

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:

CASE NOS: 21361 - 21364

APPLICATION OF MEWBOURNE OIL COMPANY
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS

EXAMINER HEARING

AUGUST 6, 2020

SANTA FE, NEW MEXICO

This matter came on for virtual hearing before the New Mexico Oil Conservation Division, EXAMINERS FELICIA ORTH, DEAN McCLURE, JOHN GARCIA and KATHLEEN MURPHY on Thursday, August 6, 2020, hosted by the New Mexico Energy, Minerals, and Natural Resources Department, through Cisco Webex electronic platform.

Reported by: Irene Delgado, NMCCR 253
PAUL BACA PROFESSIONAL COURT REPORTERS
500 Fourth Street, NW, Suite 105
Albuquerque, NM 87102
505-843-9241

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

For the Applicant:

DANA HARDY
HINKLE SHANOR LLP
P.O. Box 0268
Santa Fe, NM 87504
505-982-4554

For Ascent:

ABADIE & SCHILL, PC
DARIN C. SAVAGE
WILLIAM ZIMSKY
214 McKenzie Street
Santa Fe, NM 87501
970-395-4401
darin@abadieschill.com

For Apache:

EARL DEBRINE
MODRALL SPERLING ROEHL HARRIS & SISK PA
500 4th Street, NW, Suite 1000
Albuquerque, NM 87102
505-848-9710

For EOG:

PADILLA LAW FIRM
ERNEST PADILLA
1512 St. Frances Drive
Santa Fe, NM 87505

MOTION HEARING

REPORTER CERTIFICATE

1 HEARING EXAMINER ORTH: Move then to matters
2 21361, 21362, 21363 and 21364. Mewbourne Oil is the
3 applicant. It's a compulsory pooling application related to
4 a well named Sidecar.

5 Ms. Hardy, are you still here for the applicant?

6 MS. HARDY: Yes, I am, Madam Examiner.

7 HEARING EXAMINER ORTH: Thank you. We have a
8 number of other appearances. Who here is from Modrall
9 Sperling for Apache?

10 (No response.)

11 HEARING EXAMINER ORTH: Anyone here for Apache?

12 MR. DeBRINE: Madam Examiner, Earl DeBrine with
13 Modrall Sperling for Apache Corporation.

14 HEARING EXAMINER ORTH: Thank you, Mr. DeBrine.
15 And who here from Abadie & Schill for Ascent?

16 MR. SAVAGE: Yes, Madam Examiner. That's Darin
17 Savage with Abadie & Schill Santa Fe office on behalf of
18 Ascent, and also I have co-counsel, Bill Zimsky, from the
19 Abadie & Schill of the Durango office, as well.

20 HEARING EXAMINER ORTH: Oh, thank you. Durango
21 is lovely. Mr. Padilla, it appears you are here for EOG?

22 MR. PADILLA: Ernest Padilla for EOG. Our
23 involvement is limited only to preserve appellate rights.
24 So we are not going to argue one way or the other. We ask
25 the application be consolidated for the commission hearings.

1 HEARING EXAMINER ORTH: All right. Thank you.
2 Again, let me see if there are any other appearances this
3 morning?

4 (No response.)

5 HEARING EXAMINER ORTH: Okay. So we are on the
6 docket this morning for argument on a motion for referral to
7 the Oil Conservation Division -- excuse me, not the
8 Division, the Oil Conservation Commission from the Division.

9 So if the movant would begin with the argument,
10 please.

11 MS. HARDY: Thank you. Madam Examiner, this week
12 this situation became a little bit more complicated. Ascent
13 filed competing pooling applications, I believe, on Tuesday,
14 and then late yesterday Apache filed a motion with the
15 Commission requesting a stay of the Commission's de novo
16 hearing that Mewbourne's applications be consolidated with,
17 and of course that motion, since it was just filed
18 yesterday, has not been briefed or ruled on. And that
19 motion, the decision on it, may impact whether Mewbourne's
20 applications are referred to the Commission and whether
21 Mewbourne seeks to have them referred, and, if so, which
22 one.

