

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

CASE NO:
14703, 14704, 14705, 14698

EXHIBIT
X

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

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

Case No. 14,703

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

Case No. 14,704

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


Case No. 14,705

AFFIDAVIT OF NOTICE


COUNTY OF SANTA FE)
) ss.
STATE OF NEW MEXICO)

James Bruce, being duly sworn upon his oath, deposes and states:

1. I am over the age of 18, and have personal knowledge of the matters stated herein.
2. I am an attorney for Cimarex Energy Co. of Colorado.
3. Applicant has conducted a good faith, diligent effort to find the names and correct addresses of the interest owners entitled to receive notice of the application filed herein.
4. Notice of the application was provided to the interest owners, at their correct addresses, by certified mail. Copies of the notice letter and certified return receipts are attached hereto as Exhibit A.
5. Applicant has complied with the notice provisions of Division Rules NMAC 19.15.4.9 and 19.15.4.12.C.



James Bruce

Oil Conservation Division
Case No. _____
Exhibit No. 

SUBSCRIBED AND SWORN TO before me this 23rd day of May , 2012 by James
Bruce.

My Commission Expires: 3/14/13

Sharon R. Bruce
Notary Public



JAMES BRUCE
ATTORNEY AT LAW

POST OFFICE BOX 1056
SANTA FE, NEW MEXICO 87504

369 MONTEZUMA, NO. 213
SANTA FE, NEW MEXICO 87501

(505) 982-2043 (Phone)
(505) 660-6612 (Cell)
(505) 982-2151 (Fax)

jamesbruce@aol.com

February 8, 2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

OXY Y-1 Company
Suite 110
5 Greenway Plaza
Houston, Texas 77046

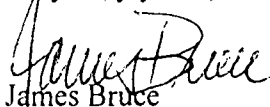
Ladies and gentlemen:

Enclosed are copies of three applications for compulsory pooling, filed with the New Mexico Oil Conservation Division by Cimarex Energy Co., regarding the NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, Township 19 South, Range 26 East, N.M.P.M., Eddy County, New Mexico.

These matters are scheduled for hearing at 8:15 a.m. on Thursday, March 15, 2012, in Porter Hall at the Division's offices at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505. You are not required to attend these hearings, but as a possible owner of an interest which may be affected by the applications, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from contesting these matters at a later date.

A party appearing in a Division case is required by Division Rules to file a Pre-Hearing Statement no later than Thursday, March 8, 2012. This statement must be filed with the Division's Santa Fe office at the above address, and should include: The names of the party and its attorney; a concise statement of the case; the names of the witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that need to be resolved prior to the hearing. The Pre-Hearing Statement must also be provided to the undersigned.

Very truly yours,


James Bruce

Attorney for Cimarex Energy Co.

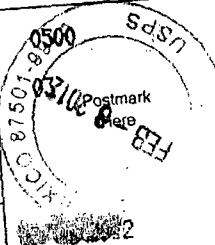
EXHIBIT A

**U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT**
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

HOUSTON TX 77046

Postage	\$ 0.65
Certified Fee	\$2.95
Return Receipt Fee (Endorsement Required)	\$2.35
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 5.95



Sent To OXY Y-I Company
Suite 110
5 Greenway Plaza
Houston, Texas 77046

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

OXY Y-I Company
 Suite 110
 5 Greenway Plaza
 Houston, Texas 77046

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

James B. [Signature]

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7008 1140 0003 5864 4289

Oil Conservation Division
Case No.
Exhibit No.

JAMES BRUCE
ATTORNEY AT LAW

POST OFFICE BOX 1056
SANTA FE, NEW MEXICO 87504

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SANTA FE, NEW MEXICO 87501

(505) 982-2043 (Phone)
(505) 660-6612 (Cell)
(505) 982-2151 (Fax)

jamesbruce@aol.com

January 25, 2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Concho Resources Inc.
Concho Oil & Gas LLC
COG Operating LLC
Suite 100
550 West Texas
Midland, Texas 79701

Ladies and gentlemen:

Enclosed is a copy of an application for compulsory pooling, filed with the New Mexico Oil Conservation Division by Cimarex Energy Co. of Colorado, regarding the SE¼SE¼ of Section 6, Township 19 South, Range 26 East, N.M.P.M., Eddy County, New Mexico.

