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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 CHESAPEAKE ENERGY CORPORATION, LLC, TO RE-INSTATE DIVISION
ORDER R-11993-A FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

ORIGINAL

TRANSCRIPT OF PROCEEDINGS
Hearing
July 23, 2009
8:18 a.m.
1220 South St. Francis Drive, Room 2
Santa Fe, New Mexico 87504

RECEIVED OCD
2009 AUG 14 P 2:26

BEFORE: TERRY G. WARNELL, HEARING EXAMINER
RICHARD EZEANYIM, TECHNICAL ADVISOR
BRYAN JAMES, LEGAL ADVISOR
REPORTED BY: CONNIE JURADO, RPR, NM CCR #254
Paul Baca Professional Court Reporters
500 Fourth Street NW, Suite 105
Albuquerque, New Mexico 87102

A P P E A R A N C E S

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For the Applicant:

KELLAHIN AND KELLAHIN
Attorneys at Law
706 Gonzales Road
Santa Fe, New Mexico 87501
BY: W. THOMAS KELLAHIN

EXHIBITS

ADMITTED

- | | |
|---|---|
| 1. Order of the Division | 7 |
| 2. Affidavit of Ed Birdshead | 7 |
| 3. Certificate of Mailing & Compliance With | |
| Order R-8054 | 7 |
| 4. Affidavit of Publication | 7 |

1 MR. WARNELL: Call Hearing Docket 26-09 to
2 order. We're now on the record. Today's date is July 23,
3 2009. I would like to read the dismissals and the
4 continuances first. I know of two dismissals. That is Case
5 Number 14346 on page 4 of 8 and Case 14339 on page 8. Both
6 of those cases have been dismissed.

7 MR. BRUCE: Mr. Examiner?

8 MR. WARNELL: Yes.

9 MR. BRUCE: Did you say 14346?

10 MR. WARNELL: 14346.

11 MR. BRUCE: That is not dismissed. The
12 Mewbourne Oil Company case? No, no. Mr. Examiner, there is
13 a letter in the file dismissing two of the pooled parties,
14 but there are a number of other people pooled.

15 MR. WARNELL: Oh, is that right?

16 MR. BRUCE: Yes.

17 MR. WARNELL: Well, I stand corrected.

18 Excuse me. Are we going to hear that case today?

19 MR. BRUCE: Yeah. It's by affidavit. It's
20 going to be short.

21 MR. WARNELL: All right. So then I know of
22 one dismissal case, Case 14339 on page 8. Thank you, Mr.
23 Bruce. I apologize for that.

24 I think I know of 16 continuances. Starting on
25 page 1, Case Number 14321 is continued to September 17.

1 Going over to page 4, Case Number 14282, Case
2 Number 14343, Case Number 14344, and Case Number 14345,
3 those four cases are all continued to August 20.

4 On page 5, Case Number 14349, 14350, and 14351,
5 all three of those cases are continued to August 20.

6 Page 6, Cases 14352, 14353, and Case 14354 are all
7 continued to August 20. It's going to be a busy docket.

8 Page 7, the first two cases, Case 14290 and Case
9 14335 are both continued to September 3.

10 Case 14330 is continued to August 20, and Case
11 14173 is continued to August 20.

12 Last page, page 8, last case, Case 14319 is
13 continued to September 17.

14 Are there any other continuances or dismissals
15 that I don't know about or missed or --

16 MR. CARR: May it please the Examiner, on
17 page 7 of the docket --

18 MR. WARNELL: Yes, sir.

19 MR. CARR: -- at the bottom is Case 14311,
20 that is a companion case to the case, the next case on the
21 docket, 14322. In that case, Mr. Kellahin represents
22 Cimarex. I represent Nadel and Gussman Heyco in the first
23 case. It is our understanding that the parties have reached
24 an agreement and are in the process of executing a voluntary
25 agreement that will render these cases unnecessary.

1 And so with your permission, I would request that
2 Case 14311 be continued for two weeks. So if those two
3 cases could be continued for two weeks, we're hopeful that
4 we can dismiss them at that time.

5 MR. WARNELL: To August 6. We pretty much
6 had the afternoon set aside. That is good news. Thank you,
7 Mr. Carr. So Case 14311 will be continued to August 6, and
8 Case 14322 will also be continued to August 6. That
9 shortens our day a little bit. So that leaves us with seven
10 cases to hear this morning or today.

11 We'll start with Case 14340, application of
12 Chesapeake Energy Corporation, LLC, to re-instate Division
13 Order R-11993-A for compulsory pooling, Lea County, New
14 Mexico. Call for appearances.

15 MR. KELLAHIN: Mr. Examiner, I am Tom
16 Kellahin of the Santa Fe law firm of Kellahin and Kellahin
17 appearing this morning on behalf of the applicant. I have
18 no witnesses to be sworn. We're going to present this by
19 affidavit.

20 MR. WARNELL: All right. Thank you. There
21 are no other appearances. Mr. Kellahin, you can proceed.

22 MR. KELLAHIN: Thank you, Mr. Examiner. I
23 have given to the court reporter the original of the
24 affidavit and the original of the newspaper publication so
25 that she has that for the official file. Before you are

1 copies of all of those documents.

