

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 Rockwood Resources, LLC, et al. to reopen Mewbourne Oil Company's Pooling Case No. 21390 Lea County, New Mexico	Case No. 22539 Re Case No. 21390 Order No. R-12527
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Application of Rockwood Resources, LLC, et al. to reopen Mewbourne Oil Company's Pooling Case No. 21391 Lea County, New Mexico	Case 22540 Re Case No. 21391 Order No. R-12528
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 7, 2022

EXAMINER HEARING

MOTIONS TO DISMISS

This matter came on for hearing before the New Mexico Oil Conservation Division, William Brancard, Hearing Examiner, John Garcia, Technical Examiner, on Thursday, April 7, 2022, via Webex Virtual Conferencing Platform hosted by the New Mexico Energy, Minerals and Natural Resources Department

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A P P E A R A N C E S

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1 (Time noted 3:13 p.m.)

2 EXAMINER BRANCARD: All right. With that I'm  
3 calling Cases 22539, 22540, Rockwood Resources.

4 MR. SAVAGE: Good afternoon, Mr. Examiner.  
5 Darin Savage appearing on behalf of the Rockwood Group  
6 consisting of Rockwood Resources, LLC, Christine Brock,  
7 and Rebecca J. Babbitt.

8 EXAMINER BRANCARD: Mewbourne Oil Company.

9 MS. HARDY: Good afternoon, Mr. Examiner. Dana  
10 Hardy with Hinkle Shanor on behalf of Mewbourne Oil  
11 Company.

12 MR. BRANCARD: Any other interested persons in  
13 Cases 22539, 22540?

14 Hearing none, what we have before us are a  
15 motion, or Motions to Dismiss filed by Mewbourne Oil  
16 Company. The parties have filed Responses/Replies. So  
17 we've lots of information. Thank you very much.

18 I guess I will at this point allow, say,  
19 about 10 minutes each side to make their arguments in this  
20 case. Will that work? I see a nod from Mr. Savage.

21 MS. HARDY: Yes, Mr. Examiner.

22 MR. BRANCARD: All right. So with that, Ms.  
23 Hardy if you could briefly outline your case here.

24 MS. HARDY Sure. Thank you.

25 Mewbourne has established that Rockwood's

1 applications should be dismissed, and I think there are a  
2 number of lenses through which the Division can view the  
3 applications, and under any of them I think dismissal is  
4 appropriate. Rockwood attempts to present a significant  
5 number of arguments and exhibits in response but really  
6 fails to address the crux of the issues.

7 Under the Oil and Gas Act Rockwood should  
8 not be permitted to reopen Pooling Orders over a year  
9 after they were issued when it was not entitled to Notice  
10 of the applications to begin with and it then knowingly  
11 acquired interests that had been pooled as unlocatable.

12 Rockwood's applications, if granted, would  
13 impair correlative rights and result in waste.

14 In the underlying cases the Division held a  
15 hearing that expressly found that Mewbourne satisfied the  
16 Division's Notice requirements. By the time Rockwood  
17 contacted Mewbourne, Mewbourne's deadline to commence  
18 drilling the wells under the Order had already passed.

19 The Division should not allow parties to  
20 collaterally attack Pooling Orders for an unlimited period  
21 o time after they were issued. This would thwart the  
22 Division's pooling authority and its ability to prevent  
23 waste and protect correlative rights in accordance with  
24 the Oil and Gas Act.

25 Operators rely on the Division's Pooling

1 Orders in expending significant funds to develop acreage.  
2 Rockwood's applications threaten that reliance, and  
3 consequently oil and gas development in New Mexico.

4 Rockwood knowingly chose to acquire  
5 interests owned by parties who were pooled as unlocatable  
6 and now seeks to undo the Orders, and allowing that action  
7 is contrary to New Mexico's public policy as set out in  
8 the Oil and Gas Act.

9 The de novo hearing provision of the Act  
10 also demonstrates that parties cannot challenge Pooling  
11 Orders for an unlimited period of time. The Act and the  
12 Division's regulations contain specific time limits on  
13 review of Division Orders, and those time limits show that  
14 the Oil and Gas Act does not contemplate that a party can  
15 come back after any amount of time, and in this case more  
16 than a year after a Pooling Order was issued, and  
17 challenge the Order.