This matter is scheduled for hearing at 8:15 a.m. on Thursday, February 16, 2012, in Porter Hall at the Division's offices at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505. You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from contesting the matter at a later date.

A party appearing in a Division case is required by Division Rules to file a Pre-Hearing Statement no later than Thursday, February 9, 2012. This statement must be filed with the Division's Santa Fe office at the above address, and should include: The names of the party and its attorney; a concise statement of the case; the names of the witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that need to be resolved prior to the hearing. The Pre-Hearing Statement must also be provided to the undersigned.

Very truly yours,


James Bruce


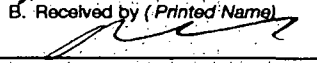
Attorney for Cimarex Energy Co. of Colorado

EXHIBIT

A

7010 0780 0002 3936 9713

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>		
For delivery information visit our website at www.usps.com		
MIDLAND TX 79701		
Postage	\$ 0.45	0500
Certified Fee	\$2.95	16
Return Receipt Fee (Endorsement Required)	\$2.35	16
Restricted Delivery Fee (Endorsement Required)	\$0.00	16
Total Postage &	\$5.75	01/27/2012
Sent To: Concho Resources Inc. Concho Oil & Gas LLC COG Operating LLC Suite 100 Street, Apt. No., or PO Box No. 550 West Texas City, State, ZIP+4 Midland, Texas 79701		
PS Form 3800, August 2006		See Reverse for Instructions

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Concho Resources Inc. Concho Oil & Gas LLC COG Operating LLC Suite 100 550 West Texas Midland, Texas 79701		B. Received by (Printed Name)  C. Date of Delivery 1-30	
2. Article Number (Transfer from service label)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

**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:**

**APPLICATIONS OF CIMAREX ENERGY CO.
FOR COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO.**

**Case No. 14698 (Re-opened)
Case No. 14703 (Re-opened)
Case No. 14704 (Re-opened)
Case No. 14705 (Re-opened)**

Order No. R-13940-C


ORDER OF THE DIVISION

BY THE DIVISION:

These cases came on for hearing on May 24, 2012 at 8:15 a.m. at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this _____ day of June, 2012, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner,

FINDS THAT:

(1) Due notice has been given, and the Division has jurisdiction of the subject matter of these cases.

(2) Case Nos. 14698, 14703, 14704, and 14705 were consolidated at the time of hearing for the purposes of testimony, and a single order should be entered for all of them.

(3) Cimarex Energy Co. ("Cimarex") seeks to pool all uncommitted interests from the surface to the base of the Glorieta-Yeso formation underlying the SE/4 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico to form the following 40-acre oil spacing and proration units for four vertical wells:

(a) The SE/4SE/4 of Section 6 to be dedicated to its proposed Kansas 6 Fee Well No. 1 (API No. 30-015-39642), to be located 990 feet from the south line and 990 feet from the east line of Section 6;

(b) The NW/4SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 1 (API No. 30-015-39346), to be located 2310 feet from the south line and 2120 feet from the east line of Section 6;

(c) The NE/4SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 2 (API No. 30-015-39256), to be located 2310 feet from the south line and 990 feet from the east line of Section 6;

(d) The SW/4SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 5 (API No. 30-015-39257), to be located 990 feet from the south line and 2310 feet from the east line of Section 6.

(4) These cases were originally heard on September 1, 2011, and were consolidated for hearing with Case Nos. 14725 and 14726 filed by COG Operating LLC ("COG"), who sought orders pooling all uncommitted interests in the Glorieta-Yeso formation for two non-standard 160-acre spacing and proration units or project areas for two horizontal wells located in the E/2 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico.

(5) In addition to COG, Yates Petroleum Corporation, Abo Petroleum Corporation, Myco Industries, Inc., and OXY Y-1 Company entered appearances in one or more of these cases.

