

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: )

CASE NO. 13,517

APPLICATION OF CIMAREX ENERGY COMPANY )  
FOR COMPULSORY POOLING AND TWO )  
NONSTANDARD GAS SPACING AND PRORATION )  
UNITS, EDDY COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

June 30th, 2005

Santa Fe, New Mexico

2005 JUL 11 PM 1 05

50/11/2 WMM

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday June 30th, 2005, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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## I N D E X

June 30th, 2005  
 Examiner Hearing  
 CASE NO. 13,517

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<u>ELIZABETH E. MOSES</u> (Landman)	
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\* \* \*

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\* \* \*

## A P P E A R A N C E S

## FOR THE APPLICANT:

MILLER, STRATVERT P.A.  
150 Washington  
Suite 300  
Santa Fe, New Mexico 87501  
By: J. SCOTT HALL

## FOR DEVON ENERGY PRODUCTION COMPANY:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
110 N. Guadalupe, Suite 1  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: OCEAN MUNDS-DRY

\* \* \*

## ALSO PRESENT:

JAMES G. BRUCE  
Attorney at Law  
P.O. Box 1056  
Santa Fe, New Mexico 87504

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:42 a.m.:

3  
4  
5  
6  
7  
8 EXAMINER JONES: At this time let's call Case  
9 13,517, the Application of Cimarex Energy Company for  
10 compulsory pooling and two nonstandard gas spacing and  
11 proration units, Eddy County, New Mexico.

12 Call for appearances.

13 MR. HALL: Mr. Examiner, Scott Hall, Miller  
14 Stratvert, PA, Santa Fe, on behalf of the Applicant. We  
15 have one witness this morning.

16 EXAMINER JONES: Other appearances?

17 MS. MUNDS-DRY: Good morning, Mr. Hearing  
18 Examiner, my name is Ocean Munds-Dry. I'm here on behalf  
19 of Devon Energy Production Company.

20 We actually submitted a prehearing statement, but  
21 we've withdrawn our objection, we've reached an agreement,  
22 so we have no witnesses this morning.

23 EXAMINER JONES: Okay. Will the witness please  
24 stand to be sworn?

25 (Thereupon, the witness was sworn.)

1                                    ELIZABETH E. MOSES,

2       the witness herein, after having been first duly sworn upon  
3       her oath, was examined and testified as follows:

4                                    DIRECT EXAMINATION

5       BY MR. HALL:

6                Q.     For the record, please state your name.

7                A.     Elizabeth Moses.

8                Q.     And Ms. Moses, where do you live and by whom are  
9       you employed?

10              A.     I live in Midland, Texas. I'm an independent  
11     landman here to represent Cimarex Energy Company.

12              Q.     And you've previously testified before the  
13     Division and had your credentials as a professional landman  
14     accepted as a matter of record; is that right?

15              A.     Yes.

16              Q.     And you're familiar with the subject matter of  
17     this Application?

18              A.     Yes.

19              Q.     And the subject acreage?

20              A.     Yes.

21                        MR. HALL: At this time, Mr. Examiner, we'd offer  
22     Ms. Moses as a qualified expert petroleum landman.

23                        EXAMINER JONES: Ms. Moses is qualified as an  
24     expert petroleum landman.

25              Q.     (By Mr. Hall) If you would, Ms. Moses, briefly

1 explain to the Examiner what you're seeking by the  
2 Application here today.

3 A. Cimarex seeks to pool the mineral interest in the  
4 north half of Section 7, Township 21 South, Range 27 East,  
5 for a 314.16-acre spacing unit for the Atoka, Morrow and  
6 Strawn, and the northwest quarter for 154.16 acres for a  
7 Delaware pool.

8 Q. And you're also seeking approval of two  
9 nonstandard units for those pools spaced on 160s and 320s;  
10 is that correct?