18 In addition, Rockwood wasn't entitled to  
19 Notice of Mewbourne's pooling applications to begin with,  
20 and it cannot challenge the Orders on that basis,  
21 especially on the basis of Notice, which is what they are  
22 arguing.

23 Rockwood was not an affected party at the  
24 time the applications were filed, and that was undisputed.  
25 Mewbourne had no requirement to notify Rockwood, and

1 Rockwood can't come back now as a party that wasn't  
2 entitled to Notice and try to argue the Orders have to be  
3 reopened due to Notice.

4           And that gets into sort of the next issue I  
5 wanted to raise, that we had raised in our first  
6 arguments, as well, and that's on standing, and it's  
7 especially that Rockwood lacked standing to challenge the  
8 Pooling Orders. The Division's regulations specifically  
9 provide that an application can be dismissed due to a lack  
10 of standing. It's well established under New Mexico law  
11 that to have standing a party must demonstrate injury  
12 facts, causation, and redressability. None of those  
13 requirements have been met here.

14           The interests at stake have title problems,  
15 and that was mentioned in Mr. Robb's affidavit. The title  
16 is clouded, and those interest owners were pooled as  
17 unmarketable, as having unmarketable title. Rockwood  
18 seeks to embroil the Division in a title dispute by  
19 presenting extensive exhibits on title at the same time it  
20 concedes the Division has no jurisdiction over that issue.

21           Because the title issues have not been  
22 resolved, and that's established by Mr. Robb's affidavit,  
23 none of the applicants have a legal right to participate  
24 in the wells.

25           Further, Mewbourne did allow Babbitt to

1 participate subject to the resolution of title issues, so  
2 Babbitt has no injury or claim and shouldn't be raising  
3 any issues here. Neither should Utter. Utter is not a  
4 party to the applications and can't raise issues.

5 Basically the Rockwood Group has failed to  
6 establish an injury in fact, causation and redressability.

7 And we are not seeking to change the  
8 standard requirement. I think that was an issue raised in  
9 Rockwood's response. They argued we were trying to use  
10 the legal interest test and not the standards adopted by  
11 New Mexico courts, but that's not correct. The ACLU case  
12 that they rely on still requires that the three elements  
13 be met, and they have not been met here.

14 Rockwood's attempt to alter the Division's  
15 Notice requirements should be rejected. Rockwood has  
16 argued, and this I think was in response to Mewbourne's  
17 first Motion to Dismiss, that Mewbourne should have  
18 contacted Babbitt and Brock's relatives and their next of  
19 kin instead of just attempts to locate Babbitt and Brock.  
20 That argument is a departure from the Division's  
21 requirements in that it would impose extreme burdens on  
22 operators that would thwart oil and gas development in New  
23 Mexico in violation of the Oil and Gas Act, that would  
24 really create sort of an endless, boundless obligation on  
25 operators to track down next of kin. And then are you

1 talking down the next of kin of the next of kin? It would  
2 just be an unreasonable burden and it's not been required  
3 and it shouldn't be required.

4           If the Division is inclined to alter its  
5 Notice requirement, that should be accomplished through  
6 rulemaking that involves all interested parties.

7           Rockwood cannot successfully dispute that  
8 Mewbourne met the Division's Notice requirement as it  
9 currently exists. Mr. Robb's affidavit in the underlying  
10 cases, and then in these cases, as well, describes the  
11 actions that Mewbourne took to locate Babbitt and Brock,  
12 and those actions are reasonable and comply with the  
13 Division's Notice requirement. Furthermore, Rockwood  
14 completely ignores that property owners have an obligation  
15 to file legal documents and update ownership information  
16 with state and federal agencies, including the BLM. It is  
17 undisputed that Babbitt and Brock did not do that.

18           Rockwood has argued here that Mewbourne  
19 should have gone beyond the information that was available  
20 with BLM and looked into their next of kin and do other  
21 searches. If they do, those property owners must have an  
22 obligation, and they do have an obligation, to update  
23 their ownership information. And they didn't do that  
24 here.

25           So Rockwood seeks to impose the almost



1 impossible burden on operators in New Mexico, while  
2 excepting the interest owners from any responsibility  
3 whatsoever, and that's not just and reasonable, it's not  
4 the law in New Mexico, and it's inconsistent with the  
5 Division's Pooling Orders and requirements.

