

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. 14203

CASE NO. 14204

APPLICATION OF COG OPERATING, LLC, FOR A NON-STANDARD OIL
SPACING AND PRORATION UNIT AND COMPULSORY POOLING, CHAVES
COUNTY, NEW MEXICO.

Consolidated with:

CASE NO. 14253

CASE NO. 14254

ORDER NO. R-13091

APPLICATION OF CIMAREX ENERGY COMPANY FOR A NON-STANDARD
OIL SPACING AND PRORATION UNIT AND COMPULSORY POOLING,
CHAVES COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

Case 14203 and Case 14204 came on for hearing on October 30, 2008 at 8:15 a.m. at Santa Fe, New Mexico before Examiners David K. Brooks, Richard Ezeanyim and Terry Warnell. Competing applications, Case 14253 and Case 14254, came on for hearing on January 8, 2009 at 8:15 a.m. at Santa Fe, New Mexico before Examiners David K. Brooks and Terry Warnell.

NOW, on this 16th day of February, 2009, the Division Director, having considered the testimony, the records, and the recommendations of the Examiners on these competing applications,

FINDS THAT:

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

(2) Cases No. 14203 and 14204 were consolidated at the time of the hearing for the purpose of testimony.

(3) Cases No. 14253 and 14254 were consolidated at the time of the hearing for the purpose of testimony.

(4) Approval of one set of cases will necessitate the denial of the other competing set, and accordingly one order should be entered for all four (4) cases.

(5) Both Cimarex and COG are seeking force-pooling of two identical non-standard 160-acre oil spacing and proration Units or project areas, and are proposing an identical horizontal well on each Unit.

(6) In Case No. 14203, the applicant COG Operating, LLC ("COG" or "Applicant"), seeks an order pooling all uncommitted interests in the Wolfcamp formation underlying the S/2 S/2 of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico, to form a non-standard 160-acre oil spacing and proration unit or project area.

The above-described unit ("the Unit") or project area is to be dedicated to the Applicant's proposed Taurus Federal Well No. 1 (API No. 30-005-28000), to be drilled horizontally from a standard oil well location 330 feet from the South line and 330 feet from the East line (Unit P) of Section 10. The well will penetrate the Wolfcamp formation at a standard oil well location 330 feet from the South line and 500 feet from the East line (Unit P) of Section 10 and continue horizontally (Units M, N, O and P) in the Wolfcamp in a westerly direction to a standard terminus, or bottomhole location, 330 feet from the South line and 330 feet from the West line (Unit M) of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico.

(7) In Case No. 14204, the applicant COG Operating, LLC, seeks an order pooling all uncommitted interests in the Wolfcamp formation underlying the N/2 S/2 of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico, to form a non-standard 160-acre oil spacing and proration unit or project area.

The above-described unit ("the Unit) or project area is to be dedicated to the Applicant's proposed Taurus State Com Well No. 2 (API No. 30-005-27995), to be drilled horizontally from a standard oil well location 1980 feet from the South line and 330 feet from the East line (Unit I) of Section 10. The well will penetrate the Wolfcamp formation at a standard oil well location 1980 feet from the South line and 500 feet from the East line (Unit I) of Section 10 and continue horizontally (Units I, J, K and L) in the Wolfcamp in a westerly direction to a standard terminus, or bottomhole location, 1980 feet from the South line and 430 feet from the West line (Unit L) of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico.

(8) In Case No. 14253 Cimarex Energy Co. ("Cimarex" or "Applicant") seeks an order pooling all uncommitted interests in the Wolfcamp formation underlying the S/2 S/2 of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico, to form a non-standard 160-acre oil spacing and proration unit or project area.

The above-described unit ("the "Unit) or project area is to be dedicated to the Applicant's proposed Antietam 10 Federal Com Well No. 2-H, to be drilled horizontally from a standard oil well location in Unit P of Section 10. The well will penetrate the Wolfcamp formation at a standard oil well location in Unit P of Section 10 and continue horizontally (Units M, N, O and P) in the Wolfcamp in a westerly direction to a standard terminus, or bottomhole location in Unit M of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico.

(9) In Case No. 14254 Cimarex Energy Co. seeks an order pooling all uncommitted interests in the Wolfcamp formation underlying the N/2 S/2 of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico, to form a non-standard 160-acre oil spacing and proration unit or project area.

