

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

IN THE MATTER OF THE
OIL CONSERVATION DIVISION
PRE-HEARING DOCKET 45-19

REPORTER'S TRANSCRIPT OF PROCEEDINGS

PRE-HEARING TRANSCRIPT

DECEMBER 12, 2019

SANTA FE, NEW MEXICO

BEFORE: DYLAN COSS, CHIEF EXAMINER
LEONARD LOWE, TECHNICAL EXAMINER
DEAN McCLURE, TECHNICAL EXAMINER
ERIC AMES, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, EXAMINERS LEONARD LOWE, DEAN McCLURE, DYLAN COSS and LEGAL EXAMINER ERIC AMES, on Thursday, December 12, 2019, at the New Mexico Energy, Minerals, and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

Reported by: Irene Delgado, NMCCR 253
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1 HEARING EXAMINER COSS: Going to call this
2 hearing today to order. And I believe we will just start
3 the morning, everyone. Thanks for being here, and going to
4 lead in with a few announcements from Kathleen here.

5 MS. MURPHY: I'm Kathleen Murphy. I'm a
6 geologist in the OCD, and sometimes I'm an Examiner, but I'm
7 not today.

8 I have a couple of announcements, and they are
9 good announcements. And our first announcement is that we
10 have three new employees, and our first one is in the
11 engineering bureau. That's Baylin -- I'll make everybody
12 stand up. Baylin comes to us from Tech with a BS in
13 petroleum engineering, and he has worked in the field
14 fracking and -- fracking rig stimulation and he also did a
15 research project on artificial lift, so we will probably
16 have you do a training up in OCD on some Friday afternoon.
17 And so we welcome Baylin, and he has already been a lot of
18 help to us on our SWD applications.

19 In our Environmental Bureau we have two new
20 employees and some of you, environmental may not enter your
21 life, but it certainly enters the life of your client, the
22 operators, and it's certainly make a dent on a lot of the
23 permitting and reviewing issues in the Environmental Bureau.

24 The first is Christina Eves, and she has a
25 bachelor's in geology from Louisiana State University, also

1 known as LSU, which is ranked number one in United States.
2 And ranked number two, Ohio State is ranked number two, and
3 but being a Buckeye -- anyway, she has worked at NMED
4 previously and a consultant in Louisiana and Texas, but she
5 is now working on a lot of our incidents and reviewing
6 the -- reviewing and approving the remediation plan for the
7 closure plan, and we welcome her.

8 And our third new employee is Susan Lucas Komatz.
9 She has a bachelor's degree from MIT from the Earth and
10 Planetary Sciences Department, and largely her degree is in
11 geophysics. She has done graduate work at UNM in GIS and
12 hydrology. She's worked for NMED for several years
13 previously doing GOE oversight, and she worked in our own
14 Mining and Minerals Department for two years. And she is
15 working on a lot of the permitting, especially the C-147 and
16 148.

17 So as I said, again, we are very appreciative of
18 them being here, and they are making a lot of headway in a
19 lot of our backlog.

20 Now, my second topic are exhibits, and because
21 sometimes we have new lawyers here, remember that you send
22 in the exhibit as a PDF, and we're trying to get, get it
23 taken away that it goes to one e-mail so we have the OCD
24 hearing e-mail.

25 And in order for it to get directed to the proper

1 person, in the title of the e-mail, when you send the PDF,
2 put, "Exhibit Case Number X," and that way it will get put
3 into a folder called "Exhibits," and I will at least be able
4 to go look at them and keep track that the exhibits have
5 been submitted.

6 And one reminder is on the PDF that you submit,
7 sometimes I will get them and they say, "Scanned on an X, Y,
8 Z plotter," please name it, because if I have to download
9 one, of course I will rename it case file number, but if I
10 have six to download it gets laborious. So those are my
11 only requests for exhibits.

12 And one thing I would note is that some of you
13 have submitted the exhibits the night before, and that's
14 great because then when we're -- the case is being
15 presented, a lot of you can look up through our OCD web page
16 under the case file number and see the exhibits and follow
17 along, because a hearing is to educate everybody in the
18 audience, clients, and it is also data so no one is getting
19 surprise data, but it's very useful for the audience members
20 to be following an exhibit while you are presenting.