6           Finally the doctrine of laches would  
7 provide yet another basis on which to dismiss the  
8 application. We didn't discuss that in our brief but we  
9 talked about all the elements of it, and I think they have  
10 been met. Basically laches exists when there is  
11 unreasonable delay and there's a lack of knowledge of the  
12 parties, uhm, knowing that a claim would be asserted, and  
13 that the party, the defending party, is prejudiced. And  
14 that certainly is here, and we talk about that in our  
15 brief. Rockwood raised its claims over a year after the  
16 Pooling Orders were issued and after Mewbourne's deadline  
17 to commence drilling the wells. Mewbourne was entitled to  
18 rely on the Orders, and Rockwood's untimely challenge  
19 prejudices Mewbourne.

20           In conclusion, Rockwood's applications  
21 should be dismissed. Whether you look at the situation  
22 through the lens of standing, jurisdiction, or laches,  
23 Rockwood's applications are inconsistent with the Oil and  
24 Gas Act and the Division's obligation to protect  
25 correlative rights and prevent waste.

1                   Thank you. I think that was less than 10  
2 minutes.

3                   EXAMINER BRANCARD: It was. Impressive. Thank  
4 you.

5                   So just let me try to dig in here a little  
6 bit. So your argument against -- I understand your  
7 arguments against Rockwood, but your argument against  
8 Brock is that they didn't have really good title to begin  
9 with and therefore they don't have the ability to try to  
10 re-open this case?

11                  MS. HARDY That's one of the arguments. I think  
12 that's one of arguments, yes. They were pooled for  
13 unmarketable title, and so they don't have, at this point,  
14 injury that's redressable by the Division. If they had a  
15 Court Order on title I think they would be in a different  
16 situation, but they don't.

17                  And then, in addition, we have the problems  
18 with delay and reopening Pooling Orders a year after they  
19 were issued, all those other matters that I mentioned.

20                  EXAMINER BRANCARD: I understand that, but I  
21 just look at the Division's Rule 19.15.4.12D. It says:  
22 Evidence of failure to provide Notice requires, on proper  
23 showing, to be considered cause for re-opening the case.

24                  What is your response to that? The  
25 Commission seems to have carved out an exception here for

1 a Notice issue.

2 MS. HARDY I think that here they still have to  
3 have standing, and I think that we show there are problems  
4 with that.

5 I think we've also shown that Mewbourne met  
6 the Notice requirement, and I think that that was  
7 established by Mewbourne's original cases and the  
8 Division's original Order, and I think that here Rockwood  
9 seeks to expand or heighten the Notice standard. And  
10 that's basically what they have said in their briefings,  
11 that searching address information and county records is  
12 insufficient and that you're supposed to track down next  
13 of kin and try to reach out to those people, and that if  
14 Mewbourne had reached out to next of kin they would have  
15 been able to find the real address for these people, when  
16 I think actually the information that they provided shows,  
17 especially with Christine Brock, she had a large number of  
18 addresses in different names, and according to Rockwood's  
19 own submission, which was their response to I think our  
20 First Motion to Dismiss where they attached a lot of that  
21 information, there's no reason to find that Mewbourne  
22 didn't meet the Notice requirement.

23 EXAMINER BRANCARD: Thank you.

24 Mr. Garcia, do you have any questions?

25 EXAMINER GARCIA: I do not.

1 EXAMINER BRANCARD: Mr. Savage.

2 MR. SAVAGE: Thank you, your Honor, Mr.  
3 Examiner.

4 I would just like to quickly point out that  
5 the reference to 12.15.4.12D is correct, and, uh, Ms.  
6 Hardy's response is that the only remaining issue is  
7 standing because under the rules a case can be reopened  
8 for lack of Notice, and there is precedent for that. And  
9 I believe we mentioned that in our response, I believe it  
10 was Case 22323 shows that the case was re-opened for a  
11 contested hearing a year after the expiration of the  
12 Commission's de novo hearing date.

13 I have to say I'm -- it's been a long day,  
14 but I find it interesting that the concerns and issues in  
15 this case at the end of the day are analogous to the same  
16 concerns and issues we started out with earlier today in  
17 the SDC Resources case, expressing the need to reach out  
18 to ordinary folks who are unsophisticated in oil and gas  
19 matters in explaining their rights through Notice and not  
20 be too quick to disregard their interest. In fact, I  
21 believe that case was continued for that very specific  
22 purpose.

