

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

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

APPLICATION OF BOLD ENERGY, LP, FOR)
APPROVAL OF AN APPLICATION FOR A PERMIT)
TO DRILL AND TO ALLOW TWO OPERATORS ON A)
WELL UNIT, EDDY COUNTY, NEW MEXICO)

CASE NO. 13,877

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

April 12th, 2007

Santa Fe, New Mexico

2007 APR 26 AM 9 41

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, April 12th, 2007, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

I N D E X

April 12th, 2007
Examiner Hearing
CASE NO. 13,877

	PAGE
APPEARANCES	3
ARGUMENTS ON MOTION:	
By Mr. Carr	6
By Mr. Bruce	12
REPORTER'S CERTIFICATE	33

* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	13	-
Exhibit 3	15	-

* * *

A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS, JR.
Assistant General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
Santa Fe, New Mexico 87504

FOR OXY USA WTP LIMITED PARTNERSHIP:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 12:23 p.m.:

3 EXAMINER EZEANYIM: We have one more case here.
4 I would like to maybe do it before we go for lunch, so
5 we'll take about five to ten minutes' break and come back
6 and finish it and so go to lunch. Is that okay with
7 everybody?

8 MR. BROOKS: How long is it expected to take?

9 EXAMINER EZEANYIM: Okay, before we go there, I
10 think we are here not to re-hear the case, because I didn't
11 hear from the attorneys yesterday, so we're here to argue
12 on the motion, right?

13 MR. BRUCE: Well, I think -- Mr. Examiner, I
14 think we start off arguing the motion, depending on what
15 you hear. I do have two witnesses available who could
16 expound upon the matters I'm going to discuss or submit.

17 MR. CARR: Well, I think what we ought to do, at
18 least, is argue the motion and then see if there is any
19 need for a hearing beyond the arguing of the motion.

20 EXAMINER EZEANYIM: Well, if we argue the motion,
21 and then I have to take that -- of course I can't make a
22 ruling immediately, I have to take it under advisement,
23 which means the case -- we may have to -- I don't know.
24 Why don't we take a break and come back and talk about it?

25 (Thereupon, a recess was taken at 12:25 p.m.)

1 (The following proceedings had at 12:42 p.m.)

2 EXAMINER EZEANYIM: We'll go back on the record
3 now, at this time I call Case Number 13,877. This case has
4 been continued several times. This is the Application of
5 Bold Energy, LP, for approval of an application for a
6 permit to drill and to allow two operators on a well unit,
7 Eddy County, New Mexico.

8 Before I call for appearances, I would like to
9 make some observations here. There is a motion to
10 continue, and I haven't gotten a response to that motion to
11 continue.

12 So I was thinking -- this is my thinking -- in
13 this case, if we're going to hear it today, it is going to
14 take long. Let's only hear the motion to continue, with
15 the response, and I can take that under advisement and we
16 can continue this case to a date off-docket, you know, to
17 hear it, if you guys didn't come to an agreement after I
18 rule on the motion to continue, if this is acceptable to
19 the parties who are going to go that route.

20 However, if the Applicant wants to hear the case
21 today, I would like to know how much time we need, and tell
22 me whether we need to go to lunch and come back to deal
23 with it, or we deal with it now.

24 So my proposal would be to hear the motion to
25 continue and the response to that motion to continue, and

1 go from there.

2 MR. BRUCE: Mr. Examiner, my only comment is, I
3 know Mr. Carr will submit his motion. I did not have time
4 yesterday to prepare a response. That is probably just as
5 well, because I think I could better explain my response to
6 you in person than on paper anyway.

7 I do have two witnesses here. If the Division
8 did decide to hear the case, they would both be very brief
9 witnesses. I mean, my direct testimony would probably be,
10 in essence, about 15 minutes long.

11 EXAMINER EZEANYIM: Okay. Okay let's, you know,
12 hear the motion first.

13 Mr. Carr?

14 MR. CARR: May it please the Examiner, my name is
15 William F. Carr. I'm with the Santa Fe office of Holland
16 and Hart, and we represent OXY USA WTP Limited Partnership
17 in this matter, and we have filed a motion in this case to
18 continue the case or, in the alternative, to dismiss the
19 case.

20 Mr. Examiner, I think this is probably the first
21 case quite like this to come before the Division. It
22 arises, sort of, under new Rule 104.E. We think what Bold
23 is doing is misapplying that rule, because in essence what
24 they're asking the Division to do is first interpret one
25 contract, a farmout agreement. And then no matter what the

1 outcome on that is, if you get to the second contract, the
2 joint operating agreement, Bold is asking you to rewrite
3 the operating agreement. And neither of these are things
4 that you can do.

