

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: 22252, 22253

APPLICATION OF CENTENNIAL RESOURCE
PRODUCTION LLC FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS
EXAMINER HEARING
DECEMBER 2, 2021
SANTA FE, NEW MEXICO

This matter came on for virtual hearing before
the New Mexico Oil Conservation Division, HEARING OFFICER
WILLIAM BRANCARD and TECHNICAL EXAMINERS DEAN McCLURE and
DYLAN ROSE-COSS on Thursday, December 2, 2021, through the
Webex Platform.

Reported by: Irene Delgado, NMCCR 253
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A P P E A R A N C E S

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I N D E X

CASE CALLED	
MOTION FOR CONTINUANCE	03
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1 HEARING EXAMINER BRANCARD: All right. That ends
2 our exciting status conferences, and so we move on to a few
3 little motions here that we've got to look at, Cases 22252
4 and 22253, Centennial Resources Production.

5 MR. RANKIN: Good morning, Mr. Examiner, Adam
6 Rankin with law firm of Holland & Hart, Santa Fe, appearing
7 on behalf of the applicant in these two cases, Centennial
8 Resources.

9 HEARING EXAMINER BRANCARD: And we have an entry
10 from Atlas OBO Energy.

11 MR. COCHRAN: Yes, good morning, Mr. Examiner,
12 Joshua Cochran on behalf of Atlas OBO Energy with the
13 Houston office of Kearney, McWilliams and Davis.

14 HEARING EXAMINER BRANCARD: All right. So there
15 was a motion for a continuance in this matter based upon
16 what allegedly was a court hearing two days ago.

17 MR. BRUCE: Mr. Examiner, Jim Bruce here.

18 HEARING EXAMINER BRANCARD: I'm sorry, Mr. Bruce.

19 MR. BRUCE: I filed an entry of appearance for
20 MRC Permian Company and Matador Production Company late
21 yesterday.

22 HEARING EXAMINER BRANCARD: Okay. Thank you.

23 I should then ask, are there any other persons
24 interested in cases 22252 or 53?

25 (No audible response.)

1 HEARING EXAMINER BRANCARD: Let me start with
2 you, Mr. Rankin. Can you give us an update on where we are?

3 MR. RANKIN: Yes, Mr. Examiner, we can. As
4 you're aware, Atlas filed a continuance on Friday, I guess,
5 in lieu of filing a prehearing statement outlining its
6 objections to the cases and testimony and exhibits, and so
7 they sought a continuance of these cases on the grounds that
8 they had secured a, a hearing on their motion for a
9 temporary restraining order and preliminary injunction on
10 November 30 before the Fifth Judicial District Court in Lea
11 County.

12 That hearing occurred on November 30, and on the
13 night before the hearing, we were informed that my
14 co-counsel was informed that Atlas, I guess, had been
15 unaware of the additional leases that Centennial has
16 referred to in its application before the Division in its
17 response to the request for the temporary restraining order,
18 and at the time of the hearing informed the court that they
19 were not ready to proceed with their temporary restraining
20 order.

21 So it's unclear at this point whether they intend
22 to maintain their or refile or reissue a follow-up motion
23 for a restraining order at this point, but the court
24 understands that they were -- my understanding is they told
25 the court they were going to replead or replead their

1 complaint in light of the new information that they were
2 unaware of in these other cases.

3 The court gave them until the -- let's see, what
4 date was it -- I think Joshua may be able to help me -- I
5 believe it was the 10th.

6 MR. COCHRAN: But that's for the amended
7 complaint, which we will have well before then, and the
8 court consolidated the hearing, the final hearing on January
9 12.

10 MR. RANKIN: So, Mr. Examiner, we understand they
11 have given Atlas until the 10th to replead their claims, and
12 then set an evidentiary hearing on the full case for January
13 12.

14 So again -- and I guess from our perspective, Mr.
15 Examiner, as I think we made clear in our response to the
16 motion for continuance, the issues that Atlas has brought
17 forth and the grounds for the continuance are solely based
18 on title issues.

