

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: 22534

APPLICATION OF SPC RESOURCES, LLC  
TO AMEND ORDER NO R-21100-A,  
EDDY COUNTY, NEW MEXICO.

CASE NOS: 22535

APPLICATION OF SPC RESOURCES, LLC  
TO AMEND ORDER NO. R-21104-B,  
EDDY COUNTY, NEW MEXICO.

CASE NOS: 22536

APPLICATION OF SPC RESOURCES, LLC  
TO AMEND ORDER NOS. R-21123-B,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
EXAMINER HEARING  
February 3, 2022  
SANTA FE, NEW MEXICO

This matter came on for virtual hearing before  
the New Mexico Oil Conservation Division, HEARING OFFICER  
WILLIAM BRANCARD and TECHNICAL EXAMINER DYLAN ROSE-COSS on  
Thursday, February 3, 2022, through the Webex Platform.

Reported by: Irene Delgado, NMCCR 253  
PAUL BACA PROFESSIONAL COURT REPORTERS  
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A P P E A R A N C E S

For the Applicant:

ADAM RANKIN  
HOLLAND & HART  
110 North Guadalupe, Suite 1  
Santa Fe, NM 87501

For OCD:

Jesse Tremaine  
Assistant General Counsel  
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I N D E X

CASE CALLED

SUMMARY OF CASE 03

REPORTER CERTIFICATE 17

EXHIBITS

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1 HEARING EXAMINER BRANCARD: So with that, we have  
2 Items 47, 48 and 49, Cases 22534, 535 and 536. We have an  
3 entry from Holland & Hart for SPC Resources and Mr. Tremaine  
4 for OCD. Is there anyone else here for those cases?

5 (No audible response.)

6 HEARING EXAMINER BRANCARD: Hearing none, based  
7 on what we have just gone through, Mr. Rankin, what would  
8 you like to do with these cases?

9 MR. RANKIN: Thank you very much, I would like to  
10 proceed to introduce the evidence and testimony, make a few  
11 comments before I ask that these cases be taken under  
12 advisement.

13 Mr. Examiner, in these cases SPC is seeking an  
14 order to amend three existing pooling orders in order to  
15 extend the effect of those orders for an additional year.  
16 In light of the fact that the Division has imposed cessation  
17 of drilling and completion activities within the three-mile  
18 radius of the Brine Well Cavity Remediation area, all three  
19 of these cases have spacing units that are within that three  
20 mile radius.

21 And as a result of the proximity to the Carlsbad  
22 Cavity, SPC Resources is unable to drill and complete its  
23 wells to perfect the obligations under each of these three  
24 pooling orders.

25 As a result, they are asking in these

1 applications that the Division enter orders providing them  
2 with an extension to drill and to complete their obligations  
3 under the pooling orders. The one -- a couple of slight  
4 modifications to the standard extension are -- and I will go  
5 through those, Mr. Examiner.

6 And in support of this application, SPC has filed  
7 the affidavit of their landman Mr. Gary Waldrop who has  
8 previously testified before the Division. And we submitted  
9 on Tuesday a packet of exhibits, including Mr. Waldrop's  
10 affidavit. Exhibits are marked as A, B and then B-1, B-2  
11 which are attached to the affidavit.

12 Exhibit A is a copy of the applications that were  
13 filed in these three cases. Exhibit B is Mr. Waldrop's  
14 affidavit. Mr. Waldrop testifies essentially about what SPC  
15 Resources is seeking in these three cases.

16 In particular, they are asking for an extension  
17 of each order for one year. Mr. Waldrop testifies that good  
18 cause exists for the extension requests in light of the  
19 Division's cessation order drilling and completion within  
20 the three mile radius. He goes on to identify the cases and  
21 orders that were previously discussed in Case 22102, Order  
22 R-21888 that resulted from that case, and then also, the  
23 Division's case 22472 that was just presented.

24 So in light of his citations to those records, we  
25 ask that the Division in these cases take notice of -- of

1 the record in both of those cases, 22102 and 22472.

2 I will go on with Mr. Waldrop's testimony. He  
3 goes on to acknowledge -- identify that the Division as of  
4 July 2, 2021, when it issued an emergency order of that date  
5 determined that drilling and completion activities caused a  
6 severe risk to the Brine Well and the remediation project,  
7 and that because of those concerns and the Division's  
8 actions to preclude drilling, these orders that are  
9 identified in these cases should be extended.

10 Now, in particular, he asks that the conditions  
11 that were imposed on SPC in Case 22102 both as to the  
12 spacing units and as to the APDs that were issued under each  
13 of those spacing units comport with and match the conditions  
14 that were imposed on SPC in that other case, Case 22102.