5 Bold asks to approve two operators on the spacing
6 unit and approve an APD. And OXY is the current operator
7 of that spacing unit and pursuant to Rule 104.E filed an
8 objection. The basis for objection is that there are
9 contracts between the parties. They govern how this well
10 should be proposed and how it should be drilled. And based
11 on OXY's interpretation of these agreements, we believe
12 Bold does not have the right to propose or to drill the
13 well.

14 Now the parties disagree on the status of the
15 contracts, but OXY submits that Bold's Application violates
16 these agreements, and they do not have the right to come
17 before you and seek what they're seeking here today.

18 Mr. Bruce provided me with a copy of an opinion
19 letter a little while ago in which they have had outside
20 counsel render an opinion that the joint operating -- or
21 that the farmout agreement no longer applies.

22 And that strikes me as somewhat interesting,
23 because as you may recall, six weeks ago we were before you
24 and Mr. Brooks at that time telling you that we were
25 seeking a termination agreement, an agreement to terminate

1 that farmout.

2 Well, Bold has not yet been able to get that
3 signed, and so they appear today to have decided since it
4 isn't signed, they're going to tell us that they just don't
5 need it.

6 Well, they may not think these contracts apply,
7 but we do. And you need to know that these aren't good
8 contracts. We don't like the farmout agreement, it has
9 some very burdensome terms for OXY. But when we look at
10 this agreement, they apply. And there are problems for
11 everyone, and they should be taken care of and terminated
12 by agreement. And if they're not, then they have to be
13 interpreted in the courts.

14 And that's where we are. And we believe they're
15 asking you to do something you don't have jurisdiction to
16 do.

17 We don't think you can interpret a contract, we
18 don't think you can rewrite a contract, but we think you
19 can say, yes, there is a contract dispute here, and the
20 parties should go get this resolved someplace else before
21 they come to us, and if they resolve them we may never have
22 to come back at all.

23 And they're resolved two ways. They're resolved
24 by an agreement, as we've been trying to do, or you go to
25 court and you get an interpretation of the agreement.

1 The letter that I got today from Mr. Bruce says,
2 Well, the farmout agreement doesn't apply. Well, that
3 farmout agreement is the basis, is the contract through
4 which we acquired -- OXY acquired its interest in the
5 property.

6 And with that property, once it's acquired, come
7 rights and responsibilities that fall on OXY. We don't
8 pretend we can go out years later under a farmout agreement
9 with a continuous development provision and now drill wells
10 and earn acreage. The opportunity to earn acreage is gone,
11 but the rights and obligations remain. We're obligated to
12 assign an interest to them in each well at payout.

13 And we also had certain things that we think we
14 earned along with just the acreage, and they're in that
15 letter, and they're in paragraph 9 of it. And one is that
16 subsequent wells on earned units, what we have, shall be
17 drilled at the sole risk, cost and expense of OXY. We've
18 agreed contractually we'll drill that well.

19 And it then goes on to say that OXY also acquires
20 the right to retain 100 percent of the interest now held by
21 Bold prior to payout on any subsequent well drilled
22 thereon. And so we believe that on an earned unit we have
23 a right not only to drill but that these provisions about
24 our retaining their interest, along with the bad payout
25 provisions, are things that are obligations and rights that

1 spring from this earlier agreement.

2 So we have a legal dispute, a contract issue.

3 And we submit that the contract issues really here have to
4 be decided first.

5 The first issue is interpreting that farmout
6 agreement. That farmout agreement, in the text of the
7 agreement, says if it's inconsistent with the operating
8 agreement, the farmout agreement controls. So that's where
9 we have to start. And if OXY's interpretation is right,
10 Bold at the time they want to drill a well, doesn't even
11 own an interest in the property. They won't get it until
12 payout.

13 If they don't have an interest, it raises
14 questions if we get to the issues under the operating
15 agreement. If they don't own an interest, can they propose
16 it, if they're not going to be, I guess, participating?
17 All these things, though, require interpretation of these
18 agreements. But that's the first agreement.

19 Now we have a second one, we have a joint
20 operating agreement between the parties covering this
21 tract. Now this -- if we get to that, depending on what
22 the courts decide about the farmout agreement if we can't
23 get it terminated, well then we have questions under the
24 joint operating agreement, because even if we're under --
25 the well has been proposed under the operating agreement,

1 assume that, even if OXY is nonconsent, assume that, when
2 the well is drilled, pursuant to the terms of the joint
3 operating agreement they have to -- I can read it.

