

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

**APPLICATION OF CHISHOLM ENERGY OPERATING, LLC
FOR A NON-STANDARD SPACING AND
PRORATION UNIT AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

**CASE NO. 16027
ORDER R-14719**

RESPONSE TO MOTION TO STAY ORDER NO. R-14719

The applicant in this matter, Chisholm Energy Operating, LLC ("Chisholm"), objects to the request by Cimarex Energy Co. ("Cimarex") to stay Division Order R-14719. Issuance of a stay, prohibiting Chisholm from proceeding to complete and produce the subject well, will cause irreparable harm to the reservoir and substantial economic harm to Chisholm. Conversely, the issues Cimarex raise in its motion for stay can be addressed at a de novo hearing without the necessity of a stay. Cimarex offers no facts meeting the high threshold necessary for issuance of a stay, and the stay should therefore be denied.

Background

1. On February 20, 2018, Chisholm filed an application to form a non-standard spacing unit comprised of the W/2 of Sections 3 and 10, Township 24 South, Range 26 East, NMPM, Eddy County, New Mexico, and to pool uncommitted interest owners in the Wolfcamp formation underlying this unit. The spacing unit was to be dedicated to the Black River 3-10 Fed Com No. 4H Well ("Black River 4H Well").

2. A Division hearing was held on April 5, 2018, in front of Examiners Will Jones, Leonard Lowe, and Phillip Goetze, as well as legal counsel David Brooks. At that hearing, Cimarex offered no witnesses, inquired only about the status of discussions between the two

companies about a voluntary agreement, and argued that an operating agreement existed that covered only a portion of the proposed spacing unit. The case was taken under advisement on May 4, 2018.

3. On June 6, the completions crew, under contract with Chisholm, was apprised of the company's drilling schedule for the Black River 4H Well. See Affidavit of Davis Armour, attached as Exhibit 1, ¶ 6.

4. The Division issued Order No. R-14719 approving Chisholm's application on June 8, 2018.

5. Chisholm spud the Black River 4H Well on June 24, 2018. Armour Affidavit, ¶ 3.

6. On June 29, 2018, Cimarex filed an appeal with the Oil Conservation Commission. Cimarex but did not request a stay of Order No. R-14719.

7. On July 20, 2018, the drilling rig reached total depth and was released. Pursuant to the contract with Chisholm, the completions crew was scheduled to move to the Black River 4H well site following completions work at the Gramma Ridge well site.

8. On July 31, 2018, Cimarex filed its motion for a stay of Division Order R-14719.

9. Pursuant to the schedule under its contract with Chisholm the completions crew moved onto the Black River 4H Well location on August 5, and began completions on August 7. Armour Affidavit, ¶ 7, 8.

10. If Chisholm is required to discontinue its completions operations it risks breaching its completions contract at a cost of \$75,000 per day. Armour Affidavit, ¶ 9.

A. A Stay Will Result in Financial Harm to Chisholm and Irreparable Damage to the Reservoir.

Chisholm entered into a binding contract with a completions crew in April 2018 for several wells. Following the issuance of Division Order R-14719, and before Cimarex filed a

motion for a stay of that order, Chisholm placed the Black River 4H Well on the completions schedule. *See* Armour Affidavit, ¶ 6. If Chisholm is forced to break its completions contract, it will risk \$75,000 per day in contract damages. *See* Armour Affidavit, ¶ 9.

Once the well is completed, it must be produced to prevent irreparable damage to the reservoir and waste. *See* Affidavit of James Huling, attached as Exhibit 2. Failing to produce the well after completions will result in dissipated energy in the reservoir, which cannot be recaptured. Huling Affidavit, ¶ 8. Failure to utilize the energy and pressure from the completions will result in less ultimate recovery, or waste. Huling Affidavit, ¶ 8-9.

Furthermore, Chisholm must flow back the well or risk causing permanent damage to the reservoir. *See* Huling Affidavit, ¶ 5-6. Due to the presence of clays in the reservoir, failure to produce frac fluid after completing the well will cause swelling and migration of clays. Huling Affidavit, ¶ 3. Swelling and migration caused by failure to flowback the well will result in permanent damage to the reservoir. In short, any stay of the completions activity and subsequent production from the well will result in damage to the reservoir and cause waste.

B. The Motion Fails To Meet The Procedural Requirements For A Stay And Fails To Demonstrate Any Gross Negative Consequences To Justify A Stay.

