

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 EOG Resources, Inc.                      Case No. 21670  
for Compulsory Pooling,  
Lea County, New Mexico.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

STATUS CONFERENCE

THURSDAY, MARCH 18, 2021

This matter came on for hearing before the  
New Mexico Oil Conservation Division, WILLIAM  
BRANCARD, Hearing Examiner, JOHN GARCIA, Technical  
Examiner, via Cisco Webex Virtual Meeting Platform

Reported by:     Mary Therese Macfarlane  
                  New Mexico CCR No. 122  
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1 A P P E A R A N C E S.

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9  
10 I N D E X

11	CASE NUMBER 21670 CALLED	PAGE
12	APPLICANT WITNESSES:	
13	LACI STRETCHER (Landman) By Affidavit:	8
14	Hearing set for May 6, 2021:	11

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1 (Time noted 9:03 a.m.)

2 HEARING EXAMINER BRANCARD: Okay. This brings  
3 us to Item No. 23 on today's agenda, Case 21670.

4 We have EOG Resources, we have Cimarex, and  
5 we have a dispute about what we are going to do today.

6 So entries of appearance. EOG Resources.

7 MS. LUCK: Good morning, Mr. Hearing Examiner.  
8 Kaitlyn Luck with the Santa Fe office of Holland and Hart  
9 on behalf of the applicant in these cases, EOG Resource.

10 HEARING EXAMINER BRANCARD: Okay. Cimarex?

11 MS. SHAHEEN: Good morning, everyone. Sharon  
12 Shaheen on behalf of the Protestant Cimarex Energy  
13 Company.

14 HEARING EXAMINER BRANCARD: Okay. Are there any  
15 other parties here today on Case 21670? (Note: No  
16 response.)

17 Hearing none -- let me just sort of cut to  
18 the chase here. As I read EOG's prehearing statement they  
19 said they were preapred to present this case by affidavit  
20 today, but if it was contested they would be willing to do  
21 a status conference today, and I believe that's what  
22 Cimarex is asking for

23 Is that correct, Ms. Shaheen?

24 MS. SHAHEEN: That's correct, Mr. Hearing  
25 Examiner.

1 HEARING EXAMINER BRANCARD: Ms. Luck, am I  
2 reading that correctly?

3 MS. LUCK: That is what our prehearing statement  
4 reflects; however, if I may have a moment to respond to  
5 the motion that was filed late yesterday afternoon by  
6 Cimarex, I would like the opportunity to respond on behalf  
7 of EOG.

8 HEARING EXAMINER BRANCARD: Please do.

9 MS. LUCK: Thank you

10 There's just a few points that I would like  
11 to make. First is that Cimarex's motion for status  
12 conference or continuance is untimely. These requests are  
13 to be made by the Monday before the hearing, or I guess  
14 the deadline is technically Tuesday at 8:00 a.m., and  
15 before yesterday afternoon EOG did not receive anything  
16 that said affirmatively that Cimarex would be contesting  
17 the case proceeding by affidavit today, and that is why  
18 EOG filed it's prehearingi statements and exhibits into  
19 the record that reflects that EOG was intending to procedd  
20 with the hearing today by affidavit.

21 It's EOG's position that Cimarex is simply  
22 seeking to delay the drilling of these wells. Cimarex  
23 does not have any competing development plans and has  
24 raised no technical issues with these wells, and the  
25 Division record is clear from the exhibits that were filed

1 on Tuesday that EOG has conducted extensive good faith  
2 negotiations with Cimarex as the other interest owner in  
3 this unit.

4           You will see there have been talks between  
5 December and March on several occasions, and EOG and  
6 Cimarex worked diligently to try to reach an agreement;  
7 however, at this point in time it seems that Cimarex is  
8 only seeking to delay EOG's drilling plans, which EOG has  
9 made clear from the beginning that they were planning on  
10 spudding these wells on April 20th.

11           So that is why EOG had responded and  
12 previously denied the request for a continuance of this  
13 hearing date. EOG previously agreed to one continuance  
14 from March 4th to this hearing date, but because of the  
15 drilling schedule on April 20th EOG would like to proceed  
16 as soon as possible with setting this case on before the  
17 Division so it can stick to the drilling schedule .