4 It says, If any well drilled, re-worked, deepened
5 or plugged back under the provisions of this article
6 results in a producer of oil and/or gas in paying
7 quantities, the consenting parties -- that wouldn't be OXY
8 on these facts -- shall complete and equip the well to
9 produce at their sole cost and risk, and the well shall be
10 turned over to the operator and shall be operated by it at
11 the expense and for the account of the consenting parties.

12 The operator in the agreement is OXY. So even if
13 everything they argue is right, they can't operate this
14 well unless you decide you're going to rewrite the joint
15 operating agreement. That doesn't require interpreting it.
16 It's an unambiguous provision in the agreement, and it says
17 you're just going to throw out a private contract. And you
18 can't do that.

19 And so what we filed was a motion for a
20 continuance. We think we should go back and try and work
21 it out. And if we can't, we have to go to court. And
22 before we do that, we don't think there's anything to bring
23 to you.

24 You know, Rule 104.E is a relatively new rule.
25 You probably know it as well or better than anyone. And it

1 does authorize joint -- more than one operator on a spacing
2 unit. But it also says it doesn't apply to compulsory
3 pooled units, and it doesn't apply to state or federal
4 exploratory units. And I would submit that the reason it
5 doesn't apply to those is because operators for those
6 units, spacing units or exploratory units, have been
7 designated by contracts and orders.

8 Here we have two contracts, and no matter how you
9 sort them out, we get down to the final provision, and it
10 says this well will be operated by OXY, even if Bold has a
11 right to propose it. And I submit that while you don't
12 have authority to determine or interpret a contract, you
13 can say there is a dispute here, and you should go and
14 resolve that before you bring an issue to me, because once
15 you resolve it there may be no issue to bring to you.

16 EXAMINER EZEANYIM: Thank you, Mr. Carr.

17 Mr. Bruce?

18 MR. BRUCE: For purposes of this argument, I'm
19 handing you what's been marked Exhibit 1, which is a letter
20 from Richard Montgomery, an attorney in Midland, who is
21 present today. That is the letter I delivered to Mr. Carr
22 this morning regarding his opinion on the efficacy of the
23 1997 letter agreement.

24 First off I want to say, we're not asking the
25 Division to rewrite the operating agreement. And in fact,

1 the way I look at it, first of all our argument is that
2 this 1997 agreement is not in effect. Even if it was, it's
3 not in conflict with the JOA, with the joint operating
4 agreement or the Rules of the Division.

5 When you get down to it, this is an argument
6 between a party that wants to drill a well -- Actually all
7 working interest owners, other than OXY who own greater
8 than 50 percent, want to drill this well. And then the
9 other party, OXY, doesn't want to drill it, at least right
10 now. It's never really signed any letters. An election
11 letter was presented to them under the JOA. I believe they
12 never signed or returned it either way, but they have just
13 not responded in any way, shape or form to Bold's proposal.

14 What OXY's position is, it has the absolute sole
15 right as to when it can drill a well, or whether or not to
16 drill a well, in its sole discretion. We think this is
17 unfair to the other working interest owners and is contrary
18 to the JOA.

19 First, as I said, the 1997 letter agreement is no
20 longer in effect, and that is buttressed by Mr.
21 Montgomery's letter. I won't go into the details, but the
22 fact of the matter is, all wells under that 1997 letter
23 agreement were drilled, all acreage was earned, all back-
24 ins under the JOA and under the letter have occurred, and
25 therefore there's really no need to look at that 1997

1 letter agreement anymore.

2 Furthermore, when you look at that letter, that
3 1997 letter agreement, it has a well cost of \$900,000. We
4 had a meeting before and you saw that. Bold isn't seeking
5 to hold OXY liable for drilling a well, which in today's
6 market would probably cost well in excess of \$2 million,
7 maybe \$3 million -- we're not seeking to hold OXY liable
8 for that \$900,000 well cost, first of all because the 1997
9 letter agreement is no longer in effect. Another reason
10 is, that's just not fair to anyone involved.

11 We believe that the only effective agreement is
12 the 1997 joint operating agreement. And I'm skipping some
13 of my documents here. And I've just copied part of it.
14 Mr. Carr has previously submitted this with his motion.
15 I've marked it Exhibit 3. And again when you look at it --
16 Let's just take a JOA, a typical JOA, ignoring the 1997
17 agreement, ignoring the current JOA. Virtually every JOA,
18 modern JOA, says Company X shall operate all wells on the
19 premises and shall drill all the wells.