(6) The Division entered Order No. R-13490 in the consolidated cases. Rather than following its traditional practice of approving one competing pooling application over another, the Division concluded, following hearing, that the "advent of horizontal wells" supports a departure from this traditional practice. **Order No. R-13490, Finding Paragraph 14.** The Division approved all competing pooling applications, thereby (a) creating overlapping spacing and proration units in the SE/4 of Section 6 for the purpose of drilling both vertical and horizontal wells by Cimarex and COG which target the same formation, and (b) naming both Cimarex and COG operators of the subject wells in the overlapping spacing units. **Order No. R-13490, Ordering Paragraphs (1) – (4).**

(7) As recognized in Finding Paragraph 14 of Order No. R-13490, the relief afforded by the Division in these competing pooling cases was unprecedented, and could not have been predicted or anticipated by any of the parties who appeared at the hearing or the affected mineral owners in the E/2 of Section 6.

(8) The Division's pooling of overlapping spacing and proration units for the purpose of drilling and operating vertical and horizontal wells by competing operators in the same formation creates a number of legal and practical problems, including but not limited to the following:

(a) Neither the Order nor the Division's regulations indicate how the allowables for the overlapping spacing and proration units will be allocated between the vertical and horizontal wells.

/

(b) The Order does not address the number of wells each competing operator will be allowed to drill within the overlapping spacing and proration units, nor their locations and set-back requirements.

(c) Multiple vertical or horizontal wells within the overlapping spacing and proration units could lead to interference by the parties' proposed drilling and fracture stimulation operations

(9) As a result of these issues, Cimarex and COG jointly requested the Division to stay Order R-13490, and reopen the consolidated cases for an additional hearing to address the effect of the Division's order. That request was granted by Division Order No. R-13490-A.

(10) After the cases were re-opened, Cimarex, COG, and the other parties to these cases resolved their differences by means of (i) agreeing which company will operate specific acreage, (ii) agreed that the operator could drill vertical or horizontal wells on their assigned acreage, and (iii) cross-assigning working interests so that each operator would have a majority working interest in its respective well units.

(11) The settlement provided that Cimarex would operate the E/2 of Section 6, which is part of the acreage covered by these competing cases. As a result, Concho wrote to the Division withdrawing its applications in Case Nos. 14725 and 14726. By the same token, Cimarex has withdrawn pooling applications covering other lands to be operated by COG.

(12) It is possible, or even probable, that a similar situation -- overlapping vertical and horizontal well units with different proposed operators -- will be presented to the Division again. If so, the parties will be able to consider the implications of Order No. R-13490 and coherently address the above issues in front of a hearing examiner. However, that is not necessary at this time.

(13) Because of the unprecedented nature of Order No. R-13490, and the issues discussed above, Cimarex and COG filed a joint motion requesting that the order be rescinded and that a new order be issued by the Division which simply addresses Cimarex's vertical pooling applications in the SE/4 of Section 6. Cimarex has also filed pooling applications for vertical wells in the NE/4 of Section 6 (*See* Case Nos. 14842-14845), and does not want a prior order (No. R-13490) which also purports to covers that same acreage. The parties also request that the Division lift the stay currently in place.

(14) The Division concludes that the motion filed by Cimarex and COG should be granted.

(15) Two or more separately owned tracts are embraces within the Units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the units that are separately owned.

(16) There are interest owners in the proposed units who have not agreed to pool their interests. There are no unlocatable parties; therefore, escrow deposits will not be required.

(17) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste, and afford to the owner of each interest in the units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, Cimarex's applications should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the well units.

(18) Cimarex should be designated the operator of the subject wells and of the units for its proposed wells.

(19) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the wells.

(20) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4500.00 per month while drilling and \$450.00 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*."

IT IS THEREFORE ORDERED THAT:

(1) Division Order No. R-13490 is rescinded and is completely replaced by this order.

(2) The stay instituted by Division Order No. R-13490 is lifted.

(3) Pursuant to the applications of Cimarex Energy Co., all uncommitted mineral interests in all formations from the surface to the base of the Glorieta-Yeso formation are hereby pooled and in the following manner:

Case No. 14698: The SE/4SE/4 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit is to be dedicated to the proposed Kansas 6 Fee Well No. 1 (API No. 30-015-39642).

Case No. 14703: The NW/4SE/4 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit is to be dedicated to the proposed Colorado 6 Fee Well No. 1 (API No. 30-015-39346).

Case No. 14704: The NE/4SE/4 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit is to be dedicated to the proposed Colorado 6 Fee Well No. 2 (API No. 30-015-39256).