21 So if an exhibit has been submitted the night
22 before, we can follow along, and we all should be doing that
23 on our phones, as opposed to looking at stuff. We are all
24 here to learn from some of the great projects that we and
25 the other companies are doing.

1 And that brings me to my third topic, which is
2 hearings for the coming year. We need to start utilizing
3 the TV screen and using the computer. And Ms. Shaheen is
4 one gold star for the day, and Mr. Padilla is the second
5 gold star for the day.

6 And it's a very simple setup. You bring a --
7 either you bring your own laptop, or we have a laptop and
8 you can use a jump drive, and it just plugs into the screen
9 over there. And there's no connection between our network,
10 so we will not try to steal anything on your laptop, and
11 also your laptop will not infect our network with a virus
12 because it won't be connected through the blue internet
13 cable.

14 So you will see with Ms. Shaheen and Mr. Padilla,
15 and I believe that's in the afternoon, but you have a
16 laptop. This is usually your exhibit, it's a PDF, and you
17 may have 70 pages in here, you may only use maybe 10 or 12
18 pages out of here, a few certain maps that you talk about, a
19 subset of the entire PDF. Your witnesses, it's really
20 witness driven.

21 I am certain none of the witnesses in here would
22 really have any issue with using the screen. So the lawyer
23 sits there. The witness looks at the laptop, goes to the
24 pages that they need, and it's on the screen behind them.

25 We will also try to get a pointer so that if

1 anyone who wants to point at the screen, they are not using
2 their knife or a pencil. And so I would appreciate people
3 starting to use that. I can help you in any way. I can
4 help run the computer. If you feel that you need a person
5 to help, I'm here to help you in any way.

6 So today you will at least get to see two cases
7 presented using the TV screen, so please keep that in mind,
8 and starting January 9, I will appreciate seeing several
9 cases being presented that way. Certainly the cases that
10 are short and sweet, we don't expect that, but a rule of
11 thumb is, if you are having contentious cases or people from
12 the public will be here, that should be on the screen.

13 And if you're -- if your case is -- has any
14 sort of witnesses or cross, it should be on the screen.
15 And, ideally, any case that's longer than 15 minutes should
16 be presented on the screen. Do you have any questions about
17 that? And if you do, please let me know.

18 And then the last thing I have to say is I am
19 working on hearing orders. It's not been a resounding
20 rewarding job. I would just say that when I do contact you,
21 please respond back, otherwise I put your hearing order in a
22 pile to the bottom.

23 But when I contact you, I really do want to know,
24 do you still need your hearing order. And a lot of these
25 that I'm working on are compulsory pooling, has anything

1 changed, have you made any agreements with any of the
2 parties, that's supposed to be sent to me because there's a
3 place in the hearing order that says, if you reached an
4 agreement.

5 And I will also contact you to make sure that an
6 Exhibit A has been filled out. And like I said, I am
7 working on July. I'm trying to be logical about it, but I'm
8 finding that's not always working. And Mr. Lowe has mostly
9 kept up with his hearing orders, and so he does get the
10 other gold star for the day.

11 And thank you. So those are all the comments,
12 the announcements I have.

13 HEARING EXAMINER COSS: Thank you, Kathleen.

14 We will now proceed to read the dismissed for
15 cases for OCD hearing docket 45-19 for today on December 12,
16 2019.

17 So our first dismissed case for this docket is an
18 application by NGL Water Solutions Permian, Case Number
19 20921.

20 The next dismissed case is Centennial Resource
21 Production, Case Number 20940.

22 Followed by Centennial Resource Production, case
23 Number 20941, application by Centennial Resource Production,
24 Case Number 20942, application of Franklin Mountain Energy,
25 Case Number 20954;

1 Application by Franklin Mountain Energy, Case
2 Number 20955, application of Franklin Mountain Energy, Case
3 Number 20956;

4 Application of BTA Oil Producers, Case Number
5 20969, application of BTA Oil Producers, Case Number 20970;

6 Application of Mewbourne Oil Company, Case Number
7 20971, application of Mewbourne Oil Company, 20972, 20973,
8 20974.