19 Now, Atlas had previously objected to these cases
20 proceeding, and with this matter -- these matters were set
21 for a status conference on November 4, at which point the
22 Division issued a prehearing order setting these cases for a
23 contested hearing on this date.

24 So what we have here is a situation where the
25 only issues raised by Atlas are title issues which are

1 really outside -- are outside the jurisdiction and scope of
2 the Division's jurisdiction. They have raised no Cognizable
3 claims or disputes before the Division. And as I point out
4 in our response, in light of that, there is really no
5 justification for me to issue a grant of continuance in that
6 circumstance.

7 And I guess the point I would make about that is,
8 in light of the title issue which they raise, there really
9 isn't anything that would change between now and two weeks
10 or even a month that would affect in any way what arguments
11 they might raise before the Division because it's purely a
12 title issue, and as I say, you know, the Division has no
13 jurisdiction to hear or consider or adjudicate that matter.

14 HEARING EXAMINER BRANCARD: So it is your
15 position, Mr. Rankin that you would like a hearing on your
16 client's applications sooner rather than later?

17 MR. RANKIN: Mr. Examiner, both of our witnesses
18 are available today. We would like to have them be heard
19 today at the end of this afternoon if possible. We think
20 it's appropriate for them to proceed for the reasons stated,
21 there is no cognizable claim that would prevent them from
22 going forward today, so, yes, we would like to hear them as
23 soon as possible.

24 HEARING EXAMINER BRANCARD: Thank you. Turning
25 to you, Mr. Cochran, from your perspective or your client's

1 perspective, I'm sorry.

2 MR. COCHRAN: Thank you, Mr. Examiner. So
3 piggy-backing off of some things Mr. Rankin said, we do have
4 a title dispute, but what's secondary to that and how this
5 plays into our requesting a continuance is, with the amount
6 of amount of acreage involved in this title dispute, it's
7 controlling on Atlas -- Atlas' approach as to whether they
8 want to present a competing development plan.

9 We are dealing with 320 acres if I -- I don't
10 have the exact, it's pretty close on the Gordita. It would
11 be 160 acres we dispute on the Tostada. The difference in
12 the ownership, the point of ownership that would change from
13 what's being presented to Atlas right now in Centennial's
14 application versus pending the Fifth District Court's
15 decision, it's substantial enough that Atlas would like to
16 hear the outcome of that prior to making a decision on
17 whether presenting the alternative development plan makes
18 sense. Secondary from that, whether they are interested in
19 consenting or going non-consent on Centennial's
20 applications.

21 So from our perspective, with Centennial
22 acknowledging that their, I believe their rig is scheduled
23 for March of 2022, our hearing is scheduled -- this is the
24 final hearing with the district court, we are going to know
25 the outcome on January 12.

1 Originally we were going -- January 20 makes
2 sense, but I have heard that date is out. So from our
3 perspective, February 3 allows -- if we can get on the
4 docket on February 3, there is no more disputes as to the
5 point of ownership between the parties.

6 And that would give us enough time to make a
7 determination about, do we want to submit a competing plan,
8 or do we want to withdraw or do we want to have a contested
9 hearing.

10 I don't know that that date would substantially
11 harm Centennial since they have already got it scheduled for
12 March.

13 HEARING EXAMINER BRANCARD: So you're still
14 applying for a TRO, is that correct, with the district
15 court?

16 MR. COCHRAN: Originally that was our plan and
17 that's why we originally asked for the continuance was the
18 court set it for November 30. And pending the outcome of
19 that, if we had won the TRO today's hearing would have been
20 kind of moot.

21 So we initially asked for the continuance, I
22 asked for January 6 not knowing we would were going to have
23 a final hearing set for January 12. So January 6, I
24 thought, gave us enough time to cover all potential outcomes
25 of the TRO.

1 We are not really having a TRO anymore, it's an
2 injunction, preliminary injunction hearing, but it's also
3 combined with the final evidentiary hearing, so they are
4 really one and the same. From our understanding, once we
5 file our findings of fact and conclusions of law, it's going
6 to cover -- really we are dealing one issue, the judge is
7 well aware what the issue is.

