

**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. 15688
ORDER NO. R-14396**

**APPLICATION OF CIMAREX ENERGY COMPANY 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 May 11, 2017, at Santa Fe, New Mexico, before Examiner Michael A. McMillan.

NOW, on this 17th day of July, 2017, 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 Company ("Applicant") seeks compulsory pooling of a previously approved 223.47-acre non-standard oil spacing and proration unit and project area (the "Unit") for oil and gas production from the Bone Spring formation, WC-015 G-04 S262625B; Bone Spring Pool (Pool code 98018), comprising the E/2 E/2 of Section 28 and Lot 1 and the NE/4 NE/4 (E/2 NE/4 equivalent), of Section 33, Township 26 South, Range 27 East, NMPM, Eddy County, New Mexico.

[3] The Unit will be dedicated to Applicant's Klein 33 Federal Com Well No. 10H, (the "proposed well" API No. 30-015-42182), a horizontal well that Applicant proposes to drill from a surface location 290 feet from the South line and 780 feet from the East line (Unit H-Lot 1) of Section 33, Township 26 South, Range 27 East, to a bottom-hole location, 330 feet from the North line and 590 feet from the East line (Unit A) of Section 28.

[4] The well is within the WC-015 G-04 S262625B; Bone Spring Pool and is subject to statewide Rule 19.15.15.9.A. NMAC, which provides that wells shall be located at least 330-foot from the unit boundaries. The proposed Unit and project area consists of a single non-standard spacing and proration unit approved by Administrative Order No. NSP-2057, issued on December 19, 2016.

[5] The location of the completed interval of the proposed well is orthodox for the above-described formation and pool.

[6] Applicant appeared through counsel and presented the following land and geologic evidence:

- (a) The Bone Spring formation in this area is suitable for development by horizontal drilling.
- (b) The proposed orientation of the horizontal well south to north is appropriate for the Unit.
- (c) All quarter-quarter sections to be included in the Unit are expected to be productive in the Bone Spring formation, so that pooling of the Unit as requested will not impair correlative rights.
- (d) Notice was provided for compulsory pooling within the Unit to all owners of interests reflected in instruments lawfully of record or known to Applicant at the time the application was filed, and to any heirs of deceased interest owners whose ownership and identity were then known to Applicant.
- (e) All parties received actual notice by certified mail or, in the case of unlocatable owners, constructive notice by publication in a newspaper of general circulation in Eddy County, New Mexico.
- (f) A title dispute exists regarding ownership of the mineral fee interest as to a portion of the Unit. The title dispute is the subject of a pending court action.
- (g) Applicant has agreed with the owners of the disputed title ("Unconfirmed Owners") that Applicant will advance the Unconfirmed Owners' share of well costs, operating costs and overhead costs of the proposed well subject to reimbursement when the disputed title issues are resolved by final judgment or settlement, and that the Unconfirmed Owners may defer their election whether or not to participate in the proposed well until such time.

[7] No other party or person appeared at the hearing or indicated any opposition to the granting of the application.

The Division concludes as follows:

[8] Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

[9] Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the well to a common source of supply within the Unit at the above-described location.

[10] There is at least one interest owner in the Unit that has not agreed to pool its interest.

[11] 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 a 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 Unit.

[12] Cimarex Energy Company should be designated the operator of the well and the Unit.

[13] 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 well.

[14] Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month, per well, while drilling and \$700 per month, per well, while producing, provided these rates should be adjusted annually pursuant to the overhead provision of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Cimarex Energy Company, all uncommitted interests, whatever they may be, in the oil and gas in the Bone Spring Formation, WC-015 G-04 S262625B; Bone Spring Pool (Pool code 98018), within the E/2 E/2 of Section 28 and Lot 1 and the NE/4 NE/4 (E/2 NE/4 equivalent) of Section 33, Township 26 South, Range 27 East, NMPM, Eddy County, New Mexico ("the Unit"), are hereby pooled.

(2) The Unit shall be dedicated to Applicant's Klein 33 Federal Com Well No. 10H (the "proposed well"; API No. 30-015-42182), a horizontal well that Applicant proposes to drill from a surface location 290 feet from the South line and 780 feet from the East line (Unit H - Lot 1) of Section 33, Township 26 South, Range 27 East, to a bottom-hole location, 330 feet from the South line and 590 feet from the East line (Unit A) of Section 28.

(3) The operator of the Unit shall commence drilling the proposed well on or before July 31, 2018, and shall thereafter continue drilling the proposed well with due diligence to test the Bone Spring Formation.

(4) In the event the operator does not commence drilling the proposed well on or before the date above specified, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraph (1) shall be of no further effect, and the Unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence.

(6) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled Unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(7) Cimarex Energy Company (OGRID 215099) is hereby designated the operator of the proposed well and the Unit.

(8) 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 Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping each proposed well ("well costs").

(9) 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 well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) Any pooled interest owner who is an Unconfirmed Owner shall have the option to defer the payment costs provided in Ordering Paragraph (9) above until 30 days after the title dispute affecting ownership of the mineral fee interest in the Unit is resolved by final judgment or agreement of all Unconfirmed Owners. If a schedule of actual well costs has been provided to the Unconfirmed Owner prior to such time payment is required by this paragraph, it shall exercise its option to participate by paying its share of actual well

costs, rather than estimated well cost, or by paying its share of reasonable well costs if reasonable well cost have been determined to be less than actual well costs.

(11) 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 60 days following determination of reasonable well costs, or at such later time as required for an election under Paragraph (10) above, any pooled working interest owner who has paid its share of estimated or actual costs of such well as provided in Paragraph (9) or (10) above shall pay to the operator its share of the amount, if any, that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated or actual well costs it has paid for such well exceed its share of reasonable well costs.

(13) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of production from the well:

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

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

(15) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,000 per month, per well, while drilling and \$700 per month, per well, while producing, provided that these rates shall be adjusted annually pursuant to the overhead provision of the COPAS form titled "*Accounting Procedure-Joint Operations.*" The operator is authorized to withhold from each pooled working interest owner's share of 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.

(16) Except as provided in the foregoing paragraphs, all proceeds from production from the well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A-28, as amended).

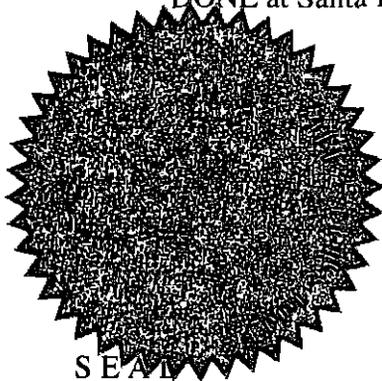
(17) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this Order. Any well costs or charges that are to be paid out of production shall be withheld only from the working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

(18) 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.

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

(20) 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.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David R. Catanach

DAVID R. CATANACH
Director