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**BEFORE THE
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:**

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

CASE NO. 14368

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

CASE NO. 14369

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

CASE NO. 14370

PEAR RESOURCES MOTION TO DISMISS

Pear Resources ("Pear") moves the Oil Conservation Division for orders dismissing the applications of Cimarex Energy Co. ("Cimarex") in Cases 14368, 14369 and 14370 and in support of its motion states:

1. Pear is the owner of the working interest under the 160-acre non-spacing units (project areas) that Cimarex is proposing to create and pool in each of these cases.
2. Cimarex proposed these wells to Pear and provided AFE's for the wells which identified the proposed non-standard spacing units for each well but did not identify the location of the horizontal wellbore on each spacing unit. Pear requested Joint Operating Agreements from

Cimarex for each of the wells. A Joint Operating Agreement was not provided to Pear until August 20, 2009. Serious discussions for the development of these lands did not commence until Tuesday August 25, 2009.

3. By letter dated, August 19, 2009, Pear received letters and a copies of Cimarex's Applications for orders creating and compulsory pooling the subject non-standard oil spacing units. These applications stated that it had in good faith sought to obtain the voluntary joinder of all other mineral interest owners in the proposed spacing units. Paragraph 3. Cimarex's application also stated that it had "attempted to obtain voluntary agreements from all mineral interest owners to participate in the drilling of the well or to otherwise commit their interests to the well, certain interest owners have failed or refused to join in dedicating their interests." Paragraph 4.

4. Cimarex has not provided Pear Resources with a proper well proposal nor afforded Pear reasonable opportunity to reach a voluntary agreement for the development of the non-standard units they are proposing to pool.

5. The Division, by long standing practice, has required operators to furnish interest owners a well proposal prior to filing a pooling application. Order No. R-13155, Cases 14365 and 1436, August 11, 2009.

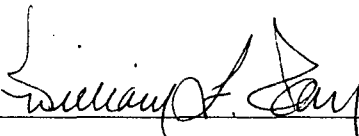
6. The Division has dismissed applications for compulsory pooling until 30-days after it "has furnished to all owners in the proposed unit a formal well proposal, including a proposed form of joint operating agreement and an authorization for expenditures (AFE) setting forth the estimated costs for the well to be proposed in such application." (Emphasis added) Order No. R-13155, Cases 14365 and 14366, August 11, 2009.

MOTION TO DISMISS

7. On information and belief, Cimarex does not plan to drill these wells until 2010 and therefore does not have a leasehold interest that will be jeopardized by requiring it to comply with the Division's long standing practice.

WHEREFORE, Pear Resources moves the Oil Conservation Division for orders dismissing the applications of Cimarex Energy Co. in Cases 14368, 14369 and 14370 until 30 days after Cimarex has (i) furnished Pear Resources proper well proposals that provide full details on the proposed wells, (ii) provided the proposed terms of participation therein, and (iii) has in good faith sought to obtain the voluntary joinder of Pear Resources in the proposed wells.

Respectfully submitted,
HOLLAND & HART LLP

By:  _____

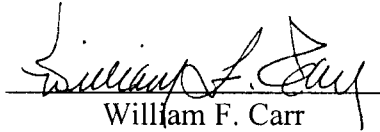
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CERTIFICATE OF SERVICE

I certify that on August 26, 2009, I served a copy of the foregoing document to the following by

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☒ Fax
- ☐ Electronic Service by LexisNexis File & Serve

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