23 So at this point, I think what probably actually
24 makes the most sense is to defer this argument until the
25 next docket if possible when we know more about what the ()

1 enter a stay. I'm sorry that this didn't -- I didn't bring
2 this up earlier, it's just that this all came up very late
3 yesterday, so I haven't had a chance to talk to the other
4 parties about that plan. But it seems to me to make sense
5 to do that instead of arguing on the referral motion now
6 when the stay may impact the motion.

7 HEARING EXAMINER ORTH: Okay. Thank you. Let me
8 ask if there are other suggestions this morning for what to
9 do with these matters.

10 MR. SAVAGE: Madam Examiner, this is Darin Savage
11 on behalf of Ascent. The pooling applications to which
12 Mewbourne refers to that () Mr. Gadsden referenced in our
13 responses to Mewbourne's motion, so those were no surprise,
14 and they were -- should have been anticipated.

15 You know, we kind of feel that there is a number
16 of issues and matters in this motion hearing that should be
17 fleshed out. You know, we would like to move forward to the
18 extent possible to address the matters, especially involving
19 the W/2 W/2 of Section 28 and 33.

20 Mewbourne and -- both Mewbourne and Apache, you
21 know, filed for the request for the de novo hearing. The
22 underlying order of the Division, which is a very well-
23 crafted division and has a number of contingencies within it
24 that have been satisfied at this point, it deals with the
25 W/2 W/2, and I believe there is some decisions and facts

1 that need to be fleshed out.

2 So, you know, to the extent possible, I think
3 there is, there is a variety of matters that could be
4 addressed, I believe, at this level of the Division, that
5 could inform whether the Commission should stay. It also
6 could inform () session. So you know, we would recommend
7 that that we move forward with the motion. Thank you.

8 HEARING EXAMINER ORTH: All right. Other
9 comments?

10 MR. DeBRINE: Madam Examiner, this is Earl
11 DeBrine for Apache. I concur with Ms. Hardy's analysis. I
12 think -- we filed a motion yesterday to stay the Commission
13 hearing until the Division cases involving the new Ascent
14 applications and the Mewbourne applications are first
15 decided at the Division level.

16 And really, the motion for referral filed by
17 Mewbourne and the motion by Apache should be heard after the
18 matters are fully fleshed out in briefing because this is a
19 sort of complex, now three-way case.

20 It started out with an application filed by
21 Ascent to establish spacing units in the W/2 of the W/2 of
22 Section 28 and 33. Apache had competing applications for a
23 laydown unit involving the N/2 of Sections 28, 29, NE
24 Section of -- NE/4 Section of 33. So Apache's proposed ()
25 development area goes all across Section 28.

1 And so we were surprised with regard to the new
2 applications that were filed by Ascent and Mewbourne
3 involving the east of half of Section 28. And it's a
4 complex case involving matters of geology, three-way
5 competing applications for operators, potential for well
6 collision depending on the order of development that might
7 occur in the spacing unit that are established by the
8 Division.

9 And so I think it is a matter involving complex
10 issues, and the two motions need to be heard after all
11 parties have had the opportunity to present their argument
12 so that the Division is fully informed with regard to the
13 facts of the issues involved in the motions.

14 HEARING EXAMINER ORTH: All right. Thank you,
15 Mr. DeBrine. Any other comments this morning?

16 MR. SAVAGE: This is Darin Savage with Abadie &
17 Schill for Ascent. I don't know if procedurally this motion
18 was filed with the OCC for stay of the hearing since there's
19 still a strong relationship between what is going on at the
20 level of the OCD and what may transpire at the OCC, should
21 the OCD be informed of this motion in some capacity,
22 official () for the parties to apprise the OCD of the
23 rationale for the stay as well?