18           So if the Division is inclined to have a status  
19 conference today, EOG would request that there be a  
20 hearing set at the next available docket, which appears to  
21 be April 8th, or even the Friday after that, so it can  
22 maintain its drilling schedule.

23           HEARING EXAMINER BRANCARD: Ms. Shaheen, would  
24 you like to respond?

25           MS. SHAHEEN: Yes. Thank you, Mr. Hearing

1 Examiner.

2 With respect to timelines, with all due  
3 respect EOG has sandbagged Cimarex here.

4 If you had a chance to take a look at the  
5 motion you see that Cimarex entered an appearance on  
6 February 17th by the Modrall firm. Subsequently Ms. Luck  
7 expressly requested that a status conference be held on  
8 March 18th. As a result of the dispute Modrall was  
9 required to withdraw and I was substituted for counsel.

10 My communications with Ms. Luck have always  
11 been that this would be set for or status conference. I  
12 received no call, I received no email asking whether  
13 Cimarex would be amenable to this going forward by  
14 affidavit. And Cimarex is not. The parties had an  
15 agreement, and EOG unilaterally decided that they were  
16 going to go forward by affidavit, even though going  
17 forward by affidavit under these circumstances is directly  
18 contrary to the rule.

19 I could go on and on, as I was up about  
20 2:00 this morning thinking about all the things I could  
21 say here, but I think I'll just stand down now and answer  
22 any questions that you might have.

23 HEARING EXAMINER BRANCARD: Ms. Shaheen, does  
24 that mean if there is a hearing would you be putting on  
25 witnesses?

1 MS. SHAHEEN: Frankly, I have not had the  
2 opportunity to confer with my client about how we would be  
3 participating in the hearing. I would assume that at a  
4 minimum I would be cross examining the witnesses. And I  
5 believe my client may be on the call if you wanted to ask  
6 her that question, but I can't answer the question to  
7 whether we would be putting on witnesses.

8 But we are entitled to have the opportunity  
9 to prepare for a contested hearing. For the past year the  
10 Division has been setting contested hearings on special  
11 hearing dates, and that's what Cimarex expected, as well  
12 as myself.

13 If EOG wanted to go forward by affidavit,  
14 EOG should have reached out to Cimarex on Monday and said,  
15 "Would you be willing to go forward by affidavit?" But we  
16 were never contacted. They just sent their exhibits and  
17 then assumed that they would be able to go forward by  
18 affidavit, and that is directly contrary to the rule and a  
19 violation of Cimarex's due process rights.

20 Just one other thing. Cimarex would like  
21 to have this matter set for June -- the June 17 docket. I  
22 understand there are dockets available in June

23 HEARING EXAMINER BRANCARD: Ms. Luck, do you  
24 have witnesses available today?

25 MS. LUCK: Yes, I do have witnesses available

1 today. EOG's landman, Ms. Stretcher, is on the phone,  
2 she's on the Webex call with us today.

3 (Note: Reporter inquiry.)

4 I was just stating that Ms. Stretcher who  
5 is EOG's landman is also on the phone, she's on the Webex  
6 call today, and I think that she could be available to  
7 answer any cross-examination questions should Cimarex's  
8 attorney like to proceed with that today.

9 MS. SHAHEEN: Mr. Examiner, Cimarex objects to  
10 going forward with witnesses today. We were not informed  
11 that this would happen and we are not prepared to go  
12 forward. It has not been the Division's practice to allow  
13 contested hearings by witnesses on a regular docket day.

14 HEARING EXAMINER BRANCARD: Well, our dockets  
15 are getting quite full, and so we've also tried to do  
16 special hearings on contested cases, and then the cases  
17 get settled and we end up with a hearing with nobody.

18 So here's my perspective on this: The  
19 Division can only react to what parties put before it.  
20 Okay? And so in this matter -- you know, until yesterday  
21 all we had from Cimarex was entries of appearance. There  
22 were no statements that you were going to oppose this  
23 matter, nor was there a prehearing statement which you  
24 could have easily filed.