20 But they all have provisions saying that if a
21 well proposal is made and the operator under the agreement
22 does not want to drill the well or does not want to
23 participate in the well, the other parties can drill,
24 complete the well, and turn it over.

25 How is that inconsistent with the 1997 letter

1 agreement? All that says is that OXY shall operate. Fine,
2 but under the JOA -- What Mr. Carr is asking you to do is
3 negate the provision of the JOA which says that a
4 nonoperator can propose a well, drill the well and turn it
5 over.

6 And that gets to another point. We're not asking
7 for Bold to be operator in perpetuity; simply for purposes
8 of drilling and completing the well and turning it over to
9 OXY. So this is somewhat different, because we're not
10 seeking to have permanent operatorship. It is solely for
11 the purposes of drilling and completing that well, which in
12 most instances would probably take about, I'm not sure, 45
13 days.

14 Now the Division by necessity must interpret some
15 contracts. Well, in the prior Synergy hearing there was a
16 bunch of contractual data presented. The Division had to
17 make its decision on that. And that often happens in force
18 pooling procedures where you -- for instance, if one party
19 comes in and says, This JOA covers my interest, you can't
20 force pool me. That happens a lot.

21 This is simply an action under Rule 104 which
22 allows two operators per well unit, and again we're not
23 seeking permanent operatorship; just for purposes of
24 drilling the well, to protect the correlative rights of all
25 of the interest owners, including the royalty owner, the

1 State of New Mexico. Once that well is drilled and
2 completed, operations will be returned to OXY.

3 And I suppose the big question is, what is the
4 harm in approving the APD? Now OXY has threatened to go to
5 district court to shut down the drilling of the well. I
6 suppose it's entitled to do that. But it hasn't taken that
7 action over the last five months, it's just objected to
8 the drilling of the well. It has simply objected to
9 everything, virtually, that Bold has proposed.

10 The only reasonable thing to do is to approve the
11 APD. Approving an APD is not contrary to the JOA, it's not
12 contrary to the 1997 letter agreement, even assuming it's
13 in effect, and it would just simply enable the parties to
14 drill the well.

15 On another related matter, rig availability
16 problems have always been a big issue, and I've got
17 witnesses who can testify as to everything I'm saying here
18 today, Mr. Examiner, but Bold has a rig available in three
19 weeks. If Bold can't drill, it must let the rig go. And,
20 you know, in this business time is money.

21 We think that the APD is consistent with the JOA.
22 Even if the '97 agreement is in effect, which we dispute,
23 it's consistent with that letter agreement, because that
24 letter agreement specifically references the JOA. And by
25 not allowing a nonoperator to propose a well, you're

1 negating that portion of the JOA.

2 We think that the correlative rights of the
3 interest owners are adversely affected if the well isn't
4 drilled. We would ask you to approve the APD.

5 And again, I do have witnesses here that can
6 testify about all of these matters in a very brief time,
7 and it may well shorten the procedure.

8 We think that the best procedure is to go
9 forward, approve the APD. If OXY has an objection, since
10 they have not taken any action to date, well then they can
11 go to district court. In our view, approve the APD; if OXY
12 has an objection, go to district court. Not the other way
13 around. We shouldn't be forced to go to a district court
14 proceeding if there's really no need for it.

15 Thank you.

16 EXAMINER EZEANYIM: Mr. Carr?

17 MR. CARR: You know, Mr. Ezeanyim, the farmout
18 agreement does reference a joint operating agreement, as
19 Mr. Bruce said. And it is signed by Bold's predecessors
20 and their successors they're bound by, and signed by us,
21 OXY. And it says where there are conflicts between the
22 joint operating agreement and this farmout agreement, this
23 farmout agreement controls.

24 And this farmout agreement is the one that says
25 we have the right to drill these wells, and they don't have

1 any interest till payout.

2 And maybe there's no conflict, because the
3 termination agreement is given priority over the joint
4 operating agreement, but it creates a very, very difficult
5 situation for the development of the acreage.

6 I'd like to just correct the record in terms of
7 what OXY has been doing. I think it's inappropriate to
8 suggest that we have done nothing. We have written then
9 repeatedly saying we don't think they have the right to
10 drill. We talked about the termination agreement. When we
11 get to hearing, we'll show the termination agreement. The
12 one I have, the only party who's bothered to sign the
13 termination agreement is OXY.