24 MR. DeBRINE: This is Mr. DeBrine. Ms. Bennett
25 handled the filing, and I believe she filed it both with the

1 Division and the Commission yesterday, but I wasn't in the
2 office, so I'm not sure. But I think that was her intent,
3 and I assume she did that, but I haven't gone back to see if
4 it was filed before both agencies.

5 HEARING EXAMINER ORTH: And this was related to
6 matters 21277 through 80. Is that what I understand?

7 MR. DeBRINE: Yes.

8 HEARING EXAMINER ORTH: Okay. I did see
9 something from Ms. Bennett late yesterday with relation to
10 those matters, and I wouldn't have seen it if it hadn't been
11 shared with the Division hearings office.

12 MR. DeBRINE: Okay. Thank you.

13 HEARING EXAMINER ORTH: Yes. So it sounds as
14 though it would be more efficient, if you will, and the
15 Division would be able to be better informed before moving
16 on these related matters if there were full briefing before
17 we went to the argument on this motion.

18 So I would like to, one, come up with a schedule
19 for the briefing, and if we can, fit that briefing within
20 the next two weeks to move the argument to the next docket.
21 Are there proposals for dates whereby we can get this
22 briefing done before argument?

23 MS. HARDY: Madam Examiner, I think that
24 Mewbourne's motion for referral is fully briefed, so I
25 think -- are we just talking about briefing the motion filed

1 with the Commission for a stay?

2 HEARING EXAMINER ORTH: Yes.

3 MS. HARDY: Okay, thank you.

4 HEARING EXAMINER ORTH: Any proposals?

5 MS. HARDY: Well, I think that -- I don't think
6 the briefing would take all that long, and I think the
7 parties that are determining their positions know them
8 already. But if we had five days to submit briefing on the
9 motion for stay in support, and then five days for a
10 response, or something to that effect, but I'm open to ()
11 from the parties.

12 MR. DeBRINE: Yeah, I think what the Division did
13 with regard to the motion for referral, I think it was a
14 week for a response and three days is fine for a reply for
15 Apache.

16 HEARING EXAMINER ORTH: Okay.

17 MR. DeBRINE: It just states --

18 (Audio interference.)

19 HEARING EXAMINER ORTH: Any other proposals?

20 MR. SAVAGE: Madam Examiner, I believe a week for
21 the initial brief and () for the response would be
22 appropriate.

23 HEARING EXAMINER ORTH: Okay. Let's do that
24 then, a week for the initial response, and a second week for
25 the reply. If you would, please, Ms. Hardy, would you put

1 that in an e-mail to all of us so that we have it
2 documented?

3 MS. HARDY: Sure, I can do that.

4 HEARING EXAMINER ORTH: I'm happy to put it in an
5 order or we can rely () and then we will be able to take
6 this up on August 20.

7 MS. HARDY: Thank you.

8 MR. DeBRINE: Thank you, Madam Examiner.

9 HEARING EXAMINER ORTH: Yeah. Just we need
10 everything in ideally by 5 p.m. on the 18th of August, that
11 way Seth has an opportunity to read it before the argument
12 on the 20th.

13 MS. HARDY: Thank you.

14 HEARING EXAMINER ORTH: Okay. Thank you all very
15 much.

16 (Adjourned.)

17

18

19

20

21

22

23

24

25

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 REPORTER'S CERTIFICATE

5

6 I, IRENE DELGADO, New Mexico Certified Court
7 Reporter, do hereby certify that I reported the foregoing
8 proceedings in stenographic shorthand and that the foregoing
9 pages are a true and correct transcript of those proceedings
10 that were reduced to printed form by me to the best of my
11 ability.

12 I FURTHER CERTIFY that I am neither employed by
13 nor related to any of the parties or attorneys in this case
14 and that I have no interest in the final disposition of this
15 case.

16 I FURTHER CERTIFY that the Virtual Proceeding was
17 of fair quality.

18 Dated this 6th day of August 2020.

19

/s/ Irene Delgado

Irene Delgado, NMCCR 253
License Expires: 12-31-20

20

21

22

23

24

25