

**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. 13777  
(Re-Opened)  
ORDER NO. R-12682-A**

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

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on May 24, 2007 before Examiner William V. Jones and on June 21, 2007 before Examiners David K. Brooks, Jr. and Richard Ezeanyim.

NOW, on this 8<sup>th</sup> day of August, 2007, the Division Director, having considered the testimony, the record and the recommendations of the Examiners,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) In this re-opened case, Cimarex Energy Company ("applicant" or "Cimarex")

(a) seeks an order creating an 80-acre, more or less, non-standard oil spacing and proration unit (the "Unit"), for production from the Wolfcamp formation within the Caudill-Permo Upper Pennsylvanian Pool (10830), consisting of both the SW/4 NW/4 and the NW/4 SW/4 of Section 21, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico;

(b) seeks to pool all uncommitted interests in the proposed non-standard Unit for purposes of drilling horizontally and producing the Caudill South 21 Fee Well No. 2H (API No. 30-025-37925).

(3) The Caudill South 21 Fee Well No. 2H has been drilled vertically to 10,962 feet in the NW/4 SW/4 (Unit L) of Section 21 at a standard location 2000 feet from the South line and 940 feet from the West line; 5-1/2 inch casing was run and cemented; a window was milled from 10,454 feet to 10,466 feet, and the well was drilled horizontally within the Wolfcamp formation in a northerly direction to a measured depth of 12,060 feet, with the well's terminus at a standard bottomhole location, 1723 feet from the North line and 950 feet from the West line, within the SW/4 NW/4 (Unit E) of Section 21.

(4) A similar case was first presented by Cimarex to the Division by affidavit on September 14, 2006, in Division Case No. 13777. In that case, Cimarex proposed to compulsory pool all uncommitted mineral interests in the Wolfcamp formation within an 80-acre "project area" consisting of two 40-acre oil spacing and proration units contained within the SW/4 NW/4 and NW/4 SW/4 of Section 21, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico.

(5) The hearing in Case No. 13777 resulted in Division Order No R-12682 issued on December 13, 2006. That order required the case to be reopened so that evidence of notice to all owners of all interests in the oil and gas in and under the area to be pooled could be presented. In addition, the applicant should show evidence that pooling this acreage for this purpose will not cause waste or impair correlative rights. Pertinent findings in Division Order No R-12682 could be summarized as follows:

(a) The compulsory pooling statute (*NMSA Section 70-2-17*) confines the Division's compulsory pooling authority to the pooling of a particular spacing or proration unit.

(b) Rule 111 allows creation of a project area consisting of multiple spacing units, but this project area does not create a single spacing unit. Also, Rule 111 does not determine how production may be shared among owners within the project area.

(c) The Division has the authority to create a non-standard spacing unit larger than the standard unit for a particular pool and pool all interests in that non-standard unit. *Rutter & Wilbanks Corp. v. OCC*, 87 NM 286, 532 P2d 582 (1975).

(d) The royalty owners should be notified of this proceeding and afforded an opportunity for hearing, since existing lease provisions may not authorize the lessee to pool royalty owners over acreage larger than one standard-sized spacing unit.

(e) The applicant should present evidence that creation of this non-standard spacing unit will prevent waste and protect correlative rights.

(6) At the hearing for this re-opened case on May 24, 2007 the applicant presented testimony and evidence that:

(a) The 80-acre area consists of portions of two separate fee tracts. The N/2 of Section 21 is considered one fee tract and the SW/4 of Section 21 is considered another.

(b) Cimarex owns 100 percent of the working interest in the proposed unit except for the unleased interests. Cimarex is the operator of all tracts offsetting this proposed spacing unit.

(c) Notice was provided to all interest owners within the proposed 80-acre oil spacing and proration unit, for purposes of creation of the non-standard unit.

(d) Notice was provided to owners of all uncommitted interests for purposes of compulsory pooling of the proposed unit.

(e) Cimarex attempted to obtain an oil and gas lease from all un-leased parties within the proposed unit. Parties not thereby leased were sent proposals to join in the horizontal well.