11 A. That's correct.

12 Q. And the reason for that is what?

13 A. This is not a standard 640-acre section. It  
14 contains some lots in it that make it less than 640 acres.

15 Q. So there's an acreage deficiency?

16 A. Yes.

17 Q. Let's turn to Exhibit 1, if you would, please,  
18 your land plat, and explain that to the Hearing Examiner.

19 A. The land plat showing the north half of Section 7  
20 shows the acreage we seek to pool. Cimarex Energy Company  
21 owns the northeast of the northwest quarter, the north half  
22 of the northeast quarter, and the southeast quarter of the  
23 northeast quarter.

24 Q. Okay, and your primary objective is the Morrow;  
25 is that correct?

1 A. That's correct.

2 Q. Let's look at Exhibit 2, your operating  
3 agreement. Let me ask you about that. Is this an  
4 abbreviated version of the operating agreement that was  
5 circulated with your well proposal to the other owners?

6 A. Yes, it is.

7 Q. And if you would look at Exhibit "A" attached to  
8 Exhibit 2, would you briefly go over the ownership that's  
9 reflected on there?

10 A. Yes, Cimarex Energy Company, which is committed  
11 to this unit, owns a 50.929-percent working interest; Devon  
12 Energy Production Company owns a 46.763-percent working  
13 interest in the north half; and Fidelity Exploration and  
14 Production Company a 2.307-percent working interest.

15 Q. And as of today, what percentage is voluntarily  
16 committed to the well?

17 A. 50.929 percent is committed in writing.

18 Q. And you've reached tentative agreement with  
19 Devon; is that correct?

20 A. Yes, we've reached a tentative agreement with  
21 Devon, and also with fidelity exploration.

22 Q. But you don't have signed operating agreements in  
23 hand from either of those parties as of today?

24 A. That's correct.

25 Q. So you're seeking to pool both the interests of

1 Devon and Fidelity; is that correct?

2 A. That's correct.

3 Q. And if subsequent to the issuance of an order  
4 from this hearing those parties join, would you ask that  
5 the order be dismissed as to those parties' interest?

6 A. Yes.

7 Q. Let's look at your Exhibit 3, your AFE, and if  
8 you'd go over the well-cost totals for the Hearing  
9 Examiner, please?

10 A. Yeah, the completed well cost for this well, the  
11 Colton 7 Fed Com Number 1, is \$2,176,248.25.

12 Q. And I note the AFE is under the title of Gruy.  
13 Could you explain the relationship to Cimarex, if you know?

14 A. Gruy is a wholly owned subsidiary of Magnum-  
15 Hunter Production Company. Magnum-Hunter Production  
16 Company is a wholly owned subsidiary of Cimarex.

17 Q. As of today anyway?

18 A. Yes as of -- as of June 6th.

19 Q. Now, what are the estimated overhead costs for a  
20 drilling and producing well?

21 A. A drilling well is \$6500 a month and a producing  
22 well \$650 a month.

23 Q. Now, are the drilling costs shown on the AFE, as  
24 well as the overhead costs, in line with what's being  
25 charged by other operators for similar wells in the area?



1 A. Yes, it is.

2 Q. And are you recommending that these figures be  
3 incorporated into an order that issues from this  
4 proceeding?

5 A. Yes.

6 Q. Let's look at your Exhibit Number 4. If you  
7 would explain that to the Hearing Examiner and briefly  
8 describe your efforts to obtain the voluntary participation  
9 of Fidelity and Devon.

10 A. Exhibit 4, the first page of Exhibit 4, is a log  
11 that I keep documenting any correspondence or telephone  
12 conversations with the people that we're seeking to pool.  
13 And attached to that log is copies of the correspondence  
14 that were sent.

15 The first well proposal letter went out May 26th,  
16 2005, to both Devon and Fidelity Exploration, seeking their  
17 joinder, and as the log indicates there were several  
18 telephone conversations. And there's also attached a June  
19 13th e-mail from Ken Gray at Devon Energy to myself.