Case No. 14705: The SW/4SE/4 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit is to be dedicated to the proposed Colorado 6 Fee Well No. 5 (API No. 30-015-39257).

(4) Cimarex Energy Co. (OGRID No. 215099) is hereby designated the operator of the subject wells and of the well units (the "Units").

(5) The operator of the Units shall commence drilling the proposed wells on or before July 1, 2013 and shall thereafter continue drilling the wells with due diligence to test the Glorieta-Yeso formation.

(6) In the event the operator does not commence drilling the proposed wells on or before July 1, 2013, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(7) Should a proposed well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect as to that well, and the Unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(8) Upon final plugging and abandonment of the proposed wells and any other well drilled on the Units pursuant to NMAC 15.19.13 Sections 9-11, the pooled Units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(9) 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 Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units established by this Order.)

(10) After the effective date of this Order, the operator shall furnish the Division and each known pooled working interest owner in the first Unit to be drilled an itemized schedule of estimated costs of drilling, completing and equipping the subject well ("well costs") no sooner than 45 days from the time that the operator plans to spud the well.

(11) 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."

(12) After the well on the first Unit to be drilled is drilled and completed, applicant may follow the procedure set forth in Ordering Paragraphs (10) and (11) for the remaining wells and Units, provided that only one well may be drilled at a time, and a pooled working interest owner must only make one election at a time.

(13) 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. 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.

(14) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated 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 the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(15) 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 wells 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% of the above costs.

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

(17) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4500.00 per month while drilling and \$450.00 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 are reasonable, attributable to pooled working interest owners.

(18) 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.

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

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

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

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

JAMI BAILEY
Director

S E A L

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

**APPLICATIONS OF CIMAREX ENERGY
CO. FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

**Case No. 14698 (Re-opened)
Case No. 14703 (Re-opened)
Case No. 14704 (Re-opened)
Case No. 14705 (Re-opened)**

**APPLICATIONS OF COG OPERATING LLC
FOR A NON-STANDARD SPACING AND
PRORATION UNIT, NON-STANDARD
LOCATION AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

**Case No. 14725 (Re-opened)
Case No. 14726 (Re-opened)**

**JOINT MOTION TO RESCIND ORDER NO. R-13490,
REPLACE IT WITH A NEW ORDER, AND LIFT STAY**

Cimarex Energy Co. ("Cimarex") and COG Operating LLC ("COG") jointly move the Division to rescind Order No. R-13490 issued in these consolidated cases, replace it with a new order, and lift the stay currently in place. In support of this motion, Cimarex and Concho state:

1. In these consolidated cases, Cimarex and COG sought orders pooling all uncommitted interests in the Glorieta-Yeso formation in their competing spacing and proration units in the E/2 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico.

2. Cimarex sought to pool all uncommitted interests from the surface to the base of the Glorieta-Yeso formation underlying the SE/4 of said Section 6 to form the following 40-acre oil spacing and proration units for four *vertical* wells:

- (a) The SE/4SE/4 of Section 6 to be dedicated to its proposed Kansas 6 Fee Well No. 1;

(b) The NW/4SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 1;

(c) The NE/4SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 2; and

(c) The SW/4SE/4 of Section 6 to be dedicated to its proposed Colorado 6 Fee Well No. 5.

3. COG sought to pool all uncommitted interests in the Glorieta-Yeso formation underlying the E/2 of said Section 6 to form the following non-standard 160-acre spacing and proration units or project areas for two *horizontal* wells:

(a) The W/2E/2 of Section 6 to be dedicated to its proposed Arabian 6 Fee Well No. 7H; and

(b) The E/2E/2 of said Section 6 to be dedicated to its proposed Arabian 6 Fee Well No. 8H.

4. The cases were consolidated for hearing, and were heard on September 1, 2011.

5. Rather than following its traditional practice of approving one competing pooling application over another, the Division concluded, following hearing, that the “advent of horizontal wells” supports a departure from this traditional practice. **Order No. R-13490, Finding Paragraph 14.** The Division approved all competing pooling applications, thereby (a) creating overlapping spacing and proration units in the SE/4 of Section 6 for the purpose of drilling both vertical and horizontal wells by Cimarex and COG which target the same formation, (b) naming both Cimarex and COG operators of the subject wells in the overlapping spacing units, and (c) providing each competing operator until December 15, 2012, to drill their

respective vertical and horizontal wells in the overlapping spacing units. **Order No. R-13490, Ordering Paragraphs (1)-(4).**

6. As recognized in Finding Paragraph 14 of Order No. R-13490, the relief afforded by the Division in these competing pooling cases is unprecedented, and could not have been predicted or anticipated by any of the parties who appeared at the hearing¹ or the affected mineral owners in the E/2 of Section 6.

