

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

ORIGINAL

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 \* \* \*

18  
19  
20 I do hereby certify that the foregoing is  
21 a complete and correct report of the proceedings in  
22 the Ex parte hearing of Case No. \_\_\_\_\_,  
heard by me on \_\_\_\_\_.

23 \_\_\_\_\_, Examiner  
24 Oil Conservation Division  
25

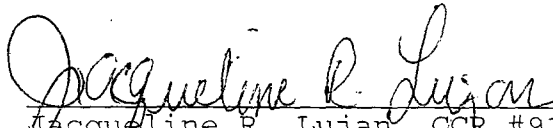
## REPORTER'S CERTIFICATE

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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