The above-described unit ("the "Unit") or project area is to be dedicated to the Applicant's proposed Antietam 10 Federal Com Well No. 1-H, to be drilled horizontally from a standard oil well location in Unit I of Section 10. The well will penetrate the Wolfcamp formation at a standard oil well location in Unit I of Section 10 and continue horizontally (Units I, J, K and L) in the Wolfcamp in a westerly direction to a standard terminus, or bottomhole location, in Unit L of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico.

(10) Spacing is governed by statewide Rule 15.9.A, which provides for standard 40-acre units, each comprising a governmental quarter-quarter section. Each of the proposed Units will consist of four adjacent quarter-quarter sections.

(11) The proposed two (2) wells are to be drilled as horizontal wells on separate 160-acre oil proration units with the Wolfcamp formation as the primary target.

(12) The two 160-acre proposed spacing units or project areas in the S/2 of Section 10, Township 15 South, Range 31 East, are composed of one Federal Lease and one State Lease.

(13) Both Cimarex and COG have the right to drill within the proposed spacing units, and both seek to be named operator of their respective wells and the subject proration units.

(14) Both Cimarex and COG have conducted limited negotiations prior to the hearings and have been unable to reach a voluntary agreement as to which company will operate.

(15) Both Cimarex and COG agree that either company could drill and operate the horizontal wells in the subject proration units.

(16) Both Cimarex and COG submitted AFE's for the drilling of their respective wells within the subject spacing units that showed little difference.

(17) There are no issues with respect to correlative rights or waste regardless of who operates these wells.

(18) Neither Cimarex nor COG disputes well costs, well locations, geology, operator experience, operator competence, or the applicable risk penalties in these matters. Since both parties agreed on all these issues, they should not be a factor in deciding this case.

(19) The only thing they cannot agree on is who will operate the wells and units.

(20) The chronology of events in these competing cases is summarized as follows:

- (a) COG began evaluating the prospect in October 2006.
- (b) In July 2007, COG began working on surface agreements.
- (c) On September 15, 2007 COG sent joinder proposal to Chevron.
- (d) On September 27, 2007 COG signed Surface Unit Agreement with Billy Medlin.
- (e) In October, 2007 COG signed term agreement with Chesapeake.
- (f) On December 12, 2007 COG got BLM-Roswell APD (30-005-28000).
- (g) On December 14, 2007 COG got OCD- Hobbs APD (30-005-27995).
- (h) On December 17, 2007 COG sent well proposals to Chevron. At that time Chevron USA Inc. was the title interest owner.
- (i) On August 10, 2008 Cimarex got a signed Surface Use Agreement.
- (j) On September 22, 2008 Cimarex signed a term agreement with Chevron.
- (k) On September 23, 2008 COG (according to testimony) was told by James Baca that Chevron had granted a term assignment of its interest to Cimarex. That day COG sent the same well proposals to Cimarex.

- (l) On October 28, 2008 Cimarex sent competing well proposals to Chesapeake and COG.
- (m) On October 30, 2008 a hearing was held on COG's pooling cases in the S/2 of Section 10. Cimarex counsel announced they had filed competing pooling applications that day on these two well units which were scheduled for hearing on December 4, 2008. Cimarex also asked that the COG order be delayed until their competing pooling cases could be heard.
- (n) On January 8, 2009 a hearing was held on Cimarex's competing pooling cases in the S/2 of Section 10.
- (21) In the absence of other compelling factors, the operatorship of the S/2 of Section 10, Township 15 South, Range 31 East, should be awarded to the operator who originally developed the Wolfcamp prospect and initially sought to obtain voluntary agreements to drill the wells.
- (22) COG Operating, LLC, having taken the initiative in developing the prospects, should be designated operator of its proposed wells and the proposed spacing units.
- (23) The applications of Cimarex Energy Company in these cases should be denied.
- (24) Two or more separately owned tracts are embraced 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.
- (25) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill and proposes to drill its two (2) oil well locations in the S/2 of Section 10.
- (26) There are interest owners in the proposed Units that have not agreed to pool their interests. However, title information in the Wolfcamp formation in the S/2 of Section 10 is complex and unclear, requiring the need to set up an escrow account.
- (27) 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, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Units.
- (28) 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% (pursuant to Rule 35.A) thereof as a reasonable charge for

the risk involved in drilling the well.

