

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

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APPLICATION OF CIMAREX ENERGY
COMPANY OF COLORADO FOR APPROVAL OF
A WATER DISPOSAL WELL, EDDY COUNTY,
NEW MEXICO

2012 MAR 26 P 3: 58

CASE NO. 14752

**MOTION FOR LEAVE TO FILE
APPLICATION FOR HEARING DE NOVO**

Nearburg Producing Company LLC, ("Nearburg"), by its undersigned attorneys, Montgomery & Andrews, P.A., moves the Division Director enter an order granting it leave to file an application for hearing de novo in this matter. As grounds for this motion, Nearburg states:

Cimarex Energy Company applied to the Division for approval to dispose of produced water into the Pennsylvanian Canyon formation near the Four Mile Draw-Morrow Pool at depth of 7780-8010 feet subsurface in the Dorchester Exploration, Inc., Secrest et al Well No. 1, located 660 feet from the North line and 1980 feet from the East line of Section 7, Township 19 South, Range 26 East, NMPM. Nearburg is the owner of leasehold working interests in the vicinity of the proposed injection well and has plans to drill in the area. By letter dated September 23, 2011, Nearburg opposed Cimarex's Application because of concerns that the proposed injection operations will interfere with its drilling and development operations and adversely affect its correlative rights and cause waste. A pre-hearing statement was filed on behalf of Nearburg and appears in the Division's file.

An examiner hearing was held in the matter on October 27, 2011 (although Nearburg did not present witnesses) and subsequently, the Division entered Order No. R-13494 granting

Cimarex's Application. *Order No. R-13494* (December 21, 2011), Exhibit A, attached. Nearburg and its undersigned counsel only became aware on March 20, 2011 that the order had had been entered.

Rule 19.15.4.24 of the Division's rules provide that copies of orders are to be mailed to each party or its attorney within ten days, (January 31, 2011 in this case). On inquiry however, the undersigned is unable to verify receipt by mail of the order and the Division is unable to verify that it was sent. Neither can it be ascertained whether issuance of the order was published on the Division's website "Hearing Orders" page, as only 2012 orders are presently listed. It is noted, however, that orders for cases of the same approximate vintage as Case 14752 do appear. See 2012 Hearing Orders page, www.emnrd.state.nm.us/ocd/2007Hearings.htm, Exhibit B, attached.

Inexplicably, the "Appearances" page of the transcript of hearing does not reflect that the undersigned appeared for Nearburg at the October 27, 2011 hearing, although the body of the transcript clearly does. See excerpt, Transcript of Hearing, Pg. 1 – Pg. 3, Exhibit C, attached. Further, it is our understanding that the Division's case docket for that day lists only counsel for Cimarex as having entered an appearance in Case No. 14752. Although it is not known whether the non-receipt of a mailed order may be attributable to these factors, the surrounding circumstances, together with the actual lack of notice, warrant allowing Nearburg leave to file an application for hearing de novo. Otherwise, a technicality will deprive Nearburg of an opportunity to present its case, and the Oil Conservation Commission will be prevented from determining the matter based on geologic and engineering evidence.

Respectfully submitted,

MONTGOMERY & ANDREWS, P. A.

By: 

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Attorneys for Nearburg Producing Company

Certificate of Service

I hereby certify that on March 26, 2012, a true and correct copy of the foregoing was sent via electronic mail to the following party:

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**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. 14752
ORDER NO. R-13494**

**APPLICATION OF CIMAREX ENERGY COMPANY OF COLORADO FOR
APPROVAL OF A WATER DISPOSAL WELL, EDDY COUNTY, NEW
MEXICO.**

ORDER OF THE DIVISION

This case came for hearing at 8:15 a. m. on October 27, 2011, at Santa Fe, New Mexico, before Examiner Richard Ezeanyim.

NOW, on this 21st day of December, 2011, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner.

FINDS THAT:

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

(2) The applicant, Cimarex Energy Company of Colorado ("Cimarex" or "Applicant"), seeks approval to re-enter and utilize its Secrest et al Well No. 1 API No. 30-015-22321 (the subject well), located 660 feet from the North line and 1980 feet from the East line of Section 7, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico for the purpose of disposing oil field produced water.