15 The justification for that is that these wells  
16 are all within three miles, they are within the same  
17 circumference, and as Mr. Waldrop testifies, he believes  
18 it's fair and reasonable to have a consistent order within  
19 the same acreage for similarly situated APDs and spacing  
20 units.

21 So with that, Mr. Examiner, I will make one other  
22 comment, and that is that the -- to be clear, that the APDs  
23 that were issued that were filed by SPC for each of these  
24 three spacing units, they were approved in November of 2021,  
25 but when they were approved, they were approved with

1 conditions of approval that didn't match, were different  
2 than what was imposed against SPC in Case 22102 and are  
3 different than what the Division has proposed in Case 22472  
4 that would impact Tap Rock, Mewbourne, Marathon, and Matador  
5 and WPX.

6 So, what, what SPC is requesting in this case is  
7 that when an order is issued, that its APDs be modified --  
8 the conditions of approval for its APD be modified in the  
9 same manner that the Division has proposed for the other  
10 APDs also within the three mile radius.

11 And with that, Mr. Examiner, I would ask that our  
12 Exhibits A, B, B-1 and B-2, if there is no objection, be  
13 admitted into the record.

14 (Exhibits offered.)

15 HEARING EXAMINER BRANCARD: Okay. Mr. Tremaine,  
16 any questions or comments or what is your position?

17 MR. TREMAINE: Yes. So the Division does agree  
18 to that extensions are appropriate, effectively extending  
19 the unit orders effective July 2, 2021, that's the date of  
20 the OCD's emergency order. These are within that initial  
21 three mile area of review and ask the date at which OCD  
22 thinks it would be appropriate to extend that.

23 And I think we can -- the parties can discuss,  
24 continue to discuss language that would effectively trigger  
25 that extension to restart for a period of a year after,

1 after the director makes any determination that they can  
2 recommence, so essentially tolling the unit until resolution  
3 of the project that we just discussed in other matters.

4 I think that taking administrative notice of both  
5 the hearing today in Case 22102 and the order, the first  
6 order, is entirely appropriate, essentially mirrors my  
7 request from earlier. But the one area where OCD does not  
8 agree with SPC is related to the conditions of approval for  
9 those particular APDs.

10 And the way that OCD has distinguished the  
11 conditions of approval so far is that in any of these cases,  
12 really the two instances, now the two cases where conditions  
13 were modified after an operator had an existing permit with  
14 conditions of approval and then they were in that period of  
15 time where they could drill and complete, OCD is requesting  
16 essentially a temporary or initially more of an indefinite  
17 cessation.

18 Those conditions of approval were drafted to give  
19 consideration to the fact that operators were in the middle  
20 of their already-planned activities. That's the case with  
21 the order, the application in Case 22472. APDs, any APDs  
22 that were issued within the area of review after the date of  
23 the emergency order and/or subsequent orders have gotten a  
24 more simplified set of conditions of approval, and that is  
25 OCD's position is that's appropriate.

1           Those operators are not impacted in the same way  
2 as the operators that had existing APDs with existing  
3 conditions of approval and drill rigs on the schedule, et  
4 cetera. So we think it's appropriate that operators can  
5 accommodate the different set of conditions, and those  
6 conditions of approval, in OCD's view, are simpler and more  
7 straightforward for OCD to manage.

8           And those are my only comments, I guess, other  
9 than I -- with that caveat about the APDs, I believe that  
10 the parties can reach an agreement and propose an order.  
11 It's just that one issue that needs to be resolved.

12           HEARING EXAMINER BRANCARD: Mr. Rose-Coss,  
13 questions?

14           TECHNICAL EXAMINER ROSE-COSS: No questions,  
15 thank you.

16           HEARING EXAMINER BRANCARD: Did you want to  
17 respond, Mr. Rankin, or do you want to wait for my  
18 questions?

19           MR. RANKIN: Now that you framed it that way, I  
20 will wait for your questions first and then take up  
21 response.

22           HEARING EXAMINER BRANCARD: So there is a  
23 disconnect, and I will, just glancing at these documents  
24 here, but between your application and Mr. Waldrop's  
25 affidavit, in terms of (inaudible) and you applied for a one



1 year extension to drill the wells from a specific date.

2 Mr. Waldrop, however, he talks about all sorts of  
3 other stuff here, he is asking for an extension until  
4 whenever the Division says go ahead, and then it's one year.  
5 Then he's asking for amendments to APDs which are not even  
6 in the application. So I will give you a minute to respond  
7 to that.

8 MR. RANKIN: Mr. Examiner, that is correct, the  
9 application was, was limited to a standard request for an  
10 extension of time based on the issuance of the order and the  
11 deadlines to drill and complete under each of those orders  
12 as they were issued.

