

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

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REPORTER'S TRANSCRIPT OF PROCEEDINGS
PRE-HEARING TRANSCRIPT

BEFORE: RICHARD EZEANYIM, Presiding Examiner
DAVID K. BROOKS, Legal Examiner

November 29, 2012

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Presiding Examiner, DAVID K. BROOKS, Legal Examiner, on Thursday, November 29, 2012, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
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1 EXAMINER EZEANYIM: This hearing will come
2 to order. Today is November 29th. Maybe I should wait.
3 until everybody is settled.

4 As I was saying, this hearing will come to
5 order at this time. Today we're going to call Docket
6 Number 37-12, November 29th, at approximately 8:15 in the
7 morning.

8 However, before we go to that docket, I have a
9 couple of announcements to make. The first -- I think
10 you guys will benefit from this -- is on January 10th, we
11 have no hearing on January 10th because of the PIT rule
12 hearing. So all the continued cases for January 10th are
13 moved to January 24th. And so we're not having any
14 continuances on January 10th. They're going to be moved
15 to January 24th.

16 I noticed when I read this docket that -- you
17 know, about three or four years ago, we changed the way
18 we named our rules. I'm not an attorney. It's 19.11, I
19 don't know what that means. And that's what we're
20 dealing with. I'm more comfortable with the old rules,
21 but I don't know the ones that we changed three years
22 ago.

23 However, I still see in the docket that most
24 people still try to do the old nomenclature. I'm trying
25 to learn the new ones. They're confusing me. So please,

1 if you want to do it, I think you can download it on
2 line. It's all on line. Download it, and then cite the
3 correct rule which are you are addressing at that point
4 so that I can go straight to it. Because I don't have
5 the old nomenclature. I don't have it. All I have now
6 is the new rule, and they told us to abide by those new
7 conventions.

8 So please don't cite 5 rules -- 5 something or
9 3 something. Just tell me 19. something, something,
10 something, so I can go to that directly. It's just a
11 minor something, but I think it helps me. Because
12 otherwise, I have to go and fish out the old ones to
13 cross-check what you are talking about.

14 And now the top one is overproduction. I
15 don't know how many people are overproducing. For me,
16 there is nothing like overproduction. As long as
17 correlative rights is not impaired, as long as we don't
18 damage the reservoir, as long as we extract all the
19 primary hydrocarbons, for me, that's not overproduction.
20 We want to produce the reservoir at the most efficient
21 and effective manner.

22 Like I said, if we are not impairing
23 correlative rights and we're not damaging the reservoir
24 and we are not doing some production skims that we leave
25 certain oil underground, there's nothing like

1 overproduction.

2 The point I'm making here is you have one
3 month test allowable during that one month when you are
4 testing your well. When the well comes on, you should
5 know what your well should do. If you think you are
6 going to exceed the depth bracket allowable, at that
7 point you apply for increasing allowable.

8 That one month is not for you to determine
9 whether your allowable is going to be exceeded and the
10 well declines. Depending on the decline scenario you are
11 having, you should be able to determine that within that
12 one-month allowable.

13 We have that in the rule, that you could drill
14 your test allowable to determine what your well is going
15 to do. If you think you're going to produce more than
16 the depth bracket allowable, please apply for increased
17 depth bracket allowable. Don't just continue to produce.
18 Because if I were you, I would. Why would I not produce?

19 But however, if you look at it from my own
20 side, I want to make sure there that is no correlative
21 rights issue. I want to make sure that the ultimate
22 recovery is obtained. I want to make sure your
23 production doesn't damage the reservoir. Once that is
24 done and you can prove it, we can increase your
25 allowable, even make it productive. Because we want to

1 produce the reservoir.

2 I don't want people hiding behind something or
3 somebody reports you. Oh, so it's overproducing. So if
4 that happens, I begin to wonder how many operators are
5 overproducing. Of course, I told you I don't believe in
6 overproduction. You should not allow it to happen.

7 All you are going to do is when you test and
8 you think are you going to exceed the allowable, apply
9 for an increased allowable. We do it routinely at all
10 the hearings. We are going to put something up so
11 everybody will know, instead of, "Oh, I'm overproducing."