20 Q. Now, with -- I'm sorry, go ahead.

21 A. Go ahead -- The June 13th, 2005, Exhibit A -- I  
22 mean, e-mail -- brought to our attention for the first time  
23 the existence of a joint operating agreement covering a  
24 portion of these lands. This joint operating agreement did  
25 not appear of record in the county records. It was our

1 first knowledge of this JOA, and it covers all acreage  
2 except the 40-acre tract in the northeast of the northwest  
3 quarter.

4 Q. All right. Subsequent to your -- Subsequent to  
5 Devon's advice of the existence of that JOA, did Cimarex  
6 enter into negotiations with Devon that led to a tentative  
7 farmout agreement?

8 A. Yes, we have.

9 Q. And has a final formal farmout agreement been  
10 executed by the parties?

11 A. No, it has not.

12 Q. In your opinion, Ms. Moses, have Cimarex and you  
13 made a good-faith effort to obtain voluntary participation  
14 of Fidelity and Devon in the well?

15 A. Yes.

16 Q. And does Cimarex have an approved APD for this  
17 well?

18 A. Yes, they do.

19 Q. And is Cimarex requesting the issuance of an  
20 expedited order in this case?

21 A. Yes, yes, we have a term assignment that expires  
22 July 31st, and the rig is supposed to move in actually next  
23 week and begin drilling.

24 Q. Now, were Exhibits 1 through 4 prepared by you or  
25 at your direction?

1 A. Yes, they were.

2 MR. HALL: Mr. Examiner, that concludes our  
3 direct of this witness. We'd move the admission of  
4 Exhibits 1 through 4, as well as Exhibit Number 5, which is  
5 Mr. Bruce's affidavit of notice in this case.

6 EXAMINER JONES: Exhibits 1 through 4 and Exhibit  
7 5 will be admitted to evidence.

8 EXAMINATION

9 BY EXAMINER JONES:

10 Q. So, let me read back the COPAS real quick to make  
11 sure I didn't get it wrong. It's \$6500 and \$650, right?

12 A. Yes.

13 Q. Okay. It looks like the site that you're  
14 drilling a well on is controlled by Devon.

15 A. No, the northeast of the northwest quarter is the  
16 actual well site, and that is the 40-acre Cimarex lease.

17 Q. Okay. What is the little tract that was  
18 controlled by Devon, then, that was subject to --  
19 supposedly all of this was part of a JOA, except for one  
20 little tract, and I thought that you just read that as the  
21 site of the well. But it --

22 A. No, the old JOA covered the entire north half,  
23 and --

24 Q. Without any missing --

25 A. Yeah, it covered the entire north half. The

1 federal lease that covers the 40 acres, the northeast  
2 northwest quarter, was a part of that original JOA. The  
3 lease continued in effect and was extended by production  
4 and then expired on its own terms in 1995.

5 Q. Oh.

6 A. And subsequently a new lease was taken, and  
7 Cimarex acquired that lease.

8 Q. Cimarex or -- but they didn't even exist until  
9 recently, right?

10 A. No, they existed, they just hadn't acquired  
11 the --

12 Q. -- Magnum Hunter.

13 A. -- Magnum Hunter. Cimarex took the 40-acre lease  
14 from the original lessee in May, late May, 2005, purchase  
15 of that lease.

16 Q. Okay. Why is the well going to be deviated?

17 A. This -- if you can look at the land plat, the  
18 Avalon reservoir is right there in the vicinity, and  
19 there's a certain setback from the Avalon reservoir that's  
20 required, so that is the closest surface location possible.  
21 And they're going to deviate it, but the bottomhole  
22 location is still within that 40-acres. It's controlled by  
23 Cimarex.

24 Q. It's just deviated a little bit.

25 A. Yeah.

1 Q. Okay. And is Gruy -- Who's going to be the  
2 operator of this? Is it going to be Gruy?

3 A. Gruy.

4 Q. So you want them to be named in the order as the  
5 operator? Let's see --

6 MR. HALL: Let's see what the Application says,  
7 Mr. Examiner.

8 THE WITNESS: Gruy did file the application to  
9 drill, for the Application. They're the ones that own the  
10 APD, is Gruy.