8 And so our, our position is, as of January 12, we
9 are going to know exactly what, and that makes it easier for
10 Atlas to proceed with how they want to approach a final
11 decision on development plans.

12 And also, I mean, we, in an ideal world, we kind
13 of reopened discussions a little bit yesterday. I haven't
14 heard any status on that, but as of yesterday we at least,
15 at least from Atlas' side, there is still some willingness
16 to try to reach a voluntary agreement.

17 HEARING EXAMINER BRANCARD: Thank you. Mr.
18 Rankin, February 3?

19 MR. RANKIN: Couple of things if I might just
20 respond to that before I address the date. Centennial
21 issued its well proposals for these cases back in September,
22 and generally speaking, the time to determine whether or not
23 you want to propose a competing well plan is then at the
24 time you receive a plan, a proposal for the development.

25 We are not aware that Atlas has drilled any wells

1 in New Mexico, and so that's number one. Number two, they
2 have a minority interest in both of these spacing units on
3 the order of well under ten percent. And so it's, it's, in
4 my view, Mr. Examiner, an effort to further delay
5 Centennial's reasonable development where Centennial has,
6 has larger by far majority interest in both of these spacing
7 units. So those are the two points that I want to make very
8 clear.

9 And then finally, and in addition, Centennial
10 does have two leases that have expiring leases on April 1.
11 And so in order to maintain its rights and avoid prejudice,
12 we would encourage the Division to hold this hearing as soon
13 as possible, today if possible.

14 And then the last thing I want to point out, Mr.
15 Examiner, and you can see this in their complaint that I
16 attached as Exhibit B, number one, the news that Centennial
17 objects to or has a different opinion about what their
18 ownership interest is in news to me today because in that
19 complaint with the court, they state that they are not
20 contesting the ownership that is attributable to Atlas in
21 both spacing units, so that's news to me.

22 And then the last thing I want to say is that,
23 when you look at their complaint, what they are arguing is
24 that there is an existing JOA that has a contract area. The
25 contract area covers certain acreage, and it covers the S/2

1 and the NW/4 of Section 7, and then all of Sections 18 and
2 19 in the township at issue.

3 So what I want to make clear is that in at least
4 one of the cases, the Tostada case, which is -- give me --
5 give me just a moment.

6 HEARING EXAMINER BRANCARD: 253.

7 MR. RANKIN: Yes, 253. In that case the NE/4 of
8 Section 7 is covered by State Lease BB 244. That does not
9 overlap in any way the JOA contract area. So even if, you
10 know, even if for some reason Atlas were to entirely prevail
11 on its claims, Centennial owns an independent separate
12 interest in that lease that has no bearing on the dispute
13 raised by -- by Atlas in the district court.

14 Centennial owns a 60 percent interest in that
15 lease, as well as Matador. So in light of that ownership,
16 which is separate and apart from any of the claims made by
17 Atlas, Centennial has an independent and separate right to
18 drill and to proceed to pooling at least as to the Tostada
19 case. And doing so would allow, would allow Centennial's
20 cases to proceed and will allow Centennial's development to
21 go forward.

22 HEARING EXAMINER BRANCARD: Thank you.

23 MR. COCHRAN: Mr. Examiner, I have one point to
24 follow up with Mr. Rankin.

25 HEARING EXAMINER BRANCARD: Sure, Mr. Cochran.

1 MR. COCHRAN: Part of the reason we were amending
2 the complaint is we -- we brought in one of our litigators
3 to handle the stuff with district court, so that was the
4 necessity for the amendment was there was a misunderstanding
5 between my communication with him about whether or not we
6 are contesting the figures presented by Centennial in their
7 application. That's just one of the things.

8 There is other elements of the claim that need to
9 to be amended, but that is one of the portions that is going
10 to be changed before December 10. And we think that since
11 Centennial acknowledged that they already got the rig
12 scheduled for March, I guess we question, will February 3
13 preclude them from being able to meet that schedule if we
14 have a final hearing on February 3.

15 HEARING EXAMINER BRANCARD: Okay. I understand,
16 you know, from Centennial's point that this does appear to
17 be sort of a separate, private property dispute and the
18 state is not a party to the district court litigation.