12 You're not overproducing. Just come in here and get
13 your allowable increased. Demonstrate that you're not
14 damaging the reservoir or demonstrate that there's no
15 correlative rights issues, and then we can increase that
16 allowable.

17 So I hope I made it clear now. Because from
18 what we have been seeing, it appears that people produce
19 what I call illegal oil. I don't want any illegal oil.
20 We want to produce legal oil, and we want to produce that
21 legal oil most effectively and most efficiently. I think
22 that's the most beneficial for you and for me and for
23 everybody. I want you to produce it. Don't leave it
24 there.

25 Don't say, "I'm going to curtail." No. Apply

1 for increased allowable. Don't curtail that thing
2 because you might kill the well completely. Of course,
3 you don't want to do that.

4 Now, before I open for any comments, I would
5 like my legal advisor to say something on confidential
6 information.

7 EXAMINER BROOKS: We have been struggling
8 with how to handle confidential information because we've
9 had an increasing number of requests to hold material
10 that was presented to us in confidence, not so much in
11 hearings, because I think everybody is pretty well
12 attuned to the fact that we have to be very formal and be
13 on the record and have everything worked out in the
14 hearing context. But in other contexts, we've had a lot
15 of issues about confidential information.

16 We have a new policy that we are going to be
17 working under. It's posted, I believe, on our website.
18 Is it not?

19 EXAMINER EZEANYIM: Yes.

20 EXAMINER BROOKS: If you or your clients
21 are going to be handling or presenting to the OCD
22 information that you want us to hold confidential, we
23 urge you to look at that policy on our website and work
24 with us within it.

25 If we accept something -- once we accept

1 something as confidential, we want to be sure it's
2 properly handled and that confidence is maintained.

3 But we also are taking the position that in
4 most cases, we are not going to accept something as
5 confidential. The reason being that we have Inspection
6 of Public Records Act requests from time to time. And if
7 we are going to keep that confidential information and
8 not produce it in response to Inspection of Public
9 Records Act requests, then of course we have to be able
10 to defend that that is, in fact, information that is
11 exempt from the requirements of that act.

12 So if you are going to be dealing with
13 confidential information with the OCD, please be sure and
14 look at that policy and talk to us about what it is, why
15 it's confidential, and get us to make a ruling on it.
16 And then we can look at the policy to make a firm
17 determination that hopefully will protect both us and
18 you.

19 EXAMINER EZEANYIM: That's a very good
20 point. Because we realize that when you apply for these
21 applications, we can see some -- you know, the whole
22 package is not marked "confidential." Of course you
23 can't make the application confidential. It's public
24 information.

25 But if something is stamped "confidential," lo

1 and behold, this is Form C-105 production data, and this
2 is extended over 90 days. After 90 days, production data
3 is longer confidential.

4 EXAMINER BROOKS: I think everyone is
5 aware of how the C-105 and log thing works, and it's not
6 really been a problem. It's been in other contexts that
7 we've had issues where it gets a little woozy.

8 EXAMINER EZEANYIM: When you stamp that
9 Form C-105 "confidential," I wonder, what am I supposed
10 to do with it? Do I just neglect it and just go ahead?
11 And then you come back and say, "Well, I put
12 'confidential' here, and it's confidential." That's what
13 this policy is about that I just told you.

14 So if you need confidential information, go
15 the proper route. It's now on line for you to read it
16 and see how you can apply it. Sure, we will keep it from
17 you, but it has to go through the proper channels.

18 Now, does anyone have any questions or any
19 comments?

20 Okay. Now we go back to the docket. Today is
21 going to be a long docket. I have arranged it the way I
22 think it might be smoother. But after I tell you what I
23 have done, let me know if you have any advisement on
24 this.

25 Docket Number 37-12 on November 29th, first of

1 all, the first order of business is to read you all of
2 the continuances and dismissals. There are not many of
3 them.

4 We go to page 2. Case Number 14907 is
5 continued to December the 13th. On page 3, Case Number
6 14913 is dismissed. Page 4, all of those cases, Numbers
7 14, 15, 16, 17, 18 -- of course, for the record, I'm
8 going to read the case numbers. Case Number ~~(14934)~~, Case
9 Number 14935, Case Number 14921, Case Number 14922 and
10 Case Number 14923, all these are continued to December
11 the 13th.

