

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

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APPLICATION OF BTA OIL PRODUCERS, LLC  
FOR AN ORDER DIRECTING CIMAREX ENERGY  
COMPANY OF COLORADO TO SHUT-IN ITS  
OVER-PRODUCED OIL WELLS IN THE BERRY;  
BONE SPRING NORTH POOL, ASSESSING  
PRODUCTION PENALTIES FOR THE  
OVER-PRODUCTION, AND ORDERING  
COMPLIANCE WITH THE DIVISION'S OIL  
PRORATION RULES FOR THE BERRY;  
BONE SPRING, NORTH POOL, LEA COUNTY,  
NEW MEXICO.

CASE NO. 15473

**CIMAREX ENERGY COMPANY'S PRE-HEARING STATEMENT**

Cimarex Energy Company ("Cimarex"), submits this Pre-Hearing Statement for the above-referenced case pursuant to the rules of the Oil Conservation Division.

**APPEARANCES**

**APPLICANT**

BTA Oil Producers, LLC

**ATTORNEYS**

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**OPPONENT:**

Cimarex

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Nearburg Producing Company

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**STATEMENT OF CASE**

**APPLICANT:**

Applicant BTA Oil Producers, LLC seeks an order which (1) directs Cimarex Energy Company of Colorado to shut-in its wells producing from the Berry; Bone Spring, North Pool underlying the S/2 S/2 of Section 30, Township 20 South, Range 35 East, N.M.P.M., Lea County, New Mexico; (2) assess production penalties to curtail future over-production and to compensate for all past over-production from said wells; and (3) directs Cimarex to comply with the Division's oil proration rules for the Berry; Bone Spring North Pool.

**INTERESTED PARTY:**

Nearburg Producing Company operates Bone Spring formation wells in Section 25, Township 20 South, Range 35 East, N.M.P.M. and claims that its correlative rights are adversely affected by Cimarex's production from the S/2 S/2 of Section 30, Township 20 South, Range 35 East, N.M.P.M., Lea County, New Mexico.

**OPPONENT:**

Cimarex Energy Company opposes the Application. BTA's application seeks relief against the wrong operator and should be dismissed. Cimarex Energy Co. of Colorado is not the operator of the Chief 30 State No. 1H well or the Chief 30 State 5 well.

Additionally, BTA lacks standing to bring an enforcement action asking the Division to enter an order enjoining Cimarex from producing its wells since the Division had already taken steps to address the overproduction and a curtailment plan was being addressed with Cimarex before BTA filed its Application. *See* NMSA 1978, §70-2-29 (Requiring that a private party can bring suit to enjoin any actual or threatened violation of any statute of this state with respect to the conservation of oil and gas, or of any provision of this act, or of any rule, regulation or order only after notification to the Division in writing of such violation or threat thereof and requested the Division to bring suit to enjoin the violation and if the court determines that injunctive relief should be granted, the Division be substituted for the person who brought the suit, and the injunction issued as if the Division had at all times been the complaining party.)

Cimarex produced the Chief 30 State 1H and Chief 30 State No. 5 wells pursuant to a reasonable interpretation of Rule 19.15.16.15(B) and (C) NMAC, which provides that wells in existing spacing units or project areas can be made part of a project area by an agreement of all working interest owners in the existing and newly designated project areas and a sharing of the total project area allowable.

The evidence will further show that the Chief 30 State No. 5 well is producing from a separate zone that is segregated from other zones in the structure, and should be considered a separate source of supply as defined by Rule 19.15.2(P)(5) NMAC with a higher allowable and that a curtailment of this well's production would harm Cimarex's correlative rights contrary to (1978), §§ 70-2-17(A) and 70-2-33(H). If necessary, Cimarex intends to file a separate application with the Division to: (1) establish a

special allowable within the pool for Section 36, Township 20 South, Range 34 East and Section 30, Township 20 South, Range 35 East, N.M.P.M., Lea County, New Mexico in accordance with NMSA (1978), § 70-2-17(A); or (2) establish of a separate pool for the zone from which the Chief 30 State No. 5 well is producing with or alternatively in Sections 30 and 36; or (3) establish a 160-acre non-standard proration unit which includes the Chief 30 State No. 5 well and the Chief 30 State 1H well. Cimarex respectfully asks that Case No. 15473 be consolidated with its application.

**PROPOSED EVIDENCE**

**APPLICANT:** Unknown

**NEARBURG PRODUCING COMPANY:** Unknown

**COMPLIANCE AND ENFORCEMENT BUREAU,  
OIL CONSERVATION DIVISION:** Unknown

**COG OPEARTING:** Unknown

**OPPONENT:**

<u>WITNESS</u>	<u>ESTIMATED TIME</u>	<u>EXHIBITS</u>
Regulatory Manager	Approx. 15	Approx. 2
Reservoir Engineer	Approx. 15	Approx. 6
Geologist	Approx. 15	Approx. 6
David Brooks, Division Counsel	Approx. 10	Approx. 3

**PROCEDURAL MATTERS**

Cimarex reserves the right to file a motion to dismiss the application on the basis that the application if filed against the wrong operator and that BTA lacks standing and authority file an enforcement application.

Respectfully submitted,

**MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.**

By: \_\_\_\_\_

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