9 MR. AMES: Hold on a second. So before we
10 continue, I want to point out to counsel that there is a
11 handout on the back table, if you did not get this already.
12 It's a one-page, two-sided sheet, and it lists all the cases
13 that have been dismissed, as well as cases that have been
14 continued, which Dylan will announce now.

15 So for easy reference, as opposed to looking at
16 the docket, which can be a bit more difficult.

17 HEARING EXAMINER COSS: Thank you. Counsel, I
18 will proceed to read off the continued cases from this
19 docket, and these cases will be heard on January 9, 2020,
20 the first of which is:

21 Application of XTO Delaware Basin, Case Number
22 20918, and another application of XTO Delaware Basin, Case
23 Number 20919.

24 And the following set of cases will be heard on
25 February or set for the docket on February 20, 2020:

1 Application of Tap Rock Resources, Case Number
2 20676.

3 Application of COG Operating, Case Number 20856,
4 20857, 20923, 20924, case numbers 20925, 20926 and 20927.

5 Application of Matador Production Company, Case
6 Number 20937.

7 Application of Hilcorp Energy Company, Case
8 Number 20947.

9 Application by Kaiser-Francis Oil Company 20966,
10 and 20967 along with 20968.

11 And with that, I have read the list of dismissed
12 and continued cases from this docket and will hand the
13 proverbial microphone over to our counsel who has a few
14 announcements how the hearing will go.

15 MR. AMES: Good morning, Counsel. I'm Eric Ames,
16 with the OCD Energy and Minerals. In our ongoing effort to
17 streamline this process, we are going to continue to beta
18 test what we started last week -- last hearing, which is to
19 take affidavit cases first and then hearing cases second.

20 There is a spreadsheet, another handout on the
21 back table which all counsel hopefully have now. This lists
22 all the cases that are currently pending hearing today.

23 OCD staff has made a preliminary determination
24 about whether cases will be heard by affidavit or by hearing
25 based on what we know of the case. These are preliminary

1 and we will further refine the list as we go through, but
2 the process we intend to follow is to call the cases in this
3 order.

4 Cases that do not have at this time any written
5 entries of appearance will be called, we will inquire
6 whether there are any entries today. If none, we will ask
7 counsel if they intend to present the case by affidavit. If
8 so, the case will be taken by affidavit.

9 If counsel intends to present the case by
10 witness, then we will move the case down to the end of the
11 list for further consideration as I will explain in a
12 moment.

13 Then we'll go on to the cases that say in the
14 column affidavit or hearing, over toward the right,
15 affidavit TBD. These are cases where we have a written
16 entry of appearance by another party. We'll ask the parties
17 whether they have any -- whether they want to present --
18 well, we'll ask the applicant whether they want to present
19 by witness. We'll ask the other parties whether they
20 consent to the case being taken by affidavit if that's the
21 applicant's desire. If the parties all agree, the case can
22 be taken by affidavit, we will then proceed to that.

23 If we need to have a hearing through witnesses,
24 we'll move the case to the end of the list for further
25 consideration. Once we have made our way through our list

1 which goes cases 1 through 33, we will then take a break,
2 and counsel for the applicants and parties for cases that
3 will go to hearing by witness will have a discussion about
4 the order of presentation.

5 We will take into account the number of parties,
6 number of witnesses and witness availability, as well as
7 counsel availability. It's conceivable that we'll have to
8 go, depending on the number of cases, into tomorrow. And so
9 that may pose some issues for the parties, and so we'll
10 address that, and hopefully in a collaborative way, after we
11 have taken all the affidavit cases.

12 So this is a -- a beta testing. Thank you for
13 all participating. You know, in lieu of rule changes that
14 streamlined the process, we are trying to maximize within
15 the constraints. This is the process we have come up with.
16 If you have suggestions after we get done with these
17 hearings, we would be happy to hear them.