14 And Mr. Bruce can sit here and say, Well, we'll
15 interpret the contract this way and not charge OXY this,
16 and we won't hold them to this. But this isn't just a
17 contract between Bold and OXY. There are other involved,
18 and they have to sign to terminate this agreement, this
19 well.

20 If there's a correlative rights issue, that goes
21 beyond what I saw in this case, because there's nothing in
22 the prehearing statement or in the Application that
23 suggests they only want to operate while they drill. And
24 if there are correlative rights issues then I'd have to
25 bring witnesses, because they're proposing this well only

1 to one formation when, in fact, the original well --
2 they're not going to down to the Morrow, the original well
3 is in the Morrow. If there's a correlative rights issue, I
4 mean, it may be in the Morrow.

5 But the fact of the matter is, we're sitting here
6 floating -- nibbling around the edges of a contract
7 dispute, and you can't decide that.

8 MR. BRUCE: Mr. Examiner, again -- it says OXY
9 shall drill, but again you go to the JOA. The nonoperator
10 can propose.

11 (Off the record)

12 EXAMINER EZEANYIM: Okay, we have heard the
13 arguments on the motion to continue the case, and I have a
14 couple of points. I know my attorney is -- I advised him,
15 but I've been thinking.

16 First of all, it's clear we don't interpret or
17 have a position over a JOA or letter of agreement or letter
18 of farmout agreement or whatever. That's clear.

19 And we took into consideration the fact that you
20 have a -- several ways to get a rig. That's correct.

21 But if we hear the case today, then we might be
22 denying the other party the opportunity to bring witnesses.
23 Because of the way this case was handled, we didn't get
24 enough -- This argument we had today could have been off-
25 docket and then before today's hearing, we could have ruled

1 on that motion to continue. And then maybe if we deny the
2 motion to continue, we hear the case today.

3 So this is what I'm going to do. I think I will
4 still have to take this case -- I mean, this motion to
5 dismiss under advisement. And I would like to make a
6 ruling on the motion to continue at a later date, but I
7 will today try -- with your input, try to set this hearing
8 off-docket. I'm going to be hearing the case if there is
9 no resolution before then. Then at that point, it would be
10 off-docket.

11 It's not going to be on a hearing, it will be
12 -- because it might drag on long, because if you don't have
13 your witness or have your witness go and get ready, since
14 both of you are not willing to work it, I thought you guys
15 since February could have worked on this JOA here. But now
16 you are sucking the OCD into it, to resolve it.

17 Oh, yeah, our duty here is to issue APD, you
18 know. But if there are other issues involved in the letter
19 agreement or in the joint operating agreement that is going
20 to negate us giving us APD or not -- So I need to study
21 certain things before we go into that case. And that's why
22 I'm thinking that the best way to do it is to -- I will
23 take your arguments under advisement, and we schedule this
24 -- you know, I mean the hearing of this case, depending on
25 what the ruling is, because if I deny the motion to

1 continue then we hear the case. But if I just approve it,
2 then maybe, you know, something else has to be done.

3 But I think that we deny the motion to continue,
4 when do we think we can hear this case off-docket? I don't
5 want it to be on the docket, because that's the only way to
6 handle it, because since we didn't get ready, I was trying
7 -- working hard for us to get ready so that you -- we have
8 heard this before, and people will know they are going to
9 bring witnesses to this, bring your witness.

10 But Mr. Carr has pointed out, he needs to bring
11 witnesses. So if that is the case, we are going to have to
12 have some due process here, and that's why I'm deciding
13 what -- if it was the right of bringing in witnesses, we
14 could hear the case today, I don't mind. But I think he
15 said that I need to bring witnesses, you know, that you
16 brought your witness.

17 MR. BRUCE: Mr. Examiner, the only dates that
18 appear out is, Mr. Carr has a brief due in next Friday, so
19 he's occupied until then.

20 I have hearings on Wednesday and Thursday.

21 MR. CARR: And I'm at the University of Southern
22 California the first three days of the following week.

23 EXAMINER EZEANYIM: So when is the next time, the
24 next time? Because we can -- I can rule on this after I
25 confer with my attorney, by next week I can rule on that.