NMAC 19.15.4.23.B requires that a party requesting a stay of a Division order “shall attach a proposed stay order to the motion.” Cimarex has not met this mandatory procedural requirement, thereby subjecting its motion to an immediate denial.

Cimarex’s arguments in support of a motion to stay also fail to show immediate irreparable harm and are more properly addressed at a merits hearing. NMAC 19.15.4.23.B provides that a stay of a Division order may be granted only if “the stay is necessary to prevent waste, protect correlative rights, protect public health and the environment or prevent gross negative consequences to any affected party.” As grounds for a stay, Cimarex broadly alleges that their

“correlative rights as operator” will be impaired (§9), that good faith negotiations after entry of the pooling order did not occur, that Chisholm’s development plan will result in waste, and that a 200% risk penalty is inappropriate.

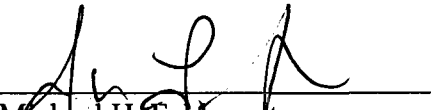
Cimarex’s newly minted complaints do not justify a stay of the Division Order or a halting of Chisholm’s completion of the well. Chisholm will establish at the Commission hearing that it has continued to negotiate in good faith to reach an agreement with Cimarex and will be prepared, if necessary, to address the appropriate risk penalty, an issue that Cimarex did not raise at the Division level. Cimarex’s argument that it had a contractual right to operate part of the approved spacing unit (the W/2 of Section 10) pursuant to an existing operating agreement is disposed of by Division Order R-14140, but Chisholm will nonetheless address this issue at a de novo hearing. Cimarex’s contentions about the risk penalty, good faith negotiations, and its rights under an operating agreement are all issues that can be addressed at hearing before the Commission without the necessity of a stay of the Division Order, and will be unaffected by Chisholm’s completion and production of the well.

Finally, Cimarex’s passing reference to its “correlative rights as operator” and that Chisholm’s development plans will cause “waste” is vague and misplaced. Following a hearing, the Division issued a pooling order stating: “To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste...this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.” Order No. R-14719, p. 3, paragraph 11. Cimarex has made no factual showing that the pooling order fails to protect correlative rights. Under the pooling order, Cimarex will be allocated its proportionate share on an acreage basis, thereby protecting its correlative rights. No threat to correlative rights exists that will be affected by denial of a stay.

WHEREFORE, Chisholm requests that the Division Director deny the motion to stay
Division Order R-14719.

Respectfully submitted,

HOLLAND & HART LLP

By: 

Michael H. Feldewert

Jordan L. Kessler

Adam G. Rankin

Julia Broggi

Post Office Box 2208

Santa Fe, New Mexico 87504-2208

(505) 988-4421

(505) 983-6043 Facsimile

mfeldewert@hollandhart.com

jlkessler@hollandhart.com

agrarkin@hollandhart.com

jbroggi@hollandhart.com

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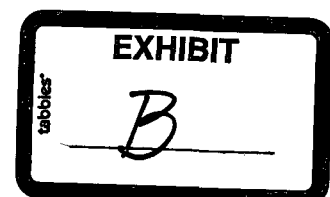
**CASE NO. 16027
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SUPPLEMENTAL AFFIDAVIT OF JAMES HULING

STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

James Huling, being first duly sworn on oath, states as follows:

1. My name is James Huling and I serve as a Reservoir Engineer for Chisholm Energy LLC ("Chisholm") in Fort Worth, Texas. I previously testified before the New Mexico Oil Conservation Division and was qualified as an expert in petroleum engineering matters.
2. I have conducted an engineering review of the reservoir underlying the W/2 of Sections 3 and 10, Township 24 South, Range 26 East, NMPM, Eddy County, New Mexico.
3. Based on data from my review of the subject reservoir, I have identified the presence of clays that are prone or susceptible to swelling and migration. Failure to remove fracture fluid by flowing back the well is likely to cause swelling and migration of clays.
4. The fracture stimulation in process includes in excess of 275,000 barrels of fluid. The fracture fluid is extraneous fluid to the reservoir. It is most beneficial to limit the time and exposure of extraneous fluids on the reservoir.
5. In portions of the reservoir where higher gas saturation is present, the frac fluids introduced can increase water saturation, thereby decreasing the relative permeability of gas. To reduce the impact of prolonged saturation by extraneous fluid, immediate flowback and production is essential.
6. In my opinion, removing fluid immediately after fracture stimulating is necessary to prevent damage to the reservoir.
7. To maximize hydrocarbon recovery, the well needs to be flowed back immediately.