12 And then we come to page 5. Case Number 14888
13 is continued to January 24th. This was continued to
14 January 10th, but I have to move it to January 24th. As
15 well as Case Number 14883 is continued to January 24th.

16 Are there any other continuances or
17 dismissals?

18 Okay. Now this is what I think we are going
19 to do. We have about almost 14, 15 cases here. First of
20 all, we're going to go to Case Number 14911. This is
21 just a case we have already heard. We are going to
22 collect some information.

23 And then we are going to Case Number 14926,
24 proceed with 14929, 14919, 14930 and 14932, and then Case
25 Number 14933. And then Case Numbers 14914 and 14915, I

1 think they are together. One of them should be heard.
2 The other one was already heard. And then Case Number
3 14936, Case Number 14917, 14931, 14927, 14928.

4 That is the order I thought I would like to
5 proceed. However, if there is any advice, depending on
6 what I just said, we might just rearrange it to
7 accommodate you.

8 MR. FELDEWERT: Mr. Examiner, Michael
9 Feldewert. I know you want to call Case 14911 for
10 purposes of collecting some information. My secretary,
11 at this point, is putting together a couple of exhibits.
12 She needs some additional time. I had expected that the
13 case was going to be later in the day. So if we could
14 just delay that one until my secretary arrives with the
15 additional exhibits, I'd appreciate it.

16 EXAMINER EZEANYIM: So we can proceed in
17 our line. Now, what I just read, does anybody have any
18 problems with that?

19 MR. KELLAHIN: Mr. Examiner, Tom Kellahin.
20 I have the first three cases for Burlington. While
21 there's lots of boxes here, we can present the entire
22 three cases within less than an hour. The first one is
23 by affidavit, and the other two are by Mr. Creekmore.
24 And while they have large exhibit books, they're very
25 effectively presented, so we can do those three within an

1 hour.

2 EXAMINER EZEANYIM: I moved you back.

3 MR. KELLAHIN: I know you did.

4 EXAMINER EZEANYIM: So what are you
5 saying?

6 MR. KELLAHIN: I would like to be where I
7 am on the docket.

8 EXAMINER EZEANYIM: How long is it going
9 to take? It's a reference case. I was thinking we get
10 the easier ones first, and then --

11 MR. KELLAHIN: These are easy. The
12 reference portions of these cases have already been
13 approved for the Dakota and the Mesaverde and the Mancos.
14 All we're doing is addressing the notice component for
15 that process.

16 So the underlying science is already approved
17 by you as being utilized by the company to do their
18 commingling. At this point, all we have left is the
19 administrative obligation to provide notice to 1,700
20 people. So that's what we're trying to avoid doing.

21 EXAMINER EZEANYIM: Okay. I think you
22 have a point there. But you know, I thought you were
23 going to go through all the criteria.

24 MR. KELLAHIN: No, sir.

25 EXAMINER EZEANYIM: Okay. So in that

1 case -- where did I put you? I put you at the last?
2 If you have to go through all the 10 or 11 criteria plus
3 notice, I mean that may -- I don't know what you are
4 trying to ask for here.

5 Okay. Now, maybe what we might do is just go
6 according with the docket and follow the docket through
7 and forget about what I have just said. I mean we are
8 going to hear all of them today. I think that's why most
9 people are coming late, because they thought theirs was
10 at the back. And they come in and say, "Well, it's not
11 going to be at 8:15."

12 With that said, I think I have to dump this
13 and go with the docket. Is that okay with everybody?
14 Does anybody have any comment on that? Because what it
15 is now, if you were first, you are now last. Okay. That
16 being said, then I have to rearrange this.

17 * * *

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19
20 I do hereby certify that the foregoing is
21 a complete and true record of the proceedings in
22 the Examining Hearing of Case No. _____
heard by me on _____

23 _____, Examiner
24 Oil Conservation Division
25

REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on November 29, 2012, proceedings in
the above captioned case were taken before me and that I
did report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

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

WITNESS MY HAND this 11th day of December,
2012.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2012