23 That said, Rockwood's response to  
24 Mewbourne's Second Motion to Dismiss covers in detail  
25 every argument presented by Mewbourne, including the

1 application of Delaware Energy which the Division  
2 requested the parties to address.

3           We have provided an overview of the  
4 important issues the Division faces, as it now must apply  
5 the Oil and Gas Act and its rules to establish the best  
6 policies for protecting the rights of all owners in  
7 upholding the primary requirements and principles in the  
8 compulsory pooling proceeding, that being proper Notice  
9 and due process which must be satisfied before an  
10 applicant is granted the privilege of utilizing the  
11 State's police powers to pool and acquire working  
12 interests for its benefit.

13           And so I would like to start off with  
14 standing, because that seems to be the main issue that  
15 Mewbourne has posed.

16           Mewbourne fails to address the fact that  
17 its federal standard for standing is misplaced. New  
18 Mexico has rejected the legal interest test on which  
19 Mewbourne relies, and Rockwood does not have to  
20 demonstrate the existence of a legally protected right in  
21 the same manner it would be required in federal court, or  
22 even in a quiet title action in district court, although  
23 if the Division wishes to review the title analysis  
24 provided in Rockwood's Exhibit 5, it will see that  
25 Rockwood has confirmed ownership to that extent.

1 Under the criteria on which the Division  
2 assumes jurisdiction over these matters and its  
3 administrative process, it is Mewbourne who has  
4 established Brock and Babbitt's ownership in the subject  
5 lands through Mewbourne's good faith title work and  
6 testimony that they are owners.

7 In an administrative adjudication before  
8 the Division this is all that is required. Mewbourne  
9 established ownership and used Brock's and Babbitt's  
10 ownership to its benefit to convince the Division to grant  
11 its Pooling Order. Now Mewbourne is trying to challenge  
12 that and retract its own testimony and ownership exhibits.

13 Mewbourne has identified the owners by its  
14 own accord to establish ownership that allowed the  
15 Division to take the cases under advisement and to have  
16 benefited from its testimony by receiving an Order.  
17 Mewbourne cannot now later rescind its claim that it  
18 decided -- that when it decides it is convenient to do so  
19 to avoid the obligations under the Pooling Order and the  
20 Oil and Gas Act, unless of course Mewbourne wants to admit  
21 an error in its determination of ownership and have the  
22 Division rescind its Order on that basis.

23 Mr. Examiner, the ownership of Ms. Brock is  
24 simple. The BLM leased the interest to her husband R.T.  
25 Brock. He conveyed it to her prior to his death. Review

1 of title confirms that if Mewbourne had doubts that Ms.  
2 Brock was the rightful owner, who then would have been the  
3 proper owner to list? The estate of her husband? The  
4 BLM? Those are the only other candidates in the chain of  
5 title, and Mewbourne, based on its own title work,  
6 correctly listed Christine Brock as the owner. Ownership  
7 has been established under the Division's administrative  
8 process. As a result Rockwood's injury, in fact, exceeds  
9 1.5 million as established in Rockwood's response, and  
10 that Mewbourne caused the injury, and the likelihood of  
11 redressing the injury by a favorable decision has been  
12 established.

13 Besides raising a meritless argument that  
14 attempts but fails to obfuscate ownership, Mewbourne never  
15 challenges the extent or accuracy of this injury, and  
16 Rockwood has provided the numbers and calculations that  
17 confirm its injury, therefore standing has been satisfied.

18 It should also be noted that standing is  
19 discretionary. Under the rule it takes second chair to  
20 the protection of correlative rights. Under Rule  
21 19.15.4.8A the Division may dismiss the case if it doesn't  
22 have standing, and therefore it may not dismiss an  
23 application upon showing that an applicant does not have  
24 standing. It may not dismiss the case. Rule 19.14.4.11C  
25 provides the criteria for exercising discretion, stating

1 that if a party contributes substantially to the  
2 protection of correlative rights then the Division has  
3 discretion not to strike the party's participation in the  
4 case. This discretion is analogous to the district  
5 court's discretion to confer standing based on the  
6 doctrine of Great Public Importance where traditional  
7 requirements for standing are not met.

8 In the present cases Rockwood has met both  
9 the traditional requirement for standing and, in addition,  
10 has shown these matters are of great public importance.

