

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

APPLICATION OF OWL OIL AND GAS, LLC CASE NO. 15060
FOR APPROVAL OF A WATER DISPOSAL WELL,
EDDY COUNTY, NEW MEXICO.

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

January 9, 2014

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER
MICHAEL McMILLAN, TECHNICAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, Phillip Goetze,
Chief Examiner, and Michael McMillan, Technical
Examiner, on Thursday, January 9, 2014, at the New
Mexico Energy, Minerals and Natural Resources
Department, 1220 South St. Francis Drive, Porter Hall,
Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102

1 APPEARANCES

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6 FOR INTERVENOR ENDURANCE RESOURCES, LLC:

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11 FOR INTERVENORS YATES PETROLEUM CORPORATION, ABO
 12 PETROLEUM CORPORATION AND MYCO INDUSTRIES, INC.:

13 GARY W. LARSON, ESQ.
 14 HINKLE, HENSLEY, SHANOR & MARTIN, L.L.P.
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16 ALSO PRESENT: Michael H. Feldewert, Esq.

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24 EXHIBITS OFFERED AND ADMITTED

25 (Not applicable.)

1 (10:04 a.m.)

2 EXAMINER GOETZE: We're going to call Case
3 15060, application of Owl Oil and Gas, LLC for approval
4 of a water disposal well, Eddy County, New Mexico.

5 Call for appearances.

6 MR. BRUCE: Mr. Examiner, Jim Bruce of
7 Santa Fe representing the Applicant. I have two
8 potential witnesses. And there are going to be some
9 other preliminary matters, and I'll let other counsel
10 address that.

11 EXAMINER GOETZE: Yes, sir.

12 MR. PADILLA: Mr. Examiner, Ernest L.
13 Padilla for Endurance Resources, LLC.

14 EXAMINER GOETZE: Come have a seat up here.
15 Any other?

16 MR. LARSON: Mr. Examiner, Gary Larson for
17 Yates Petroleum, Abo Petroleum and Myco Industries.

18 EXAMINER GOETZE: Would you like to have a
19 seat up here, also?

20 MR. LARSON: The procedural matter is my
21 issue, if I might.

22 EXAMINER GOETZE: Very good.

23 MR. LARSON: It came to my attention late
24 yesterday afternoon that we have an issue with my
25 continued representation of the Yates entities in this

1 case. I will be having to withdraw as their counsel,
2 and, therefore, I ask for a continuance until the
3 January 23rd hearing.

4 EXAMINER GOETZE: And, Mr. Bruce?

5 MR. BRUCE: Mr. Examiner -- and Mr. Padilla
6 also has an issue -- my point is, my witnesses are here.
7 They were actually here Tuesday night, and we're ready
8 to go. I don't have a problem. And I would like to put
9 on my witness and then have the case continued for two
10 weeks to allow Yates to present their evidence. That
11 is, I really hate to drag my clients back up here. And
12 then Mr. Padilla also as an issue.

13 EXAMINER GOETZE: We'll get to Mr. Padilla
14 in a moment.

15 So at this point, you would like to move to
16 at least do your witnesses?

17 MR. BRUCE: Yes.

18 EXAMINER GOETZE: But that denies Yates the
19 ability for any type of questioning and cross.

20 MR. BRUCE: Well -- and I'll let
21 Mr. Feldewert and Mr. Larson address that, depending on
22 the ruling on your motion.

23 EXAMINER GOETZE: Well, there are a lot of
24 contingencies here.

25 MR. BRUCE: I think what, you know -- and

1 let me get into Mr. Padilla's issue, since I'm the one
2 who initially caused the slight problem.

3 On Tuesday, I was in touch with my clients,
4 and I contacted opposing counsel -- I think it was
5 Tuesday morning -- saying, There is a possibility I
6 might need a continuance. And they said, No problem if
7 you need one. And I e-mailed them very early Wednesday,
8 and I said, No, it's not a problem. But there was some
9 misunderstanding along the way. The long and short of
10 it is, Endurance witnesses are not here. And I have
11 spoken with Mr. Padilla about it. He has no objection,
12 from Endurance's standpoint, to hearing my witness and
13 putting his witness on in two weeks.