(3) Cimarex proposes to dispose of produced water from its nearby operated wells into the Pennsylvanian Canyon formation, at an interval between approximately 7780 feet and 8010 feet below the surface.

(4) Cimarex submitted this application administratively to the Division on August 31, 2011. The application was protested by both COG Operating LLC ("COG") and Nearburg Producing Company ("Nearburg"). Cimarex applied for an examiner hearing and COG withdrew its protest on October 25, 2011, just before the hearing.

(5) Nearburg appeared at the hearing through counsel and questioned the presentation of Cimarex but presented no evidence.

(6) No other party appeared at the hearing or otherwise opposed the application.

(7) At the hearing, Cimarex presented facts including the required Division form C-108. Division records and the Cimarex presentation indicate the following:

(a) This well is located approximately 3 miles northwest of Lake McMillan in Eddy County, just east of the North Dagger Draw-Upper Pennsylvanian Pool.

(b) Cimarex operates oil wells within the Yeso formation that produce large volumes of water along with the oil. This disposal well is needed in order to economically produce those oil wells.

(c) The subject well was drilled in 1977 as a Pennsylvanian Morrow test to a depth of 9415 feet. Intermediate casing was set at 1315 feet but no production pipe was installed. The well was deemed a dry hole and immediately plugged and abandoned.

(d) As preparation for disposal, Cimarex plans to re-enter the subject well to the existing cement plug located at 8470 feet, run 5-1/2 inch casing to that depth and cement to surface. The well will be perforated from 7780 to 8010 feet, acidized, and 2-7/8 inch plastic coated tubing run to 7740 feet and set with an injection packer.

(e) The Pennsylvanian aged Canyon formation is not prospective for hydrocarbon production within 1/2 mile of this well and disposal into this formation within the proposed vertical interval will not adversely affect the recovery of oil or gas.

(f) The Pennsylvanian Canyon formation at this location consists of interbedded limestone and dolomite. A drill stem test over the proposed disposal interval yielded high volumes of sulfur water with a trace of oil and gas.

(g) According to the geologist testifying at the hearing, the Pennsylvanian Canyon near the subject well is structurally and stratigraphically distinct from the North Dagger Draw-Upper Pennsylvanian Pool.

(h) The Pennsylvanian Canyon formation will contain the disposed waters and waters will not escape to other formations or into fresh water sands or onto the surface.

(i) Other than the subject well, there are two plugged wells located within the 1/2 mile Area of Review, and these wells were cased, cemented,

and then plugged in a manner sufficient to ensure zonal isolation of the offsetting disposed waters.

(j) There is one non-plugged well within ½ mile of the subject well that was drilled to depths of the Pennsylvanian Canyon formation. This well is considered as "temporarily abandoned" and has an adequate cement top.

(k) Fresh water exists from 69 to 371 feet and is protected by multiple steel casing and cement. Cimarex will maintain and monitor a tubing-casing annulus down to the 7740 feet packer setting depth to ensure fresh waters are protected and disposed waters enter only the intended disposal interval.

(l) Cimarex located only one fresh-water well within 1 mile of the subject well, but it was inactive.

(m) Cimarex Energy Company of Colorado (OGRID 162683) operates approximately 1216 oil and gas wells in New Mexico and currently has no wells considered "inactive" and no additional required bonds and is in compliance with Division Rule 19.15.5.9 NMAC.

(n) According to Cimarex, the surface owner of this well-site is Virginia Weinmann Trust et al c/o Harding & Carbone Inc. of Houston Texas. Mailed certified notice to this affected person was stamped on August 24, 2011.

(o) Operators, lessees, and un-leased mineral owners of tracts located within ½ mile of this well were provided notice of this application to use this well for disposal.

(8) The applicant has presented satisfactory evidence that all requirements prescribed in 19.15.26.8 NMAC have been met and the operator is in compliance with 19.15.5.9 NMAC.

(9) Cimarex's proposal to use the subject well for disposal of oil field produced waters (UIC Class II only) into the Pennsylvanian Canyon formation from depths of 7780 feet and 8010 feet will protect correlative rights, prevent waste and protect the environment.

(10) The Cimarex application as proposed should be approved.

