime based on the wells that were  
9 identified in Exhibit A. And he notes that these wells  
10 give a representative sample of the Upper Wolfcamp  
11 Formation in the area and that the target zone is the  
12 Wolfcamp Y Sandstone, and he testifies that the zone is  
13 continuous across the well unit.

14 And you can see this blue-dashed line that  
15 runs across the cross section that ends on the left-hand  
16 side with the initials L-Z. That's the landing zone --  
17 or the target zone. That's what -- I confirmed with him  
18 that that was the target zone.

19 He concluded from his maps that the unit is  
20 justified from a geologic standpoint, that there are no  
21 structural impediments or faulting that will interfere  
22 with horizontal development and that each  
23 quarter-quarter section in the unit will contribute more  
24 or less equally to production.

25 Any questions about his affidavit or

1 exhibits?

2 EXAMINER GOETZE: None from me. Thank you.

3 EXAMINER BROOKS: No questions.

4 EXAMINER JONES: Those isopach maps can get  
5 pretty hairy sometimes. This one looks like it got that  
6 way.

7 EXAMINER GOETZE: Well, the Xerox machine  
8 does not like all these busy colors and things like  
9 that. So it has enough information for us to see what  
10 he's talking about and characterize what he did, so I  
11 have no problems with it.

12 MS. BENNETT: Okay. Thank you.

13 The last exhibit is Exhibit 3, and that is  
14 my affidavit. And the first two pages of the exhibit  
15 are the names and addresses of the folks to whom we sent  
16 notice. The third page that has the header on the top  
17 that says "Transaction Report Details," like this  
18 (indicating), this page shows the status of the mailing  
19 as of the date we printed this. And it looks like there  
20 were four folks who didn't get notice from our office:  
21 Lodestone Operating, which is an overriding interest  
22 owner; Marathon, which is a working interest owner;  
23 Nearburg, which is a working interest owner; and  
24 Patricia Ann Kuhler, which is an overriding interest  
25 owner. But you'll notice that we did publish as well in

1 a newspaper of general circulation, which is the last  
2 couple of pages of my affidavit exhibits. And those  
3 entities and Ms. Kuhler are all identified on the  
4 publication.

5 EXAMINER JONES: And which ones were being  
6 pooled? I guess we can go back and cross-reference to  
7 see whether they're offsets or being pooled.

8 MS. BENNETT: Uh-huh. Well, Marathon and  
9 Nearburg are working interest owners.

10 EXAMINER JONES: In the unit?

11 MS. BENNETT: Uh-huh.

12 And then Lodestone and Patricia Ann Kuhler  
13 are overriding interest owners. So I believe Marathon  
14 is also an offset, but I only noted it because it was a  
15 working interest. I didn't -- if there were any offsets  
16 that weren't -- well, there were no offsets that didn't  
17 receive notice.

18 EXAMINER JONES: Okay. You printed it  
19 yesterday at noon, looks like.

20 MS. BENNETT: That sounds about right.

21 EXAMINER JONES: Somebody's party got  
22 interrupted.

23 And in the newspaper, it was published the  
24 4th of October.

25 MS. BENNETT: That's right, on the 4th of

1     October.

2                     EXAMINER JONES:    Okay.

3                     EXAMINER BROOKS:   That was more than ten  
4     business days.

5                     EXAMINER JONES:    Okay.

6                     MS. BENNETT:    Any other questions about my  
7     affidavit or the notice?

8                     EXAMINER JONES:    I don't think so.    I  
9     thought I might have one more question here, but --  
10    Cimarex -- oh, yeah, just a comment.

11                    On Exhibit A of number one, those land --  
12    those land leases that are represented there differ a  
13    bit from the way that I remember -- I take it the  
14    L-953-3 is L0-953-3.  And then the L-0 lease, which are  
15    those old leases -- I guess the 3 on the end is the  
16    assignment -- must be the assignment.

17                    MS. BENNETT:    I don't know the answer to  
18    that, but I'm happy to ask for you if that's information  
19    that would be helpful for you.

20                    EXAMINER JONES:    It makes sense that it's  
21    an assignment because it's a little, bitty tract.

22                    MS. BENNETT:    Uh-huh.  It is a tiny tract.  
23    Would you like me to do any follow-up on that for you?

24                    EXAMINER JONES:    No.

25                    That's it for this hearing, I guess.

1 MS. BENNETT: Well, I'd like to ask that  
2 you take Exhibits 1 through 3 into the record, along  
3 with their attachments, that they be admitted into the  
4 record.

5 And I'd like to ask that this case be  
6 continued for notice purposes only until the December  
7 6th hearing.

8 EXAMINER JONES: Okay. All exhibits are  
9 admitted.

10 (Cimarex Energy Company of Colorado Exhibit  
11 Numbers 1 through 3 are offered and  
12 admitted into evidence.)

13 EXAMINER JONES: And this case is continued  
14 to December the 6th.

15 I think that's the last case. I don't seem  
16 to remember any more.

17 (Case Number 16292 concludes, 11:28 a.m.)

18  
19  
20  
21  
22  
23  
24  
25

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

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 11th day of November 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

25