13 Subsequent to that filing, you know, the concern  
14 is that, the Division has stated today, it's uncertain about  
15 when exactly if ever, I suppose, or within what time frame  
16 they would approve a resumption of drilling operations. So  
17 each of these proposed, spacing units, these spacing units  
18 that are specific to an order, you know, could essentially,  
19 if the standard extension were approved which would grant a  
20 one year time frame from the February time frame, we could  
21 lose several months or more within which the operator would  
22 be unable to prepare for or plan for drilling operations.

23 So in light of the fact that the Division has  
24 been unable to confirm exactly when operators might be able  
25 to expect resume their operations and get rigs scheduled and

1 so forth, and the fact that several months may elapse or  
2 more between the time these extensions are, you know, the  
3 time frame within which the authority would be granted, the  
4 joint authority would be effective and when we get authority  
5 to proceed, we have asked for additional time based on when  
6 the Division actually finally authorizes resumption of  
7 drilling.

8           And as the APDs, Mr. Examiner, under the rule,  
9 you know, the APD rule, the Division has authority to issue  
10 conditions of approval subsequent to the issuance of an  
11 (inaudible) so our position would be that the facts in  
12 evidence elicited during this case and the prior cases  
13 support the Division's determination that the conditions of  
14 approval can be modified administratively, and we are doing  
15 so here, and you know, to be done through through an order  
16 of the request for extension pooling orders.

17           HEARING EXAMINER BRANCARD: Here is what I  
18 propose, I guess this is mostly thrown back at you, Mr.  
19 Rankin, because it's your application. You have three  
20 applications requesting the standard one year. This is the  
21 second request you requested a one year extension. We can  
22 take this case under advisement and deal with the one year  
23 extension.

24           And then if you want to come back for another  
25 extension, frankly, you have a lot more facts in favor of an

1 extension than the normal, generic application we get. So  
2 that's what I propose to do.

3 As you mentioned, APDs are handled  
4 administratively. The Division, I think, would have the  
5 discretion, if you wanted to, to amend the APD  
6 administratively. The Division, given the nature of this  
7 issue that we have here, and the time that they wanted to  
8 have a whole bunch of APDs treated the same, decided to come  
9 to hearing, and frankly that was a good idea (inaudible) but  
10 you're right APDs are generally administrative.

11 So that's what I propose to do is to take this  
12 under advisement under your request in your original  
13 application, which means you can either say, "Okay, fine,  
14 we'll come back in later and or find other ways," or you can  
15 withdraw these applications and file something else.

16 MR. RANKIN: I guess, Mr. Examiner, I point out  
17 that the part of the challenge we are in here is that you  
18 may recall from the prior case is that we have expiring  
19 leases that -- kind of rolling leases. And as you will note  
20 from our Exhibit B-1, there are substantial number of  
21 parties who are require notice, so just this application  
22 alone is over \$10,000 to provide notice to all of these  
23 parties of the extension request.

24 So -- and we have had to do this through no fault  
25 of our own, but because of the Division's position of the

1 cessation of drilling, so the burden fell to SPC to seek an  
2 extension under the drilling orders and without recourse.

3 And so our view is that the requests for the  
4 extension of time and the natural extension from what we are  
5 asking for based on the evidence in the record, and that the  
6 Division should take under consideration our request both as  
7 to the extension of time for the pool order and request to  
8 modify the conditions of the approval for APDs.

9 HEARING EXAMINER BRANCARD: Okay. Now,  
10 Mr. Tremaine, do you have anything else?

11 MR. TREMAINE: I was going to say, we have  
12 discussed administrative extension of the APDs, and can do  
13 that at the Division's preference because this is already at  
14 hearing and the unit extensions -- Mr. Hearing Examiner, if  
15 you sort of move forward with a one-year extension, this is  
16 less important, but if, if you were to accept the kind of  
17 proposal to hinge that one-year extension upon the date of  
18 the determination that activity can recommence with the  
19 realization that that leaves it more open-ended, I  
20 understand that.

21 But if that is accepted, then OCD's preference  
22 would be to handle the APDs part and parcel of the order,  
23 which we choose not to do that and will respond accordingly,  
24 but just articulating the Division's preference on that.

25 And really the only sticking point in my mind is

1 whether or not the conditions of approval are modified and  
2 OCD doesn't -- cannot agree to that at this time.

3 HEARING EXAMINER BRANCARD: Your position is OCD  
4 is following the conditions that are currently on these  
5 APDs, OCD doesn't see a need to change them. Is that  
6 correct?

