

**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. 14901  
ORDER NO. R-13652**

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

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on October 18, 2012, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 6<sup>th</sup> day of November, 2012, 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 of the subject matter.

(2) Cimarex Energy Co. of Colorado ("Applicant" or "operator"), seeks an order pooling all uncommitted interests from the surface to the base of the Yeso formation, in all pools or formations now or hereafter spaced on 40 acres within that vertical extent [including but not limited to the undesignated Penasco Draw-San Andres-Yeso Associated Pool (50270)], to form two separate oil spacing and proration units ("the Units") located in Section 1, Township 19 South, Range 25 East, NMPM, in Eddy County, New Mexico, as follows:

(a) the NW/4 SW/4 of Section 1 to be dedicated to Applicant's Montana 1 Fee Well No. 1 (API No. 30-015-39608) to be drilled at a standard location 2310 feet from the South line and 330 feet from the West line (Unit L) of Section 1; and

(b) the SW/4 SW/4 of Section 1 to be dedicated to Applicant's Montana 1 Fee Well No. 3 (API No. 30-015-39609) to be drilled at a standard location 410 feet from the South line and 990 feet from the West line (Unit M) of Section 1.

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

(4) Applicant is an owner of an oil and gas working interest within each of the Units. Applicant has the right to drill and proposes to drill each of the wells identified in Finding Paragraph (2) ("the proposed wells") to a common source of supply within the respective Units, and at the respective proposed locations, identified in said Paragraph.

(5) There are possible interest owners in each of the Units that have not agreed to pool their interests. Some possible interest owners were unlocated.

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

(7) Applicant should be designated the operator of the proposed wells and of the Units.

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

(9) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,500 per month while drilling and \$450 per month while producing, for each well, 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) Pursuant to the application of Cimarex Energy Co. of Colorado, all uncommitted interests, whatever they may be, in the oil and gas from the surface to the base of the Yeso formation are hereby pooled in all pools or formations now or hereafter spaced on 40 acres within that vertical extent [including but not limited to the undesigned Penasco Draw-San Andres-Yeso Associated Pool (50270)], to form two separate standard oil spacing and proration units ("the Units") located in Section 1, Township 19 South, Range 25 East, NMPM, in Eddy County, New Mexico, as follows:

(a) the NW/4 SW/4 of Section 1 to be dedicated to Applicant's Montana 1 Fee Well No. 1 (API No. 30-015-39608) to be drilled at a standard location 2310 feet from the South line and 330 feet from the West line (Unit L) of Section 1; and

(b) the SW/4 SW/4 of Section 1 to be dedicated to Applicant's Montana 1 Fee Well No. 3 (API No. 30-015-39609) to be drilled at a standard location 410 feet from the South line and 990 feet from the West line (Unit M) of Section 1.

(2) The operator of the Units shall commence drilling each of the proposed wells on or before November 1, 2013, and after commencement shall thereafter continue drilling each such well with due diligence to at least a depth sufficient to test the Yezo formation.

(3) In the event the operator does not commence drilling any one or more of the proposed wells on or before November 1, 2013, Ordering Paragraph (1) shall be of no effect as to the Unit(s) to be dedicated to the well(s) not commenced, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(4) Should any of the proposed wells not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraph (1) shall be of no further effect as to the Unit(s) to be dedicated to the proposed well(s) not so completed, and such Unit(s) shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well(s) for good cause shown by satisfactory evidence.

(5) Upon final plugging and abandonment of any proposed well and any other well drilled on the same Unit pursuant to Division Rule 19.15.13 NMAC, such pooled unit shall terminate, unless this Order has been amended to authorize further operations.

(6) Cimarex Energy Co. of Colorado (OGRID 162683) is hereby designated the operator of the proposed wells and of the Units.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in any of the Units, including unleased mineral interests, who are not parties to an operating agreement governing such Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units, if any, whom it is able to locate by the exercise of reasonable diligence, an itemized schedule of estimated or actual costs of drilling, completing and equipping each proposed well ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs for each well is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs of such well 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 for any well as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(9) 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 each 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.

(10) Within 60 days following determination of reasonable well costs for each proposed well, any pooled working interest owner who has paid its share of estimated costs in advance for such well 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.

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

- (a) the proportionate share of reasonable well costs of such well attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

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

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,500 per month while drilling and \$450 per month while producing, for each well, 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 for each well the proportionate share of both the supervision charges and the actual expenditures required for operating such well; not in excess of what are reasonable, attributable to pooled working interest owners.

(14) Except as provided in Paragraphs (12) and (14) above, all proceeds from production from any well that are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and

proof of ownership. The operator shall notify the Division (Attention: Records Clerk) of the name and address of the escrow agent not later than one year from the date of issuance of this Order.

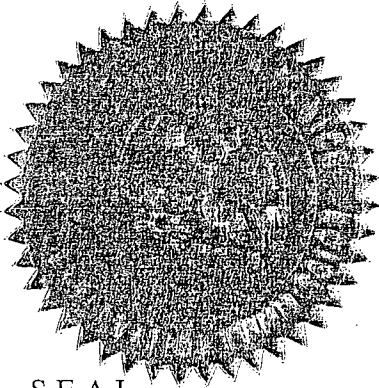
(15) Any unleased mineral interest shall be considered a seven-eighths ( $7/8$ ) working interest and a one-eighth ( $1/8$ ) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the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

(16) 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.

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

(18) 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 cursive script, appearing to read "Jami Bailey".

JAMI BAILEY  
Director