11 EXAMINER JONES: So you want them to be named,  
12 and they will change their operator name later, if --

13 MR. HALL: Let me see what the Application says,  
14 Mr. Examiner. I have it.

15 EXAMINER JONES: It says, designating Applicant  
16 as operator --

17 MR. HALL: Let's have the order read Cimarex or  
18 its designee.

19 EXAMINER JONES: Or its designee. Okay, I guess  
20 that's a pretty good catch-all phrase.

21 (Laughter)

22 EXAMINER JONES: Like Mr. Bruce's standard  
23 location that he puts in his orders.

24 (Laughter)

25 EXAMINER JONES: I read -- I went over the rules

1 on these -- applying for nonstandard proration units, and  
2 it doesn't -- this -- the 360 looks like it's -- I mean,  
3 the 320 acres -- you've got 314 acres out of 320, and  
4 that's 98 percent. It's not less than 70 percent. And I  
5 guess this is a question for the attorneys, but -- and then  
6 the 160 acres is 154 acres out of 160, which is 96 percent,  
7 which is definitely not less than 70 percent, so why do you  
8 want this written in the order that --

9 MR. HALL: Makes me wish I'd brought my rule book  
10 today, Mr. Examiner.

11 MR. BRUCE: Yeah, and Mr. Examiner, I thought  
12 that a standard unit was 316 to 324 acres.

13 EXAMINER JONES: 324?

14 MR. BRUCE: 316 to 324 was standard, and 158 to  
15 162 was standard. I mean, they can apply for it  
16 administratively and have it granted, but...

17 EXAMINER JONES: Just put it in the order.

18 (Laughter)

19 EXAMINER JONES: Okay, I'll talk to the old guys  
20 around here and find out more about that. I don't think  
21 it's very well written. It doesn't seem like -- I can't  
22 understand it.

23 MR. BRUCE: I know you can apply for it  
24 administratively --

25 EXAMINER JONES: Yes.

1 MR. BRUCE: -- and just with the filing process  
2 of the APD. However, another Hearing Examiner always  
3 requested me to apply for --

4 EXAMINER JONES: Oh --

5 MR. BRUCE: -- whenever I --

6 EXAMINER JONES: -- I get it.

7 MR. BRUCE: -- because otherwise I would get a  
8 number of questions.

9 EXAMINER JONES: Okay, I understand. Okay.

10 Q. (By Examiner Jones) And it looks like you've got  
11 four pools involved here, three 320s and one 160 pool?

12 A. Yes.

13 Q. Okay. So the affidavit of notice -- Was  
14 everybody locatable?

15 A. Yes.

16 Q. Okay, so you didn't have to publish it in the  
17 paper?

18 MR. HALL: It was only Fidelity and Devon,  
19 interest owners of record.

20 EXAMINER JONES: Okay, that's -- Anything else  
21 that you can think of on this case?

22 THE WITNESS: Just as expedited as possible, is  
23 my only request.

24 EXAMINER JONES: Okay. Well, I appreciate you  
25 saying that.

1 THE WITNESS: We're using a brand-new rig on  
2 this --

3 EXAMINER JONES: \$12,000 a day it looks like,  
4 according to the AFE.

5 THE WITNESS: A brand-new rig, so we get to work  
6 out the bugs on it too.

7 EXAMINER JONES: Okay, that's --

8 MR. HALL: That concludes our case, Mr. Examiner.

9 EXAMINER JONES: Okay, thank you. With that,  
10 we'll take Case 13,517 under advisement.

11 (Thereupon, these proceedings were concluded at  
12 8:57 a.m.)

13 \* \* \*

14  
15  
16  
17 I do hereby certify that the foregoing is  
18 a complete record of the proceedings in  
19 the Examiner hearing of Case No. \_\_\_\_\_,  
heard by me on \_\_\_\_\_.

20 \_\_\_\_\_, Examiner  
Oil Conservation Division



## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                  )    ss.  
COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL June 30th, 2005.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006