7 MR. TREMAINE: Yes, because SPC was aware of the  
8 situation with the Brine Well at the time that they applied  
9 for the APDs which was in November. They turned around  
10 pretty quick and issued those conditions of approval in  
11 November. So it's a timing issue.

12 These conditions of approval don't cut into  
13 operational plans the same way that the previous order and  
14 conditions did.

15 HEARING EXAMINER BRANCARD: all right. This case  
16 will be -- these cases -- is there anyone else here in Cases  
17 22534, 535, 536?

18 (No audible response.)

19 HEARING EXAMINER BRANCARD: Hearing none, these  
20 cases will be taken under advisement.

21 MR. RANKIN: Mr. Examiner, just to follow up, if  
22 I may, sorry to interject, so it's clear, I think  
23 Mr. Tremaine had suggest and we're open to and have already  
24 started discussing the potential proposed order, and I  
25 understand that the Division Examiner need not accept our

1 proposed order when we submit it -- if and when we submit  
2 it, but I guess at this point I would request that at least  
3 the Division Examiner be open to considering the proposed  
4 order that the parties, should they be able to reach  
5 agreement, to submit for consideration.

6 HEARING EXAMINER BRANCARD: So you are looking to  
7 circulate an order to Mr. Tremaine in hopes that he will  
8 bite?

9 MR. RANKIN: (Inaudible.)

10 HEARING EXAMINER BRANCARD: You are nodding yes.

11 MR. RANKIN: yes.

12 HEARING EXAMINER BRANCARD: I guess so. You  
13 know, one of my concerns with your request that appear in  
14 the affidavit, Mr. Rankin, is that they are in an affidavit  
15 and they're a little mushy. So perhaps if you do propose an  
16 order you can be fairly concise about exactly what the terms  
17 are, because you are modifying an existing order, therefore,  
18 you have to put language into that order that fits in with  
19 the order and gets a little more precision, you know,  
20 because I'm not a big fan of indefinite deadlines. So there  
21 needs to be a very clear trigger what that is. Perhaps you  
22 and Mr. Tremaine can work on that, that will be great.

23 MR. RANKIN: Okay, understood.

24 HEARING EXAMINER BRANCARD: But it needs to be  
25 pretty clear. We work much better here with a date.

1 MR. RANKIN: Understood.

2 HEARING EXAMINER BRANCARD: This would be unusual  
3 to have a deadline that is indefinite. Obviously, you know,  
4 we'll know in the next 90 days if it becomes a lot more.

5 MR. RANKIN: Understood. I appreciate it, Mr.  
6 Examiner, we will take that into consideration.

7 HEARING EXAMINER BRANCARD: All right. So how  
8 much time do you need to come up with something.

9 MR. RANKIN: I will submit a proposed order to  
10 Mr. Tremaine no later than Monday of next week.

11 HEARING EXAMINER BRANCARD: Friday of next week  
12 to try to work something out to get --

13 MR. RANKIN: I was going to say, I know Mr.  
14 Tremaine has a busy schedule next week, so I -- whatever is  
15 feasible for him to get a response back is fine.

16 HEARING EXAMINER BRANCARD: Whatever, Mr.  
17 Tremaine, give you a chance to respond.

18 MR. TREMAINE: Again, being optimistic, but I  
19 think, based on what we have discussed so far and I'm  
20 thinking of possible ways to address your concern, I think  
21 might have one. So I believe we are looking at a discrete  
22 issue in drafting this, so I'm going to say Friday.  
23 Thursday I'm probably going to kick myself for that, but I'm  
24 going to say Friday. I think we need to move this one along  
25 as quickly as possible.

1 HEARING EXAMINER BRANCARD: Okay. Submission of  
2 a proposed order to Examiner, February 11. If you need  
3 another Friday, let me know.

4 MR. TREMAINE: No, I meant February 11.

5 HEARING EXAMINER BRANCARD: February 11. All  
6 right. Everyone understand where we're at?

7 MR. RANKIN: Thank you.

8 HEARING EXAMINER BRANCARD: Thank you, appreciate  
9 it. All right. Anything else to come back before the group  
10 today?

11 (No audible response.)

12 HEARING EXAMINER BRANCARD: Hearing none, we are  
13 done for the day, February 3, 2022, and you all have a safe  
14 day. Stay warm.

15 MR. TREMAINE: Thank you.

16 (Concluded.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 REPORTER'S CERTIFICATE

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

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

15 I FURTHER CERTIFY that the Virtual Proceeding was  
16 of poor to good quality.

17 Dated this 3rd day of February 2022.

18

/s/ Irene Delgado

19

Irene Delgado, NMCCR 253  
License Expires: 12-31-22

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