1 And then depending on what the ruling is, then go ahead and
2 hear the case. When do you --

3 MR. BRUCE: I mean, we could set it tentatively
4 for the next hearing date.

5 EXAMINER EZEANYIM: I would prefer it's off-
6 docket.

7 MR. BRUCE: Or the next -- We need to get it
8 heard quickly.

9 FROM THE FLOOR: I'm going to lose the rig.

10 MR. BRUCE: What's that?

11 FROM THE FLOOR: We'll lose the rig if we don't
12 get something done pretty quick.

13 EXAMINER EZEANYIM: We can hear this case --

14 MR. BRUCE: I mean, we could hear it --

15 EXAMINER EZEANYIM: No one will be here next
16 week.

17 MR. CARR: Well, next week Mr. Brooks has got me
18 pretty well tied up.

19 MR. BROOKS: Yes, Mr. Carr has a -- Mr. Carr's
20 response to the brief that I finished on Thursday is due a
21 week from Friday.

22 MR. BRUCE: Unless we could do it in the morning
23 of a Tuesday, or even -- something like that.

24 MR. BROOKS: Well, I'm probably more available
25 than anybody else. But you know, I do understand the

1 situation Mr. Carr is in on that case because that's a
2 major case --

3 EXAMINER EZEANYIM: Uh-huh.

4 MR. BROOKS: -- so...

5 MR. BRUCE: And then I suppose whatever --

6 MR. CARR: I'm really not available for two
7 weeks --

8 MR. BROOKS: I think we heard you to say --

9 MR. CARR: -- because I'm also having to attend
10 the task force Monday and Tuesday. I'm going to try and
11 get out of part of that, to get time to work on this brief.
12 And then I'm at the medical center Monday, Tuesday,
13 Wednesday. I will be back two weeks from today, but I
14 won't be speaking very loudly, but -- You'll have to let me
15 pull up to the table.

16 MR. BROOKS: Well, I think we heard you to say,
17 Mr. Carr, that you wanted to have the opportunity to bring
18 a witness --

19 MR. CARR: Yes, I do.

20 MR. BROOKS: -- if we heard the case.

21 MR. CARR: I was under the understanding that
22 we'd hear the motion today and, you know, I thought that's
23 where we were going with it.

24 And also, you know -- and there were two things
25 that surprised me.

1 When I read the prehearing statement and the
2 Application, I until this moment thought that they were
3 intending to permanently operate.

4 And the other thing is the correlative rights
5 issue was something that surprised me today.

6 And I would like to -- The first one I might be
7 able to handle alone, but I do think if there's a
8 correlative rights issue I need to have someone here. I
9 think I could get them here pretty quickly on that.

10 You know, the sad thing is, this termination
11 agreement nobody likes. I mean, the farmout agreement no
12 one likes. We just have gotten -- Also, we have our own
13 opinions that say it's in force, and so that's kind of
14 where we are.

15 MR. BRUCE: I hardly have anything on the next
16 docket, I think two weeks from today is -- What is the
17 docket like that day? Do you --

18 MR. BROOKS: I have no idea.

19 EXAMINER EZEANYIM: Oh, no, it's after today, you
20 remember I have a -- because it moved to two weeks from
21 today, to --

22 MR. BRUCE: Yeah.

23 EXAMINER EZEANYIM: -- the 26th, so from there
24 there's a lot of new cases, so we don't know. And this
25 case now, dealing with it --

1 MR. BRUCE: How about the date --

2 EXAMINER EZEANYIM: -- I would prefer that it be
3 off-docket, so I could come back and hear it, because the
4 26th --

5 MR. BRUCE: Friday morning?

6 MR. CARR: That would be all right, I think.

7 EXAMINER EZEANYIM: And again, on the 26th I
8 won't be available, I will be in Houston. So from the 27th
9 -- that's when -- 27th to May 5, you know, I won't be here.
10 So it has to be before I go to Houston.

11 MR. BROOKS: Well, that next week, then, that
12 you'll be in Houston was the week that Mr. Carr, I believe,
13 will be in California --

14 EXAMINER EZEANYIM: No. No, no, he is back by
15 then. You are going --

16 MR. CARR: I'm back on, I think, the 23rd or
17 24th --

18 EXAMINER EZEANYIM: Yes, yeah, it's not --

19 MR. CARR: -- Wednesday night.

20 EXAMINER EZEANYIM: See, that's why it is. I
21 thought he came back, and that's when I will be leaving.

22 MR. BROOKS: Well, I don't plan to be here on
23 Friday the 27th. Other than that, I'm quite flexible.
24 Friday the 27th or Monday the 30th, I don't plan to be
25 here, but I gather you won't be here either?