19 On the other hand, I am not inclined to get in
20 trouble with a district court judge by jumping ahead of them
21 and doing something that they might end up blocking, but it
22 sounds like the preliminary injunction was not addressed at
23 the hearing this week, so that issue is done with, and I
24 think we are free to set a date for a hearing.

25 It may be helpful to everybody to have everything

1 sorted out after the court hearing, so I'm thinking that
2 February 3 would be a good date for a hearing in this
3 matter. So my understanding, Mr. Cochran, is that your
4 client intends at this point to contest this case?

5 MR. COCHRAN: I think my -- well, ideally they
6 would like to come to an agreement because we actually
7 reopened that yesterday, and so assuming that's completely
8 off the table, it really kind of depends on the outcome of
9 the hearing. If we win on our claims under the JOA, I would
10 say that they, they would entertain it. If we don't win on
11 those claims, I doubt that Atlas would even entertain that
12 possibility.

13 HEARING EXAMINER BRANCARD: Of contesting the
14 hearing?

15 MR. COCHRAN: I need to confer to actually --
16 from our discussion that I have had with Atlas, that's my
17 understanding of their approach. But with the time window
18 until January 12, our last communications with Atlas were,
19 if we won that, that changes the calculus. So with February
20 3 -- we were going to be okay with January 20, but I
21 understand that's already too busy, but February 3, that's
22 great for us.

23 MR. RANKIN: We will accept any date that the
24 Division sets. However, our strong preference is to have it
25 as early as possible in order to maintain, contractually in

1 order to have confidence in being able to maintain that rig
2 schedule with the company, that is, you know, trying to
3 maintain a constant rig schedule, it's very difficult to do
4 so when there is this great uncertainty 30 days in advance
5 of the spud date.

6 So we ask that, if at all possible, that these
7 cases be heard sooner. The issue we have, again, is that,
8 even if Atlas prevails, they would have, even concerning all
9 the potential contractual interest in the JOA, it's less
10 than 15 percent, so they nevertheless would have still a
11 minority stake in the spacing unit, number one.

12 Number two, as I said, Centennial has a separate
13 independent right to drill in the Tostada case. So even if
14 they prevail on the district court side, it would not impact
15 in any way Centennial's authority and right to drill and
16 pool in the Tostada case. So anyway, February 3, it would
17 work, but we would prefer something far earlier than that.

18 HEARING EXAMINER BRANCARD: Thank you. I
19 appreciate that, but we are going to go ahead with February
20 3. It looks like, from what I'm hearing, reading between
21 the lines from the counsel, there is a decent chance this
22 could be an affidavit hearing if the parties work things out
23 or Atlas withdraws its objections. And so, Mr. Rankin, we
24 would have an order out in pretty short time frame.

25 MR. RANKIN: Appreciate that.

1 HEARING EXAMINER BRANCARD: Thank you, so cases
2 22252, 22253, are there any other comments from parties?
3 Mr. Bruce, I haven't really asked you what you are thinking
4 about all of this.

5 MR. BRUCE: My clients generally support any
6 requests by Centennial to have these matters decided as soon
7 as possible so development can commence, so whatever works
8 with you.

9 HEARING EXAMINER BRANCARD: Thank you.
10 With that, we will set a hearing then for
11 February 3, and I will -- I will issue a prehearing order,
12 but if the case can go by affidavit, we can vacate the
13 prehearing order and do it by affidavit, Mr. Rankin.

14 MR. RANKIN: Understood.

15 HEARING EXAMINER BRANCARD: Thank you, counsel.

16 MR. COCHRAN: Thank you, Mr. Examiner.

17 (Concluded.)
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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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REPORTER'S CERTIFICATE

I, IRENE DELGADO, New Mexico Certified Court Reporter, CCR 253, do hereby certify that I reported the foregoing virtual proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings to the best of my ability.

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 in the final disposition of this case.

I FURTHER CERTIFY that the Virtual Proceeding was of reasonable quality.

Dated this 2nd day of December 2021.

/s/ Irene Delgado

Irene Delgado, NMCCR 253
License Expires: 12-31-21