(29) Reasonable charges for supervision (combined fixed rates) should be fixed at \$8,000 per month while drilling and \$800 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."

(30) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste, and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, COG's applications proposal should be approved to pool all uncommitted interests, whatever they may be, within the Units or Project areas.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of COG Operating, LLC in Case No. 14203, all uncommitted interests in the Wolfcamp formation underlying the S/2 S/2 of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico, are hereby pooled to form a non-standard 160-acre oil spacing and proration unit and project area.

The above-described unit ("the Unit") or project area shall be dedicated to the Applicant's proposed Taurus Federal Well No. 1 (API No. 30-005-28000), to be drilled horizontally from a standard oil well location approximately 330 feet from the South line and 330 feet from the East line (Unit P) of Section 10. The well will penetrate the Wolfcamp formation at a standard oil well location 330 feet from the South line and 500 feet from the East line (Unit P) of Section 10 and continue horizontally in the Wolfcamp in a westerly direction to a standard terminus, or bottomhole location, 330 feet from the South line and 330 feet from the West line (Unit M) of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico.

(2) Pursuant to the application of COG Operating, LLC in Case No. 14204, all uncommitted interests in the Wolfcamp formation underlying the N/2 S/2 of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico, are hereby pooled to form a non-standard 160-acre oil spacing and proration unit and project area.

The above-described unit ("the Unit") or project area shall be dedicated to the Applicant's proposed Taurus State Com Well No. 2 (API No. 30-005-27995), to be drilled horizontally from a standard oil well location 1980 feet from the South line and 330 feet from the East line (Unit I) of Section 10. The well will penetrate the Wolfcamp formation at a standard oil well location 1980 feet from the South line and 500 feet from the East line (Unit I) of Section 10 and continue horizontally in the Wolfcamp in a westerly direction to a standard terminus, or bottomhole location, 1980 feet from the South line and 430 feet from the West line (Unit L) of Section 10, Township 15 South, Range 31 East, NMPM, Chaves County, New Mexico.

(3) The applications of Cimarex Energy Company in Case No. 14253 and Case No. 14254 are hereby **denied** without prejudice.

(4) COG Operating, LLC (OGRID No. 229137) is hereby designated the operator of the proposed wells and of the pooled Units.

(5) The operator of the Units shall commence drilling the proposed wells on or before February 28, 2010, and shall thereafter continue drilling the wells with due diligence to test the Wolfcamp formation.

(6) In the event the operator does not commence drilling the proposed wells on or before February 28, 2010, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(7) Should the subject well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, 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 subject well, and all other wells drilled on the Units pursuant to Division Rule 13.9, 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 un-leased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the subject wells ("well costs").

(10) 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."

(11) 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 wells. 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.

(12) 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."

(13) 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). After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of the actual well costs within 45 days following receipt of said schedule. If there is objection to actual well costs within said 45-day period, the Division will determine reasonable well costs after notice and hearing.

(14) Should the subject wells not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, 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.

(15) Upon final plugging and abandonment of the Taurus Federal Well No. 1, and any other well drilled on the Unit pursuant to Division Rule 13, the pooled Unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(16) 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.

(17) 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.

(18) 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; and

(b) as a charge for the risk involved in drilling the well, 200% of the above costs.

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

(20) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$8,000 per month while drilling and \$800 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.

(21) Except as provided in Paragraphs (18) and (20) above, all proceeds from production from the wells that are not disbursed for any reason shall be placed in escrow in Chaves 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.

(22) 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.

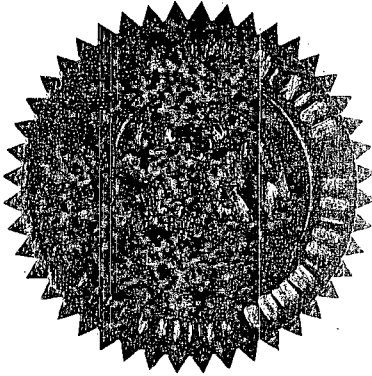
(23) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(24) 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.

(25) COG shall file a Form C-102 with the Division's Hobbs District Office reflecting the non-standard 160-acre spacing unit and project area within 30 days from the date of this order.

(26) 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 black ink, appearing to read 'Mark E. Fesmire', written over a horizontal line.

MARK E. FESMIRE, PE
Director