14 EXAMINER GOETZE: Let's ask Mr. Padilla.
15 What are your feelings on cross and the
16 ability to present evidence?

17 MR. PADILLA: Well, obviously, it would be
18 a benefit for my technical witnesses to be here to
19 assist me with the cross-examination, so they would also
20 have the benefit of listening to what Mr. Havenor -- or
21 Dr. Havenor is going to say. So it handicaps us a
22 little bit. But to the extent that we could get a
23 transcript, they may read the transcript as to what
24 Dr. Havenor has to say, but it's not the same as the
25 real thing.

1 EXAMINER GOETZE: Let's get to the crux of
2 the bone here. Really, are you going to be satisfied
3 with the ability to hear these witnesses' testimony and
4 not counter other than to see it through or hearing it
5 through a transcript? Is that satisfactory to who
6 you're representing?

7 MR. PADILLA: Is it and it isn't. And I
8 hate to -- I guess if I have to be on the side of
9 representing my client, I would say it would not be the
10 same, reading a transcript.

11 EXAMINER GOETZE: Okay. Very good. Now
12 we'll go back to Mr. Larson.

13 And, Mr. Feldewert, your name was brought
14 up in this context.

15 MR. LARSON: Mr. Examiner, we assume that
16 Mr. Feldewert will be stepping in in my stead as counsel
17 for Yates. Obviously, the best circumstance to Yates
18 would be having the case continued. Their witnesses are
19 here, but based on the understanding between Mr. Bruce
20 and Mr. Padilla, Yates was going to put on its case in
21 two weeks anyway. So from our perspective, the best
22 solution is to continue.

23 EXAMINER GOETZE: So I have a lawyer with
24 no witnesses. I have witnesses with no lawyer. I have
25 an applicant with witnesses and a lawyer. Okay. Hmm.

1 (Laughter.)

2 MR. BRUCE: Nobody said it would be easy,
3 Mr. Examiner.

4 EXAMINER GOETZE: I know. It's easier when
5 it is just an objection. Huh.

6 And your clients, with respect to them, the
7 inconvenience to them for two weeks?

8 MR. BRUCE: Two weeks. They've made the
9 trip up. My primary witness, Mr. Huber, is not an
10 employee of Owl. He has another job. He's a
11 contract -- you know, he's a consultant for this case,
12 and so it is an inconvenience to them.

13 EXAMINER GOETZE: Well, this puts us in a
14 peculiar situation. As the process requires, we do
15 offer the ability for each of these participant
16 protestants to be able to cross, and I feel at this time
17 that with two parties half present, we really can't move
18 forward with the opportunity to have presentation and
19 have good cross-examination or interviews of the
20 witnesses. So at this point, I don't see how I can go
21 on forward with this case and would ask that it be
22 extended to the next hearing. And you may take it up
23 with the Commissioner or Director, but we do have to
24 have the opportunity for witnesses and counsel to be
25 present.

1 MR. BRUCE: If that's the case,
2 Mr. Examiner, we'll -- you know, we accept your ruling.
3 I will have to talk with my clients. I would ask that
4 it only be continued two weeks, but I need to check with
5 them.

6 EXAMINER GOETZE: We will make it two
7 weeks, and that's it. If you don't show up in two
8 weeks -- you've had the opportunity to have all these
9 problems resolved, and at that point, everyone's going
10 to show. It's going to go on regardless of who doesn't
11 show. So let's go with that.

12 So at this point, we will take Case 15060
13 and continue it to the January 23rd hearing, and at that
14 point, we would request that everybody show up that's
15 involved with this case. And if there are problems with
16 your witnesses, we will take into consideration your
17 having your witnesses' appearance as a primary driving
18 force of this. In other words, you will have the say in
19 this.


20 The folks on the other side, the
21 protestants, gather everything up and make sure you're
22 ready for the 23rd. All right?

23 MR. PADILLA: All right.

24 EXAMINER GOETZE: And that's the end of the
25 hearing.

(Case Number 15060 concludes, 10:12 a.m.)

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner's hearing of Case No. 15060
held by me on January 9, 2014
 Examiner
Oil Conservation Division

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO
3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, New Mexico Certified
6 Court Reporter No. 20, and Registered Professional
7 Reporter, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that
9 the foregoing pages are a true and correct transcript of
10 those proceedings that were reduced to printed form by
11 me to the best of my ability.

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

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

19 

20 MARY C. HANKINS, CCR, RPR
21 Paul Baca Court Reporters, Inc.
22 New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2014