

**BEFORE THE
NEW MEXICO ENERGY, MINERALS AND
NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

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

**APPLICATION OF CIMAREX ENERGY CO.
FOR A NON-STANDARD OIL SPACING
AND PRORATION UNIT AND COMPULSORY
POOLING, CHAVES COUNTY, NEW MEXICO.**

CASE NO. 14368

**APPLICATION OF CIMAREX ENERGY CO.
FOR A NON-STANDARD OIL SPACING
AND PRORATION UNIT AND COMPULSORY
POOLING, CHAVES COUNTY, NEW MEXICO.**

CASE NO. 14369

**APPLICATION OF CIMAREX ENERGY CO.
FOR A NON-STANDARD OIL SPACING
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POOLING, CHAVES COUNTY, NEW MEXICO.**

CASE NO. 14370

FUEL PRODUCTS, INC. MOTION TO DISMISS

Fuel Products Inc. ("Fuel Products") moves the Oil Conservation Division for orders dismissing the applications of Cimarex Energy Co. ("Cimarex") in Cases 14368, 14369 and 14370 and in support of its motion states:

1. Fuel Products is the owner of the working interest under the 160-acre non-spacing units (project areas) that Cimarex is proposing to create and pool in each of these cases.

2. Cimarex proposed these wells to Fuel Products and provided a AFE's for the wells which identified the proposed non-standard spacing unit for the well but did not identify the location of the horizontal wellbore on the spacing unit. Fuel Products requested Joint Operating Agreements from Cimarex for each of the wells. No Joint Operating Agreement has

been provided by Cimarex to Fuel Products. Serious discussions for the development of these lands did not commence until Tuesday August 25, 2009.

3. Cimarex has advised Fuel Products, Inc. that it is planning to drill these horizontal wells in the first quarter of 2010.

4. By letter dated, August 19, 2009, Fuel Products received letters and copies of Cimarex's Applications for an orders creating and compulsory pooling the subject non-standard oil spacing units. These applications stated that it had in good faith sought to obtain the voluntary joinder of all other mineral interest owners in the proposed spacing units. Paragraph 3. Cimarex's application also stated that it had "attempted to obtain voluntary agreements from all mineral interest owners to participate in the drilling of the well or to otherwise commit their interests to the well, certain interest owners have failed or refused to join in dedicating their interests." Paragraph 4.

5. Cimarex has not provided Fuel Products, Inc. with a proper well proposal nor afforded Fuel Products, Inc. reasonable opportunity to reach a voluntary agreement for the development of the non-standard units they are proposing to pool.

6. The Division, by long standing practice, has required operators to furnish interest owners a well proposal prior to filing a pooling application. Order No. R-13155, Cases 14365 and 1436, August 11, 2009.

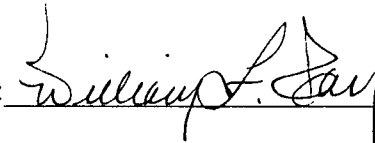
7. The Division has dismissed applications for compulsory pooling until 30-days after it "has furnished to all owners in the proposed unit a formal well proposal, including a proposed form of joint operating agreement and an authorization for expenditures (AFE) setting forth the estimated costs for the well to be proposed in such application." (Emphasis added)

Order No. R-13155, Cases 14365 and 14366, August 11, 2009.

8. Cimarex does not plan to drill these wells until 2010 and therefore does not have a leasehold interest that will be jeopardized by requiring it to comply with the Division's long standing practice.

WHEREFORE, Fuel Products, Inc. moves the Oil Conservation Division for an order dismissing the applications of Cimarex Energy Co. in Cases 14368, 14369 and 14370 until 30 days after Cimarex has (i) furnished Fuel Products proper well proposals that provide full details on the proposed wells, (ii) provided the proposed terms of participation therein, and (iii) has in good faith sought to obtain the voluntary joinder of Fuel Products Inc. in the proposed wells.

Respectfully submitted,
HOLLAND & HART LLP

By: _____

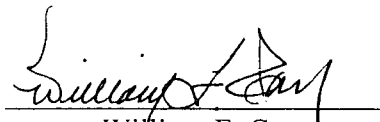
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CERTIFICATE OF SERVICE

I certify that on August 26, 2009, I served a copy of the foregoing document to the following by

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☒ Fax
- ☐ Electronic Service by LexisNexis File & Serve

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