1 EXAMINER EZEANYIM: Yeah, I'll be in Houston for
2 that -- So I want to have this case done before that date.

3 MR. BROOKS: Before what date?

4 EXAMINER EZEANYIM: Before the -- May comes in.

5 MR. BROOKS: Yeah.

6 EXAMINER EZEANYIM: If we can do it before May
7 comes in.

8 MR. BROOKS: Well, I'm available any time except
9 the 27th or the 30th.

10 EXAMINER EZEANYIM: Okay, now let's go one by
11 one, Mr. Carr. Okay, next week you are off, and then -- I
12 mean --

13 MR. CARR: Next week it's really Monday,
14 Tuesday --

15 EXAMINER EZEANYIM: Let me ask this question. If
16 you bring a witness -- Mr. Bruce?

17 MR. BRUCE: Excuse me.

18 EXAMINER EZEANYIM: If both of you bring
19 witnesses, how long will your witnesses take, so that at
20 least I will be here for --

21 MR. BRUCE: I would need --

22 EXAMINER EZEANYIM: -- something that would --

23 MR. BRUCE: -- I would need --

24 EXAMINER EZEANYIM: -- finish in one hour?

25 MR. BRUCE: I would need probably -- if I bring

1 another -- say if a geologist was available, really very
2 brief. We're brief than what we've been talking about here
3 today between Mr. Carr and myself. I would anticipate
4 direct testimony of no more than 30 to 40 minutes.

5 EXAMINER EZEANYIM: For all your --

6 MR. BRUCE: For all of my witnesses.

7 EXAMINER EZEANYIM: And yours would go about --

8 MR. CARR: I would think -- you know, having not
9 talked to them, but I would think we would have 20 to 30
10 minutes direct, and then there's cross. But I guess the
11 whole hearing would take two hours or less.

12 MR. BRUCE: That is correct.

13 EXAMINER EZEANYIM: Okay. Yeah, if that is the
14 case, now, so we know it's two hours or less, then we can
15 just squeeze it in next week? No --

16 MR. CARR: It's just a question of being able to
17 get ready for it and get people here. I mean -- And then
18 we squeeze it in two weeks from today, after the regular
19 hearing?

20 EXAMINER EZEANYIM: On what date?

21 MR. CARR: Whatever that is.

22 MR. BROOKS: Twenty-sixth.

23 MR. BRUCE: Mr. Examiner, I know there are a
24 bunch of cases that I continued to that docket, but all of
25 the ones I continued, which is about eight or nine cases

1 will not be heard on that docket. I know that for a fact.

2 MR. CARR: I have an OXY case on that docket, and
3 this would give me an excuse to continue that, although I
4 was going to try and do that anyway.

5 EXAMINER EZEANYIM: Okay, if everybody is going
6 to be here on the 26th --

7 MR. BRUCE: And the one thing we would need is,
8 we would need at least a verbal -- if you decide to hear
9 the case, we would need a verbal on that day, even if no
10 order is out.

11 EXAMINER EZEANYIM: Oh, that -- you know, the
12 motion was granted or not.

13 MR. BRUCE: Well, or whether or not an APD would
14 be issued, simply for preparing the well site, Mr.
15 Examiner.

16 EXAMINER EZEANYIM: Oh, okay, I thought you --
17 Okay, I see what you mean. Okay.

18 MR. BRUCE: But I think there would be time
19 enough in between for you to review the documents and --

20 EXAMINER EZEANYIM: Okay --

21 MR. BRUCE: -- listen to the case.

22 EXAMINER EZEANYIM: -- Okay now, we might -- we
23 might -- I think -- Okay, we might put it on the 26th, if
24 we think that most of those cases will not be there. We'll
25 do it first thing in the morning before we -- for the --

1 for this hearing. We can do it on the 26th. Is 26th good
2 for everybody?

3 MR. CARR: Yeah, and just so we're -- you know,
4 everything is out on the table, Jim, I'm available and can
5 come in on the 26th to do this --

6 EXAMINER EZEANYIM: Okay.

7 MR. CARR: -- but I am not the only attorney
8 working on this on the OXY side. And my read is, they
9 might file something seeking a declaration in the district
10 court of some kind between now and then. If I -- I will
11 try and find out and let you know. There won't be any
12 sandbagging or surprise on any of that.

