

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

6 APPLICATION OF NEARBURG  
7 EXPLORATION COMPANY, L.L.C.  
8 FOR COMPULSORY POOLING,  
9 LEA COUNTY, NEW MEXICO.

CASE NO. 14995

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

July 12, 2013

Santa Fe, New Mexico

2013 AUG - 1 A 7:45  
RECEIVED OGD

14 BEFORE: RICHARD EZEANYIM, CHIEF EXAMINER  
15 DAVID K. BROOKS, LEGAL EXAMINER  
16 PHILLIP GOETZE, TECHNICAL EXAMINER

17  
18 This matter came on for hearing before the  
19 New Mexico Oil Conservation Division, Richard Ezeanyim,  
20 Chief Examiner, David K. Brooks, Legal Examiner, and  
21 Phillip Goetze, Technical Examiner, on Friday, July 12,  
22 2013, at the New Mexico Energy, Minerals and Natural  
Resources Department, 1220 South St. Francis Drive,  
Porter Hall, Room 102, Santa Fe, New Mexico.

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

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APPEARANCES

FOR APPLICANT NEARBURG EXPLORATION COMPANY, L.L.C.:

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FOR OXY USA WTP, LP:

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INDEX

PAGE

Case Number 14995 Called	3
Exhibit 5A Offered by Mr. Bruce	4
Proceedings Conclude	6
Certificate of Court Reporter	7

EXHIBITS OFFERED AND ADMITTED

Nearburg Exhibit Number 5A	4
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1 (11:18 a.m.)

2 EXAMINER EZEANYIM: At this point, I call  
3 Case Number 14995, application of Nearburg Exploration  
4 Company, L.L.C. for compulsory pooling, Lea County,  
5 New Mexico.

6 Call for appearances.

7 MR. BRUCE: Mr. Examiner, Jim Bruce of  
8 Santa Fe representing the Applicant.

9 I would also note for the record that  
10 Germaine Chappelle entered an appearance on behalf of  
11 OXY and --

12 Here she is.

13 But that case was heard, and I had  
14 neglected to send notice to one of the interest owners,  
15 being E.G. Energy, LLC, before the prior hearing, but  
16 because it was too late, I had to set -- set [sic]  
17 notice for this case.

18 And I think Ms. Chappelle will concur that  
19 OXY is one of the parties that is subject to the  
20 pooling. They're inches away from agreeing to the  
21 drilling of this well.

22 MS. CHAPPELLE: Centimeters, Bruce.

23 MR. BRUCE: Centimeters.

24 But there are still a few people, including  
25 E.G. Energy, who have not signed up, so at this point,

1 the pooling order is still needed. But, obviously, if  
2 the parties do sign, we'll so notify the Division. And  
3 if anybody signs up, I would guess it would be over the  
4 next couple of weeks.

5 So I'd move the admission of Exhibit 5A.

6 EXAMINER EZEANYIM: Any objection?

7 MS. CHAPPELLE: I don't have an objection  
8 to the admission of the exhibit, no.

9 EXAMINER EZEANYIM: Exhibit 5A will be  
10 admitted.

11 (Nearburg Exhibit Number 5A was offered and  
12 admitted into evidence.)

13 MR. BRUCE: And that's all we have in that  
14 matter.

15 MS. CHAPPELLE: I just want to clarify on  
16 the record, if I could, that OXY's position is that a  
17 signed AFE is sufficient to dismiss us from the forced  
18 pool. It's not our position or our analysis, after  
19 looking at the statute and the regulation, that a signed  
20 JOA is required to dismiss us. So OXY's request would  
21 be to go ahead and dismiss us from the forced pool for  
22 those reasons. And I'm happy to provide e-mails showing  
23 that, literally, on the JOA, they're just talking about  
24 technical changes at this point.

25 MR. BRUCE: And OXY has signed an AFE. I

1 know they're talking about technical issues.

2 But to Examiner Brooks, I know I've argued  
3 this before, and there is case law that says that an AFE  
4 is not a contract. And so that's why we oppose  
5 dismissal of OXY until they sign the JOA.

6 EXAMINER BROOKS: Well, it would be easier  
7 for you to get OXY to sign the JOA than it would be  
8 for -- I think maybe we'll sit on it and see if they  
9 send in the JOA.

10 MS. CHAPPELLE: Yes.

11 MR. BRUCE: I'm sure they will. As soon as  
12 they do, I'm sure Ms. Chappelle will notify the  
13 Division.

14 MS. CHAPPELLE: Absolutely.

15 EXAMINER BROOKS: I remember that issue  
16 being discussed, and so I think I was probably -- do you  
17 have a notation there as to what date it was previously  
18 heard?

19 MR. BRUCE: Yes. That was two weeks ago.

20 EXAMINER BROOKS: That was my hearing.

21 MS. CHAPPELLE: Yes, it was.

22 EXAMINER BROOKS: It's my case.

23 MR. BRUCE: It was heard on a Thursday,  
24 Mr. Examiner.

25 EXAMINER BROOKS: Pardon me?

1 MR. BRUCE: It was heard on a Thursday  
2 (laughter).

3 EXAMINER BROOKS: Yeah, I know.  
4 (Laughter.)

5 MS. CHAPPELLE: We were here right after  
6 lunch.

7 EXAMINER BROOKS: That's like the quip:  
8 Well, what day is Thanksgiving this year? Well, I think  
9 it comes on a Thursday (laughter).

10 EXAMINER EZEANYIM: Now you know why we do  
11 it on Thursday, so we can have today. Right? That's  
12 why we do it every Thursday.

13 MR. BRUCE: It used to be Wednesday.

14 (Case Number 14995 concludes, 11:22 a.m.)

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I hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 14995 heard by me on July 29, 2013.  
Phillip R. Locky, Examiner  
Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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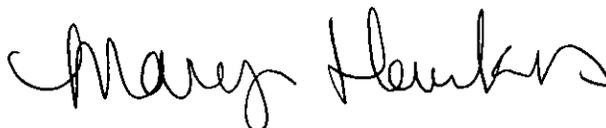
4 CERTIFICATE OF COURT REPORTER

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.

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MARY C. HANKINS, CCR, RPR  
Paul Baca Court Reporters, Inc.  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2013

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