7. Moreover, the Division's pooling of overlapping spacing and proration units for the purpose of drilling and operating vertical and horizontal wells by competing operators in the same formation creates a number of legal and practical problems, including the following:

- (a) Neither the Order nor the Division's regulations indicate how the allowables for the overlapping spacing and proration units will be allocated between the vertical and horizontal wells.
- (b) The Order does not address the number of wells each competing operator will be allowed to drill within the overlapping spacing and proration units, nor their locations and set-back requirements.
- (c) Multiple vertical or horizontal wells within the overlapping spacing and proration units could lead to interference by the parties' proposed drilling and fracture stimulation operations
- (d) The Order could create a "race to drill" so that the first drilling operator has access to its preferred locations. A race to drill is detrimental to the orderly and efficient development of the reservoir.

¹ Several other working interest owners entered appearances in the various cases and participated in the hearing.

(e) At least some of the mineral interest owners in the E/2 of Section 6 agreed to participate in the proposed wells under the premise that the proposed spacing and proration units would be developed by a single operator. The unexpected creation of overlapping spacing units and multiple operators in the same formation could affect the economics under which these interest owners agreed to participate in a well.

8. As a result of these issues, Cimarex and COG jointly requested the Division to stay Order R-13490, and reopen these consolidated cases for an additional hearing to address the effect of the Division's order.² That request was granted by Order No. R-13490-A.

9. After the cases were re-opened, Cimarex, COG, and other parties to these cases resolved their differences by means of (i) agreeing which company will operate specific acreage, (ii) agreed that the operator could drill vertical or horizontal wells on their assigned acreage, and (iii) cross-assigning working interests so that each operator would have a majority working interest in its respective well units.

10. The settlement provided that COG would operate the E/2 of Section 6, which is the acreage covered by these competing cases. As a result, COG wrote to the Division withdrawing its applications in Case Nos. 14725 and 14726, and on March 16, 2012 the Division entered Order No. R-13490-B withdrawing Order R-13490, but only in so far as it related to COG's applications. The Division retained jurisdiction to address the remaining aspects of the order.

11. It is possible, maybe even probable, that a similar situation -- overlapping vertical and horizontal well units with different proposed operators -- will be presented to the Division again. If so, the parties will be able to consider the implications of Order No. R-13490 and

² Cimarex and Concho also had additional competing pooling applications in this same general. See Case Nos. 14791-14795 (Concho), and 14767-14772, 14781 (Cimarex).

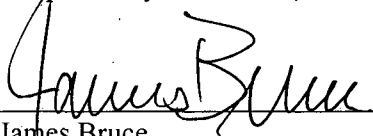
coherently address the above issues in front of a hearing examiner. However, that is not necessary at this time.

12. However, because of the unprecedented nature of Order No. R-13490, Cimarex and COG jointly request that the order be rescinded and that a new order be issued by the Division which simply addresses Cimarex's vertical pooling applications in the SE/4 of Section 6.³ Cimarex and COG will provide an agreed order to the Division replacing Order No. R-13490. The new order will also lift the stay currently in place.

13. In order to prevent waste and protect correlative rights, Cimarex and COG jointly request that the Division grant this motion.

WHEREFORE, Cimarex and COG jointly request that the Division issue an order rescinding Order No. R-13490, entering a new order covering only the SE/4 of Section 6, and lifting the stay imposed by Order No. R-13490-A.

Respectfully submitted,



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³ Cimarex has filed pooling applications for vertical wells in the NE/4 of Section 6 (*See* Case Nos. 14842-14845), and does not want a prior order (No. R-13490) which also purports to covers that same acreage.

HOLLAND & HART, LLP

A handwritten signature in black ink, appearing to read "Michael H. Feldewert", written over a horizontal line.

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