25 I mean, you knew this case was happening.



1                   But, on the other hand, I have to go with  
2     the piece of paper that EOG submitted, which it said we  
3     are going forward by affidavit unless there is a contest,  
4     and then we're having a status conference, which is  
5     clearly EOG's position in the one piece of paper that I  
6     have to work off of, which is EOG's prehearing statement  
7     in this matter.

8                   So we are going to call this a status  
9     conference, and -- because that's what EOG said its  
10    position was in the one piece of paper I had filed with  
11    me, and we will set this case for the hearing on June  
12    17th, and I will draft a Prehearing Order.

13                  So my point is: If you are going to take  
14    positions, you need to let the agency know you're taking  
15    positions; otherwise it's meaningless to us if you show up  
16    at a hearing and take a position.

17                  And, frankly, we use this word status  
18    conference a lot, but really it's using two words when  
19    when we really could use one, and that one word is  
20    continuance.

21                  So nobody had asked for a continuance in  
22    this matter, either, in a timely fashion, which should  
23    have been done.

24                  So I would expect that -- Ms. Shaheen, you  
25    filed a motion for a status conference or a motion for

1 continuance.

2 MS. SHAHEEN: It was a motion for a status  
3 conference or in the alternative a motion for continuance.

4 HEARING EXAMINER BRANCARD: So we are basically  
5 going to treat that as a motion for continuance and grant  
6 this, and we will set the hearing for June 17th. I will  
7 draft a Prehearing Order.

8 But, please. You know, these cases are  
9 showing up on dockets. We need to know what the parties'  
10 positions are, we need to know whether we are going  
11 forward.

12 Our next hearing, I can tell you right now,  
13 there's a 100 cases on the docket. Okay? We are heading  
14 back to where we were a year or so ago in terms of  
15 activity.

16 So we need the parties to be working with  
17 each other and trying to resolve matters, and not just  
18 keep moving things from one docket to another.

19 So there, I've said my piece. So thank  
20 you.

21 Ms. Luck, I'm sorry.

22 MS. LUCK: If I may, is there any way that we  
23 could get a hearing date before the June 17th date because  
24 of EOG's drilling schedule. These wells are on the  
25 schedule for April 20th.

1 HEARING EXAMINER BRANCARD: I can check with  
2 Ms. Salvidrez now, but the last I heard we are pretty  
3 booked up.

4 We may -- May 6, is that possible, Ms.  
5 Salvidrez?

6 MS. SALVIDREZ: Yes.

7 HEARING EXAMINER BRANCARD: Ms. Shaheen, can you  
8 be ready by May 6th?

9 MS. SHAHEEN: I can be ready. I should confer  
10 with my client as to whether any witness we might have  
11 will be available on that date.

12 HEARING EXAMINER BRANCARD: Okay. Ms. Luck, is  
13 that okay?

14 MS. LUCK: That would be EOG's preference for  
15 this case to go forward as soon as possible, just because  
16 of the amount of time the parties have been in discussion.  
17 But the exhibits reflect the parties have been talking  
18 about these wells since December, so they've had four  
19 months at this point to consider and negotiate and come to  
20 an agreement.

21 HEARING EXAMINER BRANCARD: Okay. We will then  
22 set this for May 6th. Thank you for working this out.

23 MS. SHAHEEN: Thank you.

24 MS. LUCK: Thank you.

25 HEARING EXAMINER BRANCARD: And we will issue a

1 Prehearing Order

2 Thank you.

3 (Time noted 9:26 a.m.)

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1 STATE OF NEW MEXICO )  
2 : SS  
3 COUNTY OF TAOS )

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5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter  
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday, March 18,  
8 2021, the proceedings in the above-captioned matter were  
9 taken before me; that I did report in stenographic  
10 shorthand the proceedings set forth herein, and the  
11 foregoing pages are a true and correct transcription to  
12 the best of my ability and control.

13 I FURTHER CERTIFY that I am neither employed by  
14 nor related to nor contracted with (unless excepted by the  
15 rules) any of the parties or attorneys in this case, and  
16 that I have no interest whatsoever in the final  
17 disposition of this case in any court.

18 /s/ Mary Macfarlane  
19 \_\_\_\_\_

20 MARY THERESE MACFARLANE, CCR  
21 NM Certified Court Reporter No. 122  
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