11 The position asserted by Rockwood Group in  
12 these cases stands for the protection of correlative  
13 rights that each and every owner can receive its just and  
14 fair share of the proceeds, rights which Mewbourne has  
15 violated by failing to exercise reasonable diligence,  
16 failing to provide proper Notice, and failing to inform  
17 the Division that Ms. Brock and Ms. Babbitt, among others,  
18 were locatable parties.

19 Mewbourne in its motion has used  
20 exaggerations, hyperbole, inaccurate assertions and scare  
21 tactics to try to persuade the Division to devalue and  
22 undermine constitutionally protected rights of due  
23 process, contrary to what is required by the Oil and Gas  
24 Act, its rules and New Mexico case law.

25 Some specific examples? At the top of



1 page 2 in Mewbourne's Reply it asserts that Rockwood fails  
2 to address its argument that Rockwood's application is  
3 contrary to the Oil And Gas Act by using a broad,  
4 unsupported statement that any Division Order that was  
5 obtained by a party who failed to exercise reasonable  
6 diligence in locating an uncommitted working interest  
7 owner lacks certainty and finality by its very nature.  
8 However, if you look at Rockwood's response on paragraph  
9 22, we directly support that statement by a holding from  
10 the New Mexico Supreme Court, the highest court in the  
11 state. And then that argument happens to be an extension  
12 of paragraph 21, in which Uhden vs. New Mexico Oil  
13 Conservation Division and Mullane versus Central Hanover  
14 Bank & Trust Company come into play, which directly  
15 address the consequences of lack of Notice in a hearing  
16 before the Division, and the consequences of that. In  
17 fact, Uhden, which plays a very prominent role in our  
18 argument, goes on to state that an elementary and  
19 fundamental requirement of due process in any proceeding,  
20 which is to be accorded finality if Notice is reasonably  
21 calculated under all circumstances to apprise interested  
22 parties of the pendency of the action and afford them an  
23 opportunity to present their objections.

24 Mewbourne is wanting the Division to sweep  
25 under the rug its principles and obligations under the Oil

1 and Gas Act and case law in order to uphold unauthorized  
2 Pooling Orders based upon Mewbourne's exaggerated threat  
3 that somehow the Division's addressing unauthorized  
4 Pooling Orders would thwart oil and gas development in New  
5 Mexico. In doing so, Mewbourne inaccurately claims on  
6 page 2, second paragraph of its Reply, that Rockwood  
7 asserted that any Order involving unlocatable parties  
8 lacks certainty and finality. This is not an accurate  
9 representation of Rockwood's position, and if you look  
10 again at paragraph 42 in its Response you will see that  
11 Rockwood stated: Any Order that was obtained by a party  
12 who failed to exercise reasonable diligence in locating an  
13 uncommitted working interest owner lacks finality.

14 Mr. Hearing Examiner, let us be clear that  
15 all Orders with unlocatable parties are final if the  
16 applicant exercised reasonable diligence and made the  
17 required efforts under the rules to achieve Notice.  
18 Simply put, all Orders are final and secure for the  
19 applicant that followed the Division's rules, and the  
20 stakeholders in New Mexico's oil and gas are in good hands  
21 with the Division enforcing the rules as written and  
22 interpreted by case law. The operators benefit from  
23 predictable and proper enforcement, as do the minority  
24 independent owners and the public at large.

25 EXAMINER BRANCARD: Ten minutes.

1           MR. SAVAGE: I'm sorry. I thought I could get  
2 this in 10 minutes. I just have a little bit more to go,  
3 but if you don't want to hear the rest...

4           EXAMINER BRANCARD: I appreciate what you said  
5 already. I guess my only concern is, you know, for the  
6 Division to have the ability to look back at prior actions  
7 and determine whether Notice was done correctly or not, is  
8 there some sort of boundary that can be placed on that or  
9 is it sort of an unlimited look back?

10           MR. SAVAGE: Well, Mr. Examiner, how I feel  
11 about this, this is a consultation I have with every  
12 client I have that does a Pooling Order. They send me  
13 their list of owners. They are taken from the land  
14 records. You know, we go through, we make the list, we  
15 send out the Notices, we get the green cards back. We  
16 look at the green cards. Then we -- I mean, send out  
17 let's say 50 Notice letters, you get back, I don't know,  
18 five where it looks like the personal service was not  
19 effectuated.