IT IS THEREFORE ORDERED THAT:

(1) Cimarex Energy Company of Colorado [OGRID 162683] ("Cimarex" or "operator") is hereby authorized to re-enter and utilize its Secrest et al Well No. 1 (API

No. 30-015-22321), located 660 feet from the North line and 1980 feet from the East line, Unit letter B of Section 7, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico for disposing oil field produced water (UIC Class II only) into the Pennsylvanian aged Canyon formation through perforations from approximately 7780 to 8010 feet through lined tubing with a packer set less than 100 feet above the permitted disposal interval.

(2) Operator shall take all steps necessary to ensure that the injected fluid enters only the disposal interval and is not permitted to escape to other formations or onto the surface from injection, production, or plugged and abandoned wells.

(3) After installing tubing, the casing-tubing annulus shall be loaded with an inert fluid and equipped with a pressure gauge or an approved leak detection device in order to determine leakage in the casing, tubing, or packer. The casing shall be pressure tested from the surface to the packer setting depth to assure casing integrity.

(4) The well shall pass an initial mechanical integrity test ("MIT") prior to initially commencing disposal and prior to resuming disposal each time the disposal packer is unseated. All MIT testing procedures and schedules shall follow the requirements in Division Rule 19.15.26.11A. NMAC.

(5) The wellhead injection pressure on the well shall be limited to no more than 1556 psi. In addition, the disposal well or system shall be equipped with a pressure limiting device in workable condition which shall, at all times, limit surface tubing pressure to the maximum allowable pressure for this well.

(6) The Director of the Division may authorize an increase in tubing pressure upon a proper showing by the operator of said well that such higher pressure will not result in migration of the disposed fluid from the target formation. Such proper showing shall be demonstrated by sufficient evidence including but not limited to an acceptable Step-Rate-Test.

(7) The operator shall notify the supervisor of the Division's district office of the date and time of the installation of disposal equipment and of any MIT test so that the same may be inspected and witnessed. The operator shall provide written notice of the date of commencement of disposal to the Division's district office. The operator shall submit monthly reports of the disposal operations on Division Form C-115, in accordance with Division Rules 19.15.26.13 and 19.15.7.24 NMAC.

(8) Without limitation on the duties of the operator as provided in Division Rules 19.15.29 and 19.15.30 NMAC, or otherwise, the operator shall immediately notify the Division's district office of any failure of the tubing, casing or packer in the well, or of any leakage or release of water, oil or gas from around any produced or plugged and abandoned well in the area, and shall take such measures as may be timely and necessary to correct such failure or leakage.

(9) The injection authority granted under this order is not transferable except upon Division approval. The Division may require the operator to demonstrate mechanical integrity of any injection well that will be transferred prior to approving transfer of authority to inject.

(10) The Division may revoke this injection permit after notice and hearing if the operator is in violation of 19.15.5.9 NMAC.

(11) The disposal authority granted herein shall terminate:

- a. Two years after the effective date of this order if the operator has not commenced injection operations into the subject well; or
- b. One year after the last date of reported disposal into this well.

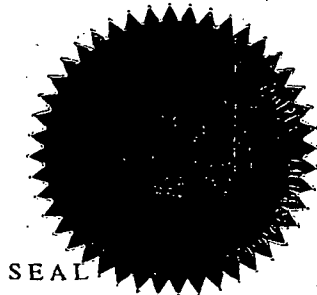
(12) In either such event, the Division shall consider the well abandoned, and the authority to dispose will terminate *ipso facto*. The Division, upon written request mailed by the operator prior to the termination date, may grant an extension thereof for good cause.

(13) This order does not relieve the operator of responsibility should its operations cause any actual damage or threat of damage to protectable fresh water, human health or the environment, nor does it relieve the operator of responsibility for complying with applicable Division rules or other state, federal or local laws or regulations.

(14) Upon failure of the operator to conduct operations (1) in such manner as will protect fresh water, or (2) in a manner consistent with the requirements in this order, the Division may, after notice and hearing, (or without notice and hearing in event of an emergency, subject to the provisions of NMSA 1978 Section 70-2-23), terminate the disposal authority granted herein.

(15) 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.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Gabrielle A. Bailey

for JAMI BAILEY
Director



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

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Santa Fe, NM 87505
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2012 HEARING ORDERS

Please Note: Images of Hearing Orders are not linked here. See Below.