13 EXAMINER EZEANYIM: Okay. So I think -- You'll
14 be available on --

15 MR. BROOKS: I'll be available on the 26th.

16 EXAMINER EZEANYIM: Yeah, and if you are going to
17 be available, let's do it that way, so the --

18 MR. BRUCE: That's fine.

19 EXAMINER EZEANYIM: I'm hoping that the docket
20 that day will not have a lot of contests.

21 MR. BRUCE: I don't know of any. I'm not
22 involved in any.

23 EXAMINER EZEANYIM: Yeah, okay. So we do it,
24 maybe -- come in and do it first in the morning, first in
25 the morning, since we're going to -- so by 10:00 or after

1 10:00 we're done, so that the other hearing may continue,
2 on the 26th.

3 MR. CARR: Yes, sir.

4 EXAMINER EZEANYIM: Okay, 26th. But meanwhile we
5 will let you know what it is. Because if I say, well, if I
6 had -- you know, to continue or what, and what does that
7 mean? Does that mean the case will not be heard? Is that
8 what it means?

9 MR. BROOKS: Well, I gather what Mr. Carr has
10 asked for is an indefinite continuance --

11 MR. CARR: Yes, I have, Mr. Brooks, I have.

12 MR. BROOKS: -- and I'm not sure wherein that
13 differs from a dismissal, but --

14 MR. CARR: They're close.

15 EXAMINER EZEANYIM: Okay. Okay, I will take that
16 -- okay. So at this point, this is what we are going to
17 do. We are going to continue this case till the hearing on
18 April 26th. So we'll try to hear it first in the morning.
19 I'm going to be the Examiner, you know, for that particular
20 case.

21 Meanwhile, we are going to have a ruling on the
22 indefinite continuance of the case, you know, from what
23 they are -- Do you have a response to the motion? Or is
24 this a response to that? Do you still have a response to
25 that motion? Because I know --

1 MR. BRUCE: No, Mr. Examiner, I got tied up but,
2 you know, that's why I submitted these documents at this
3 time, so...

4 EXAMINER EZEANYIM: So are you going to say that
5 this -- you know, will substitute as a response to the
6 motion to continue?

7 MR. BRUCE: You know, when it comes to a hearing,
8 we would submit that witness in support of that letter.

9 EXAMINER EZEANYIM: No, I'm talking about the
10 motion to continue. Did you have a response to that motion
11 to continue? Because I --

12 MR. BRUCE: Just here today. I mean, this is my
13 response to the motion.

14 EXAMINER EZEANYIM: Oh, okay. So we'll continue
15 Case Number 13,877 till April 26th. But I think -- Before
16 we all leave here, I think the best thing is to -- I don't
17 know why Bold and OXY can't talk. Why is that? You guys
18 are not talking. If you guys would talk -- because if you
19 talk, maybe this case will not be here. And that's what we
20 decided in that February meeting, and I was trying to even
21 say that the case is dismissed, I thought we may. But
22 unfortunately you guys are not talking, so it's back --

23 MR. BRUCE: We're always willing to talk, Mr.
24 Examiner.

25 EXAMINER EZEANYIM: Okay. I will hold you on

1 that and hope you can talk today, because since the rig is
2 available something has to be done.

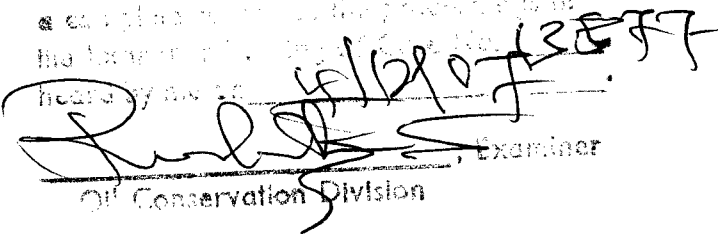
3 Okay, we'll continue that case to May -- I mean
4 April 26th. That concludes the proceeding.

5 MR. BROOKS: Did you do the nomen- --

6 EXAMINER EZEANYIM: No, not yet.

7 (Thereupon, these proceedings were concluded at
8 1:20 p.m.)

9 * * *

10
11
12
13
14 I do hereby certify that the foregoing is
15 a complete and correct transcript of the
16 hearing held on the above captioned matter.
17  Examiner
18 Oil Conservation Division
19
20
21
22
23
24
25

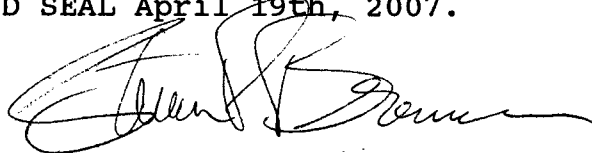
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL April 19th, 2007.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2010