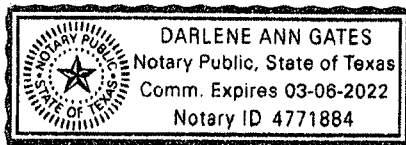


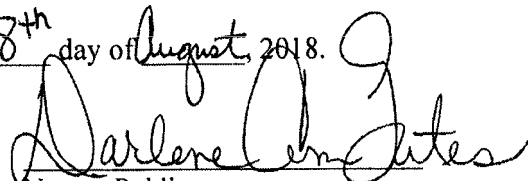
8. Reservoir energy gained from hydraulic fracturing will dissipate reducing energy and pressure to recover induced fluids.
9. In my opinion, to recover the greatest amount of hydrocarbons, the well must be flowed back immediately. Failure to do so will result in the recovery of fewer hydrocarbons.

FURTHER AFFIANT SAYETH NOT.


James R. Huling

SUBSCRIBED AND SWORN before me on this 8th day of August, 2018.




Notary Public

My Commission Expires:

03-06-2018

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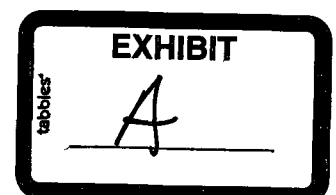
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SUPPLEMENTAL AFFIDAVIT OF DAVIS ARMOUR

STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

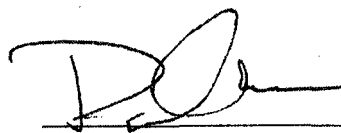
Davis Armour, being first duly sworn on oath, states as follows:

1. My name is Davis Armour and I am employed by Chisholm Energy Operating ("Chisholm") in Fort Worth, Texas, as a Senior Landman. I previously testified as an expert in petroleum land matters in Case No. 16027 that resulted in the issuance of pooling Order R-14719 on April 5, 2018.
2. In Case No. 16027, Cimarex Energy requested a Motion to Stay Order R-14719.
3. The Black River Federal Com WCA Well No. 4H was spud by Chisholm on June 24, 2018.
4. On July 20, 2018 the drilling rig reached total depth on Black River Federal Com WCA Well No. 4H and the drilling rig was released.
5. Chisholm had previously entered into a contract with our frac service provider on April 13, 2018, for a period of one year.
6. On June 6, 2018 (before Order No. R-14719 was issued) the frac crew was notified of Chisholm's frac schedule and our intent to complete the Black River Federal Com WCA Well No. 4H in August; as soon as our Grama Ridge wells were completed.
7. The Grama Ridge wells were completed on August 5, 2018. The move to the Black River Federal Com WCA Well No. 4H commenced that same day.
8. Actual completions on the Black River Federal Com WCA Well No. 4H began on August 7, 2018.
9. With the frac crew under contract, and no other wells ready to be completed, Chisholm

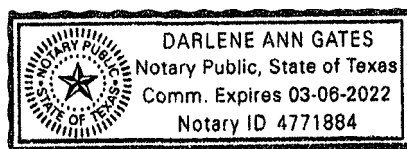


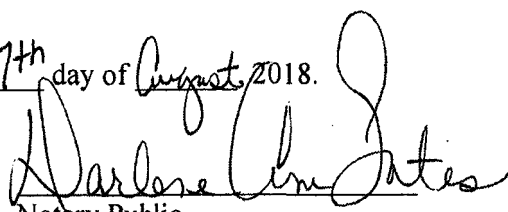
must pay the frac company \$75,000 per day the fleet is not in use, the frac fleet will be sent to their yard and Chisholm must continue to pay this rate until another well is ready to complete. At this time Chisholm estimates our next well will not be ready to complete for a minimum of 10 days. This results in a cost of at least \$750,000.00 to Chisholm.

FURTHER AFFIANT SAYETH NOT.


Davis Armour

SUBSCRIBED AND SWORN before me on this 7th day of August, 2018.




Notary Public

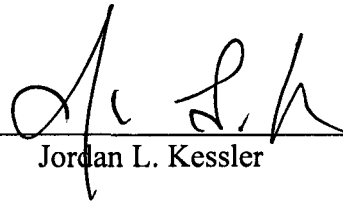
My Commission Expires:

03-06-2022

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2018, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Jennifer L. Bradfute
PO Box 2168
500 Fourth Street NW Suite 1000
Albuquerque NM 87103
Phone: 505-848-1800
Attorneys for Cimarex Energy Co.



A handwritten signature in black ink, appearing to read 'J. L. Kessler', is written over a horizontal line.

Jordan L. Kessler