2 I have started with Exhibit Number 1, which is --
3 for your reference is the division pooling order that was
4 entered effective back in October of last year. It allowed
5 Chesapeake to pursue the drilling of this -- the
6 recompletion of this well under a pooling order. And
7 unfortunately due to a clerical error, Chesapeake had
8 allowed that order to expire. So the order you have before
9 you as Exhibit Number 1 expired, and Chesapeake failed to
10 obtain an extension of the order before it did so. The
11 order expired back on December 30 of last year.

12 The next copy of the exhibits that you have before
13 you is Exhibit Number 2. This is Mr. Birdshead's affidavit.
14 Mr. Birdshead is the Chesapeake landman that originally
15 testified in the first hearing. Mr. Birdshead testifies by
16 affidavit that all of the facts and circumstances that
17 existed at the hearing upon which the pooling order that
18 expired was issued are still in place. The parties are the
19 same. The interests are the same. The costs are the same.
20 The AFE is still appropriate.

21 Attached to the affidavit are a series of
22 supporting documents. Exhibit Number 1 and 2 are the
23 locator C-102s, one for the Tubb and the other for the
24 Drinkard. Exhibit 3 to the affidavit is the parties to be
25 pooled, and it shows their fractional interest. The small

1 interests left to be pooled are the ones remaining.

2 Chesapeake has by voluntary agreement consolidated all
3 others. As I indicated, the costs are still the same.

4 Exhibit Number 3 is my certificate of mailing. We
5 notified or attempted to notify all of the parties. The
6 three companies at the end of the titled documents indicate
7 Concord, Newton, and Dalco. I was able to serve all of
8 those by certified mail. The remaining interest owners were
9 served by publication.

10 And if you will turn to Exhibit Number 4, that is
11 a copy of the newspaper publication from The Lovington
12 Leader. And in the caption of that notice, we had
13 specifically identified all of the unknown interest owners
14 for which we could not obtain service.

15 And with that explanation, Mr. Examiner, we would
16 ask that you admit Exhibits 1 through 4.

17 MR. WARNELL: Exhibits 1 through 4 are
18 admitted.

19 (Exhibits 1 through 4 admitted.)

20 MR. KELLAHIN: That concludes our
21 presentation, Mr. Examiner.

22 MR. WARNELL: Thank you, Mr. Kellahin. Where
23 are the list of the folks that you were not able to reach?

24 MR. KELLAHIN: The certificate of mailing --

25 MR. WARNELL: Okay.

1 MR. KELLAHIN: -- if you will turn to Exhibit
2 Number 3, turn past the first certificate, the second
3 document is my notice letter. And if you turn over to what
4 is attached as Exhibit A, you will see a series of names,
5 the Burns --

6 MR. WARNELL: I see.

7 MR. KELLAHIN: -- all four of those
8 individuals, we were not able to serve by certified mail, so
9 copies of that effort is shown on the next page attached to
10 that or the return receipt cards for which we did give
11 notice. The remaining sets of documents -- and we tried two
12 different addresses for those people. The Burns interest
13 owners are on one page, and then there was an additional
14 mailing using different addresses, none of which were
15 successful.

16 And then when you compare that list to the notice
17 list in the newspaper, you will see that we picked up all of
18 those names.

19 MR. WARNELL: They charge a little bit more
20 to run a newspaper, don't they?

21 MR. KELLAHIN: Yes, sir.

22 MR. WARNELL: So what we're looking for here
23 is an amendment?

24 MR. KELLAHIN: What we will do is ask you to
25 issue an order using the same order number with a subsequent

1 letter that will re-instate the expired order, and it will
2 be the B order to this series.

3 MR. WARNELL: Yes.

4 MR. KELLAHIN: And by doing so, it gives us a
5 new expiration date.

6 MR. WARNELL: It won't be missed this time?

7 MR. KELLAHIN: I can't guarantee that.

8 MR. WARNELL: Mr. James, any questions?

9 MR. JAMES: No.

10 MR. WARNELL: Richard?

11 MR. EZEANYIM: Why did -- you said that --
12 why did this order expire? Can you give us the reason why
13 it expired?

14 MR. KELLAHIN: Chesapeake, through a clerical
15 error, failed to obtain a timely extension, which they are
16 allowed to do under the order. They just failed to get it
17 done.

18 MR. EZEANYIM: That was a clerical error?

19 MR. KELLAHIN: Yes, somebody messed up.

20 MR. EZEANYIM: Okay. Anyway, the order was
21 issued right here, and I will commit to one year. I am
22 going to give you one year. I am going to allow that, so we
23 don't waste this time again. I will give you one year from
24 now because this was issued before. I will give you one
25 year requirement. You could have extended this order. You

1 write orders, and we extend it.

2 MR. KELLAHIN: Well, and that is the
3 instructions I give to clients, and they simply forgot to do
4 it.

5 MR. EZEANYIM: Okay.

6 MR. KELLAHIN: So the one year addition will
7 be helpful. Thank you.

8 MR. WARNELL: Thank you, Mr. Kellahin. With
9 that we will take Case Number 14340 under advisement.

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. _____,
heard by me on _____.

_____, Examiner
Oil Conservation Division

REPORTER'S CERTIFICATE

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I, CONNIE JURADO, do hereby certify that I reported the foregoing case in stenographic shorthand and transcribed, or had the same transcribed under my supervision and direction, the foregoing matter and that the same is a true and correct record of the proceedings had at the time and place.

I FURTHER CERTIFY that I am neither employed by nor related to 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 23rd day of July, 2009.



Connie Jurado, CCR, RPR
New Mexico CCR No. 254
Expires: December 31, 2009