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September 30, 2011

Ms. Florene Davidson  
NM Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

**Hand Delivered**

**Re: ~~NMOCD Case No. 14741~~: Application of Cimarex Energy Co. of Colorado  
for a Non-Standard Spacing and Proration Unit and Compulsory Pooling,  
Eddy County, NM**

Dear Ms. Davidson:

On behalf of Nearburg Producing Company, enclosed for filing is an original and one copy of a Motion to Continue in the above-referenced case.

Thank you.

Very truly yours,

Karen Williams  
Assistant to J. Scott Hall

JSH:kw  
Enclosure

cc via e-mail:  
W. Thomas Kellahin  
David Brooks, Esq.  
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**STATE OF NEW MEXICO  
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES  
OIL CONSERVATION DIVISION**

**APPLICATION OF CIMAREX ENERGY CO. OF  
COLORADO FOR A NON-STANDARD SPACING  
AND PRORATION UNIT AND COMPULSORY  
POOLING, EDDY COUNTY, NM**

**CASE NO. 14741**

**MOTION TO CONTINUE**

Nearburg Producing Company, ("Nearburg"), through its undersigned attorneys, moves the Division enter its order continuing the hearing on the Application in this case from the October 13, 2011 examiner hearing docket to October 27, 2011. As grounds for its motion, Nearburg states:

The Applicant, Cimarex Energy Co. of Colorado, ("Cimarex"), seeks the designation of a non-standard unit and the compulsory pooling of unjoined interests in the Bone Spring formation underlying the E/2 W/2 of Section 32, T-18-S, R-31-E, NMPM in Eddy County for its West Shugart 32 State Com Well No. 2-H. Nearburg is the owner of significant working interests in Section 32 and has been unable to reach agreement with Cimarex on participation in the well.

In addition to opposing Cimarex's effort to force-pool its interests into the well, Nearburg also intends to challenge the Cimarex request for a 200% risk penalty pursuant to Division Rule 19.15.13.8. In order to do so, it will be necessary for Nearburg to present testimony and exhibits through land, geologic and engineering witnesses. Cimarex has been advised that Nearburg's landman, geologist and petroleum engineering witnesses have a scheduling conflict due to a previously scheduled meeting in Houston on October 13<sup>th</sup>.


To further support its technical case, Nearburg has obtained and recently served on Cimarex a subpoena duces tecum for well information from another Bone Spring formation well

in close proximity to the West Shugart 32 State Com No. 2-H. Cimarex has not yet complied with the subpoena and the production of documents and information sought remains outstanding. Instead, Cimarex has filed a Motion To Quash the subpoena. The Cimarex motion was filed late in the day on September 28<sup>th</sup> and Nearburg will now be obliged to prepare and file a proper response and the hearing examiner will be required to resolve the new disagreement over the conduct of discovery and to obtain Cimarex's compliance with the Division's subpoena. In addition to delaying the production of materials and information that Nearburg will need to prepare for in defense of its position, the motion practice precipitated by the Motion To Quash now gives rise to another reason for continuing the hearing.

The Division should further note that the hearing on the Cimarex Application in this matter has not been previously scheduled or continued from an earlier docket setting. Cimarex has not agreed to Nearburg's voluntary request for a continuance, so presumably this motion is opposed.

WHEREFORE, Nearburg Producing Company requests the Division enter its order continuing the October 13, 2011 hearing in this matter to the October 27, 2011 examiner hearing docket.

MONTGOMERY & ANDREWS, P.A.

By: 

J. Scott Hall, Esq.

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Attorneys for Nearburg Producing Company

**Certificate of Service**

I hereby certify that on September 30, 2011, a true and correct copy of the foregoing was delivered to the following parties by electronic mail:

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*J. Scott Hall*

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J. Scott Hall