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

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION FORTHE PURPOSE OF CONSIDERING:

APPLICATION OF MATADOR PRODUCTION COMPANYFOR A NON-STANDARDSPACING ANDPRORATION UNITAND COMPULSORY POOLING,LEA COUNTY,NEW MEXICO.

Case No. 15,363 (*de novo*)
Order No. R-14053-E

MATADOR PRODUCTION COMPANY'S APPLICATION FOR REHEARING

In the event that Jalapeno Corporation ("Respondent") applies for rehearing of the decision in Order No. R-14053-E, Matador Production Company ("Matador") applies for a rehearing, pursuant to NMSA 1978 §70-2-25.A, limited to the two matters set forth below:

1. Order No. R-14053-E approved Matador's application to form a non-standard 154.28-acre oil spacing and proration unit and project area (the "Unit") in the Airstrip-Wolfcamp Pool comprised of Lots 1-4 (the W/2W/2 equivalent) of Section 31, Township 18 South, Range 35 East, NMPM, Lea County, New Mexico, and the pooling of all uncommitted interests in the Wolfcamp formation in the Unit for the Airstrip 31 18 35 RN State Com. Well No. 201H (the "Well").

2. Order No. R-14053-E set the risk charge for drilling and completing the Well at 150% rather than 200%, and did not allow a risk charge on the costs of surface equipment. **Finding Paragraph (29); Ordering Paragraph (13).**

3. Matador seeks reconsideration of Finding Paragraph (29) and Ordering Paragraph (13) for the reasons set forth below:

RISK CHARGE

4. The Commission correctly concluded that the "[l]ack of horizontal upper Wolfcamp development in the area of the proposed well justifies classifying it as a wildcat well." **Finding Paragraph (28).**

5. Matador put on extensive evidence of the operational, geologic, and reservoir risk involved in drilling, completing, and equipping this wildcat well which justified a 200% risk charge. Respondent failed to present a specific reason why this case is different from the vast

majority of cases where a 200% risk charge is appropriate. Furthermore, this ruling sets a dangerous precedent for the Division and Commission as it puts them in a position that will require evaluation of risk charges where no specific evidence justifies an exception to the general rule.

6. Matador's testimony on the risk charge is based on (a) 75% geologic risk (**Matador Exhibit 15**), (b) 25% operational risk (**Matador Exhibit 20**), and (c) 50% reservoir risk (**Matador Exhibit 21**). It appears that the Commission added up the risk factors to fix the risk charge in this application: 75% + 25% + 50% = 150%.

7. While Matador appreciates the Commission's decision to impose a risk charge on drilling and completing this wildcat well, the risk, whether based on risk or chances of success, should be based on multiplication of the factors. As Matador's engineering witness, Bradley Robinson, testified, the risk should be based on multiplication of the chances of success: 25% x 75% x 50% = 9.375% (**Matador Exhibit** 24). If the chance of success for the Well is only 9.375%, a 200% risk charge is readily justified.

SURFACE EQUIPMENT

8. Matador asserted at hearing that NMAC 19.15.13.8, which includes the cost of equipping a well as part of completion costs (upon which the risk charge can be assessed), is proper and enforceable. Matador's legal reasoning is set forth in Part II.C of its Response in Opposition to Motion to Dismiss, filed with the Commission in August 2016.

9. In addition, the Commission considered the challenge to exclude surface equipment in the risk charge in error. Respondent followed the proper procedure to challenge the risk charge as set forth in NMAC 19.15.13.8.A and D. However, nowhere in the Commission's rules does it allow for a respondent to challenge, via an adjudicatory hearing, *what* is included in well costs. NMAC 19.15.13.8.B explicitly states that "well costs ***shall*** include...equipping the well for production." Therefore, Subsection B. is a mandatory component of the rule, as opposed to Subsections A and D. If the Commission or Respondent wishes to change the definition of well costs, then it should be done in a rulemaking procedure after notice has been given and all parties who have a stake in such a change in definition have had the opportunity to be heard.

10. However, the Commission, in Order No. R-14053-E, held that a risk charge should not be assessed against surface equipment. **Ordering Paragraph (13)(b)**.

11. In addition, Matador requests that a risk charge for surface equipment should be allowed for the following factual reasons:

> The consenting working interest owners in the Well must pay the surface equipment costs up-front, before knowing whether the Well will be commercial, or even productive. Thus, there are carrying costs involved in the cost of surface equipment. Failing to allow a risk charge *of any amount* to be assessed against surface equipment fails to recognize the timing of the risk that the participating parties take in equipping a well for production.

WHEREFORE, to the extent Respondent seeks a rehearing, Matador also requests the Commission to grant a rehearing on Order No. R-14053-E as to the issues of total risk charge and a risk charge on surface equipment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served on the following counsel of record this 30th day of November, 2016 via e-mail.

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