(f) Cimarex made a good faith effort to obtain the voluntary joinder of interest owners and to locate all un-leased mineral owners.

(g) The only nearby Wolfcamp well still active is the vertically drilled Caudill 21 Well No. 1 located in the SE/4 NW/4 (Unit F) of Section 21. This well produces at a low but steady rate and has production characteristics implying that horizontal wells may be appropriate for this area to recover additional oil in place and recover it at an accelerated pace.

(h) Using the horizontal drilling technique within an 80-acre unit is expected to yield higher economics than drilling vertical wells and will recover oil and gas that would not otherwise be recovered.

(i) Oil and gas is being produced in this horizontal wellbore from both of the 40-acre tracts within this 80-acre non-standard spacing unit.

(7) At the subsequent hearing on June 21, 2007, the applicant presented additional evidence of notice, an affidavit of notice, and evidence of newspaper notice to all un-locatable parties in this case.

(8) No other parties entered an appearance in this case or otherwise opposed it.

(9) In order to prevent waste and protect correlative rights, the applicant's proposal to form a non-standard oil spacing and proration unit for oil production from the Wolfcamp formation within the Caudill-Permo Upper Penn Pool (10830) consisting of both the SW/4 NW/4 and the NW/4 SW/4 of Section 21 should be approved.

(10) Applicant has the right to drill within this Unit and has drilled vertically and horizontally to the Wolfcamp formation and completed a horizontal well designed to produce from the Wolfcamp within this Unit.

(11) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(12) There are interest owners in this Unit that were not locatable or have not yet agreed to pool their interests.

(13) The applicant should be designated as the operator of the well and of this Unit.

(14) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6000 per month while drilling and \$600 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

(15) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in this Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, the applicant's proposal should be approved to pool all uncommitted interests, whatever they may be, within this Unit.

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Cimarex Energy Company, an 80-acre, more or less, non-standard oil spacing and proration unit (the "Unit"), for production from the Wolfcamp formation within the Caudill-Permo Upper Pennsylvanian Pool (10830), consisting of both the SW/4 NW/4 and the NW/4 SW/4 of Section 21, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico is hereby approved. All uncommitted interests are hereby pooled within this non-standard Unit for purposes of drilling horizontally and producing the Caudill South 21 Fee Well No. 2H, API No. 30-025-37925 (the "proposed well") from the Wolfcamp formation.

(2) Cimarex Energy Company (OGRD 215099) is hereby designated as the operator of the proposed well and of the pooled Unit.

(3) Upon final plugging and abandonment of the Caudill South 21 Fee Well No. 2H and any other well drilled on the Unit pursuant to Division Rule 36, the pooled

Unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(4) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.)

(5) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(6) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(7) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well or, if later, within 30 days after the issuance of this order. If no objection to the actual well costs is received by the Division, and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(8) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated well costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator its share of the amount that estimated well costs exceed reasonable well costs.

(9) The operator is hereby authorized to withhold the following costs and charges from production:

(a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and

(b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

(10) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(11) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6000 per month while drilling and \$600 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what is reasonable, attributable to pooled working interest owners.

(12) Except as provided above in ordering paragraphs (9) and (11), all proceeds from production from the proposed well that are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

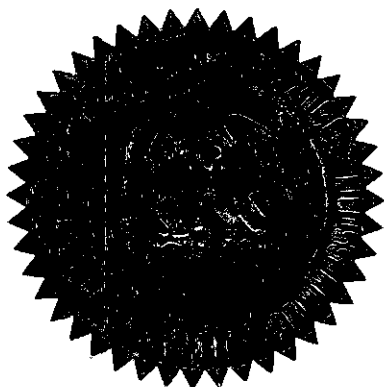
(13) Any unleased mineral interest shall be considered a seven-eighths ( $7/8$ ) working interest and a one-eighth ( $1/8$ ) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(14) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, the forced pooling provisions of this order shall thereafter be of no further effect.

(15) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(16) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in dark ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.  
Director