ORDER NO.	CASE NO.	DATE SIGNED	NAME OF COMPANY	SUBJECT
R-13303-B	14762	Mar 12	Chesapeake Exploration, LLC	Reinstate R-13303 & 13303-A approving statutory unitization of the Chambers Straw Unit Area, the Corresponding Chambers Straw Unit Waterflood Project & Certification of the Waterflood Project as to the Enhanced Oil Recovery Act
R-13522	14686	Mar 2	Cimarex Energy Co.	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13521	14659	Mar 2	Cimarex Energy Co.	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13520	14796	Mar 2	Cimarex Energy Co.	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13499-B	14744	Feb 27	Oil Conservation Division	Rehearing of Rule Amendment 19.15.14.8
R-13519	14763	Feb 21	Mack Energy Corporation	Compulsory Pooling
R-13518	14783	Feb 20	Endurance Resources, LLC	Salt Water Disposal
R-13517	14789	Feb 20	Caza Petroleum, Inc.	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13516	14782	Feb 20	Endurance Resources, LLC	Salt Water Disposal
R-11328-B	14790	Feb 16	OXY USA, Inc.	Pressure Maintenance Project in the Old Millman Ranch-Bone Spring Pool through its Government AB Well No. 9
R-13481-B	14673 14674 14706 14718	Feb 13	Burnett Oil Company COG Operating LLC	Compulsory Pooling and an Unorthodox Oil Well Location Non-standard Oil Spacing and Proration Units and Compulsory Pooling
R-13450-D	14640 14641	Feb 13	Burnett Oil Company, Inc.	Compulsory Pooling
R-13382-G	14613 14647	Feb 10	COG Operating, LLC Burnett Oil Co. Inc. & Hudson Oil Company of Texas	Special Pool Rules and Regulations Consolidation and Expansion of the Adoption of Special Pool Rules
R-12256-B	14669	Feb 10	COG Operating, LLC	Creation of a New Pool, Special Pool Rules and Contraction of the Grayburg Jackson-Yeso Pool within the Dodd Federal Unit
R-13515	14780	Feb 3	Cimarex Energy Company	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13514	14779	Feb 3	Cimarex Energy Company	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13513	14754	Feb 3	Celero Energy II, LP	Expansion of the Drickey Queen Sand Unit
R-13512	14671	Feb 3	Apache Corporation	Unit Agreement
R-13511	14629	Feb 3	Blue Dolphin Production, LLC	Compulsory Pooling
R-13381-F	14613 14647	Feb 1	COG Operating LLC Burnett Oil Co. Inc.	Special Pool Rules and Regulations
R-13450-C	14540 14641		Burnett Oil Co. Inc.	Consolidation & Expansion of & Adoption of Special Pool Rules
R-	14673		Burnett Oil Co. Inc.	Compulsory Pooling and Unorthodox Oil Well