18 Okay? The other handout that's on the back table
19 is a copy of the notice that was sent out earlier, maybe
20 earlier this week or the end of last week setting out our
21 hearing guidelines that are effective today. They set forth
22 guidelines for presentation of cases by affidavit and
23 guidelines for presentation of cases by witnesses.

24 The objective for the guidelines for presentation
25 of cases by affidavit is to reduce significantly the amount

1 of time that it takes to take cases by affidavit. From our
2 perspective, there is no need for lengthy recitations
3 regarding affidavits and exhibits.

4 We would appreciate if the parties or the
5 applicants presenting cases by affidavit announce -- counsel
6 announces themselves, introduces their applicant, their
7 client, gives a very brief description of the case, very
8 brief description of the case, and then asks for admission
9 of the exhibits and that the case be taken under advisement,
10 and in that case we will move forward.

11 Hopefully we can move through quite a few of
12 these cases in just a few minutes, is the objective, and
13 thereby preserve more time for hearings. Hopefully we can
14 get more hearings done in a way that preserves both
15 counsel's time and client's resources. All right. With
16 that, Dylan?

17 (Cases presented by affidavit were heard.)

18 MR. AMES: All right. So I have been deputized
19 to make sure we can organize this. We have five cases
20 remaining, and they are all set for hearing. Before we
21 heard from, from Centennial Resource Production on Case
22 20943, an agreement had been reached between counsel to
23 present the cases in the following order, Devon 20944,
24 Permian Oilfield 20961, Overflow, 20964, and EOG, 20965. We
25 now have the addition of Centennial 20943. Unless there is

1 some reason to reorder the cases, we will take 20943 last.

2 Is there some reason to reorder the cases?

3 MR. FELDEWERT: Mr. Examiner, I think the
4 Centennial group is trying to drive back to Denver today.
5 Certainly I, representing Devon, don't have an objection to
6 them moving forward ahead of the Devon case, which I think
7 we were going to take up next. I don't know about the other
8 counsel.

9 MR. BRUCE: Mr. Examiner, I represent MRC Permian
10 Company, I'm not presenting witness or objecting to
11 anything, and since it's pooling it's probably less
12 complicated than the other cases and probably be the
13 quickest one to present.

14 MR. AMES: So how do other counsel feel about
15 that? Mr. Feldewert has spoken for Devon 20944, which is
16 the first case called up, how does Ms. Katz feel about being
17 pushed down the list?

18 MS. KATZ: Is there -- I think we can work this
19 out. Do we have a sense of -- so would we be going after
20 lunch probably then?

21 MR. AMES: It is seems probable at this point.
22 Overflow is number three, and I think they are going to be
23 going after lunch as well, so they are after you. Does
24 overflow have a problem with that?

25 MS. SHAHEEN: We do not. Can I let my folks know

1 that after lunch is -- or do you want me to have them on
2 call?

3 MR. AMES: Let's finish the conversation and we
4 can get there. The last case that's Mr. Feldewert's case
5 for EOG 20965, you are already number four, you will be
6 pushed further out. Is that acceptable?

7 MR. FELDEWERT: That's fine.

8 MR. AMES: Great. We will reorder this. We will
9 start with Centennial, then we'll go to Devon, then Permian,
10 then Overflow, then EOG. And Ms. Shaheen, you can tell your
11 folks they will definitely be after lunch.

12 MS. SHAHEEN: Okay. Thank you.

13 MR. AMES: Glad we don't have ten cases to do
14 that with. All right.

15 (The remainder of the cases set for hearing were
16 held.)

17 (Adjourned.)

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STATE OF NEW MEXICO.
COUNTY OF BERNALILLO

REPORTER'S CERTIFICATE

I, IRENE DELGADO, New Mexico Certified Court Reporter, CCR 253, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings that were reduced to printed form by me to the best of my ability.

I FURTHER CERTIFY that the Reporter's Record of the proceedings truly and accurately reflects the exhibits, if any, offered by the respective parties.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties of attorneys in this case and that I have no interest in the final disposition of this case.

Dated this 12th day of December 2019.

Irene Delgado, NMCCR 253
License Expires: 12-31-19