

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

**APPLICATION OF CIMAREX ENERGY
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case No. 14703
Case No. 14704
Case No. 14705
Case No. 14698

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REPLY IN SUPPORT OF MOTION TO CONTINUE

COG Operating, LLC ("Concho") has moved the Division to continue the above referenced pooling applications, currently scheduled for the August 4th Division hearing docket, to the September 1, 2011, hearing docket. These four pooling applications involved the Glorieta-Yeso formation in the SE/4 of Section 6, Township 19 South, Range 26 East. Concurrently with the filing of this reply brief, Concho has filed the attached applications with the Division for development of the Glorieta-Yeso formation underlying the entire E/2 of Section 6, with two horizontal wells, rather than the four vertical wells that Cimarex proposes to drill in just the SE/4 of Section 6.

Concho currently owns 40% of the working interest in the N/2 SE/4 and the SW/4 SE/4. Concho has reached a verbal commitment from an unleased mineral owner to acquire over 9 acres in the SE/4 SE/4 of Section 6. Other working interest owners in the SE/4 of Section 6, such as Yates Petroleum Corporation, Myco Industries, Inc., Abo Petroleum Corporation and David H. Arrington, have informed Concho that they favor development using horizontal wells rather than the vertical wells proposed by Cimarex. Granting this continuance will allow the Division to examine the competing development plans presented by the parties at a single hearing, with input from all of the

working interest owners in this acreage.¹

Cimarex has presented no evidence of prejudice if these matters are continued until the September 1st hearing date. Indeed since the filing of Cimarex's Response Brief, Concho has reviewed the SE/4 of Section 6 and found no evidenced of any well location "already built" as Cimarex represents to the Division. *See* Response at p. 2, ¶ 8. As important, Cimarex has presented no evidence that it actually met with and discussed its vertical development plans with any of the working interest owners in this acreage. Rather, it appears Cimarex merely proposed four vertical wells by letter to an undisclosed list of working interest owners (which did not include Concho) and made no further effort to consult or attempt to reach agreement with the affected working interest owners. While Cimarex apparently believes "vertical drilling results in the Yeso are superior to horizontal drilling" (Response at p. 2, fn. 1), Concho and other working interest owners clearly dispute that claim.

This development debate is precisely why a hearing on the competing well proposals is appropriate and necessary. Invoking the Division's pooling authority is not based on a "race" to hearing; rather it is based on evidence that bears on the prevention of waste and the protection of correlative rights. Given that the Division has competing development plans before it for the Glorieta-Yeso formation underlying the SE/4 of Section 6, a hearing is necessary and appropriate to determine which plan is in the best interests of ALL of the affected working interest owners. Cimarex's pooling applications should be continued until such time as these parties have conferred and sought to reach agreement on their conflicting development plans, and until such time as all necessary pooling applications can be heard at once.

¹ Yates Petroleum, Myco Industries, and Abo Petroleum have recently entered appearances in these cases.

WHEREFORE, Concho respectfully requests that the Division continue the hearing on these cases until the September 1, 2011, Examiner Docket.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

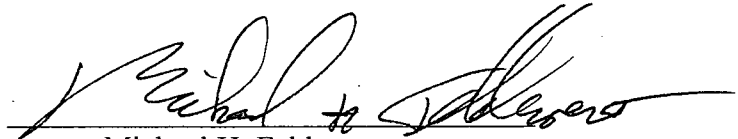
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CERTIFICATE OF SERVICE

The hereby certify that on August 1, 2011, I served a copy of the foregoing **Reply in Support of its Motion to Continue** to the following counsel of record via Facsimile, and U.S. Mail, postage prepaid to:

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