EXHIBIT B

13481-A	14674 14706- 14718		COG Operating LLC	Non-standard Oil Spacing and Proration Units & Compulsory Pooling
R-13510	14773	Jan 31	ConocoPhillips Company	Terminate the La Jara Canyon-Gallup Pool and to Expand the Basin-Mancos Gas Pool and for Exceptions to Rule 19.15.12.9 NMAC Rule 19.15.12.12 NMAC and Rule 19.15.12.11 NMAC
R-13509	14624	Jan 30	Nadel and Gussman Permian, LLC	Approval of a Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13508	14788	Jan 25	Caza Petroleum, Inc.	Approval of a Unit Agreement
R-12256-A	14669	Jan 25	COG Operating, LLC	Creation of a New Pool, Special Pool Rules and Contraction of the Grayburg Jackson Yeso Pool Within the Dodd Federal Unit
R-10067-E	14670	Jan 25	COG Operating, LLC	Creation of a New Pool, Special Pool Rules and Contraction of the Grayburg Jackson Pool Within the Burch-Keely Unit
R-13507	14720	Jan 23	Agave Energy Company	Authority to Inject
R-13499-A	14744	Jan 23	Oil Conservation Division	Amendments of 19.5.14.8 and 19.15.16
R-13499	14744	Jan 23	Oil Conservation Division	Amendments of 19.5.14.8 and 19.15.16
R-13470-A	14753	Jan 23	New Mexico Oil & Gas Association	Amendment of Certain provision of Title 19, Chapter 15, Part 16 of the New Mexico Administrative Code Concerning Log, Completion, Hydraulic Fracturing and Workover Reports
R-13372-D	14538 14497	Jan 23	Marshall & Winston, Inc. David H. Arrington Oil & Gas Inc.	Cancel an Operator's Authority and Terminate a Spacing Unit, and Approve a Change of Operator Compulsory Pooling
R-13506	14784 14785	Jan 19	New Mexico Oil & Gas Association The Independent Petroleum Association of NM	Amendment of Certain Provisions of Title 19, Chapter 15 of the New Mexico Administrative Code Concerning Pits, Closed-Loop Systems, Below Grade Tanks and Sumps, and Other Alternative Methods
R-13505	14786	Jan 19	Mewbourne Oil Company	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13504	14751	Jan 19	Mewbourne Oil Company	Non-standard Spacing and Proration Unit and Compulsory Pooling
R-13503	14743	Jan 19	Endeavor Energy Resources, LP	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13502	14729	Jan 19	Nadel and Gussman Heyco, LLC	Non-standard Spacing and Proration Unit and Compulsory Pooling
R-13501	14627	Jan 19	Nadel and Gussman Permian, LLC	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13500	14628	Jan 19	Nadel and Gussman Permian, LLC COG Operating LLC	Non-standard oil Spacing and Proration Unit and Compulsory Pooling
R-13490-A	14698 14703 14704 14705 14725 14726	Jan 12	Cimarex Energy Company COG Operating, LLC	Compulsory Pooling Non-standard Spacing and Proration Units and Compulsory Pooling
R-13498	14778	Jan 10	Mewbourne Oil Company	Non-standard Oil Spacing and Proration Unit, an Unorthodox Well Location and Compulsory Pooling
R-13497	14736	Jan 10	Mewbourne Oil Company	Non-standard Oil Spacing and Proration Unit and Compulsory Pooling
R-13496	8352 ReOpened	Jan 10	OXY USA, Inc.	Contract the West Bravo Dome Carbon Dioxide Gas Area and for the Adoption of Permanent Special Pool Rules and

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

ORIGINAL

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

CASE: 14752

APPLICATION OF CIMAREX ENERGY COMPANY OF COLORADO FOR
APPROVAL OF A WATER DISPOSAL WELL, EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING
October 27, 2011
Santa Fe, New Mexico

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2011 NOV 14 P 2:19

BEFORE: RICHARD EZEANYIM, Technical Examiner

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Technical Examiner, on October 27, 2011, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis, Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Irene Delgado, NM CCR 253
Paul Baca Professional Court Reporters
500 Fourth Street, NW, Suite 105
Albuquerque, New Mexico 87102

A P P E A R A N C E S

FOR THE APPLICANT:

KELLAHIN AND KELLAHIN
W. THOMAS KELLAHIN
704 Gonzales Road
Santa Fe, NM 87501

I N D E X

EXHIBITS

EXHIBITS 1 THROUGH 4 ADMITTED

25

KAY HAVENOR

Direct Exam by Mr. Kellahin

05

1 EXAMINER EZEANYIM: Now, I would like to take a
2 about ten-minute break, but before I do, I want to make a
3 statement here. The next case we are going to have is --
4 let's see if I have it here -- we are going to have the next
5 case, 14752. My question is, are there any opposition to
6 that case? This case -- this case I can rule because we
7 approve them administratively if there are no objections.
8 Are there any objections, because, if there are, we hear them
9 today. So if there are no objections, the case may be
10 dismissed and I will remand this to the administrative
11 process.

12 So, however, if there are objections, then we can
13 take a break and come back and deal with them. Are there
14 still any objections?

15 MR. HALL: Mr. Examiner, Scott Hall from the
16 Montgomery and Andrews Law Firm, Santa Fe. I have entered an
17 appearance and filed pre-hearing statements in this case for
18 COG Operating and for Nearburg Producing Company. COG has
19 asked me to inform you that it is withdrawing its objection
20 to the proposed disposal well. Nearburg is not withdrawing
21 its opposition.

22 EXAMINER EZEANYIM: Very good. So we go ahead.
23 Let's take 10, 15-minute break and then come back and deal
24 with it.

25 (Recess taken.)