20                   I -- our office does a search on the  
21 Internet. We use a couple of those data bases that we  
22 mentioned in our exhibits, and we use the white pages. We  
23 ascertain what looks like would be a reasonable address,  
24 we send out another Notice letter.

25                           That, to us, looks like it follows the

1 letter of the rule.

2 And then we do publication.

3 So, you know, our feeling is that the  
4 operators that in good faith follow those rules can show  
5 that to the Division and there is no concern and the  
6 Orders are secure and final.

7 You know, those operators that have a  
8 concern that they didn't follow the rules for Notice, they  
9 probably should go back and evaluate the cases that they  
10 might be concerned about.

11 I have never seen -- I have never seen --  
12 I've been practicing before the Division now for, what,  
13 maybe three years. I know that's not as long as some of  
14 the folks, but I have never seen somebody try to claim 92  
15 acres from nine owners as unlocatable interest, especially  
16 when the address they used from the BLM Serial Register,  
17 which was Montague, Texas for Brock, shows up on the  
18 Internet in all the three -- in the white pages and the  
19 three data bases that we used, plus it shows up in  
20 Accurint.

21 If you look at our Exhibit 10 in our  
22 response, we, Rockwood, hired a searcher to search  
23 Accurint, and all those parties came up in Accurint with  
24 using the addresses that Mewbourne used on the green  
25 cards, which indicates that Brock was the address they had

1 from the Serial Register, the BLM Serial Register.

2 So I think there's a number of very serious  
3 questions in this particular case, in these cases,  
4 questions of concern. Certainly questions that  
5 maintain -- you know, rise to the level of material facts  
6 with a genuine dispute.

7 So I don't see an issue that this is going  
8 to open up any floodgates that would cause a problem for  
9 the majority of the operators, unless an operator, you  
10 know, doesn't abide by the rules as written and  
11 interpreted by the case law.

12 MR. BRANCARD: Thank you.

13 Ms. Hardy, did you want to do a reply, a  
14 couple of minutes?

15 MS. HARDY: Yes, please. I'll be brief, Mr.  
16 Examiner.

17 I think Mr. Savage has just really stated  
18 the problem here, which is that there is no limit.  
19 There's no limit on the time period over which someone  
20 could come back and challenge a Pooling Order that  
21 involved an unlocatable party. We could be talking about  
22 20 years here. I mean, there's no limit.

23 And the idea that it only impacts operators  
24 who don't comply with the requirement is not true. I  
25 think Mewbourne's evidence here is that they absolutely

1 did comply with the requirement. And in fact Mr. Savage  
2 has admitted, and I think it's in the pleadings, as well,  
3 that Mewbourne used this BLM Serial Register address.

4 Well, as I was saying earlier, property owners have an  
5 obligation to update their addresses with government  
6 agencies when they own property administered by those  
7 agencies. The burden is not 100 percent on the operator.

8 But, in any event, Mewbourne established  
9 that it did do searches, did make phone calls trying to  
10 find these interest owners.

11 So I think there is a real problem here  
12 with the idea that any party can go out and acquire an  
13 unlocatable interest, which is what happened here, and  
14 come back any amount of time after a Pooling Order was  
15 issued and raise the issue of Notice. It would subject  
16 every Pooling Order that the Division has issued that  
17 involves unlocatable parties to question.

18 And I disagree with Mr. Savage. I don't  
19 think it's unusual to have a large number of unlocatable  
20 interests, especially in certain areas of the state. I  
21 think it just depends on the acreage, and I don't think  
22 that's unusual.

23 So I think that in this situation it's  
24 appropriate to dismiss Rockwood's application under any  
25 number of the theories and lenses that I've talked about.

1 I think standing is certainly an issue, but I think there  
2 are other issues, as well, that I've mentioned. There's  
3 public policy and requirements of the Oil and Gas Act, and  
4 the stability and finality of Pooling Orders, which is  
5 certainly important to every operator in the State of New  
6 Mexico, and also I think to the agencies that administer  
7 these resources.

8 So I would ask that it be dismissed.

9 EXAMINER BRANCARD: All right.

10 Mr. Garcia, any questions for either  
11 counsel?

12 EXAMINER GARCIA: I do not.

13 EXAMINER BRANCARD: All right. I don't have any  
14 further questions, and I don't have a ready answer right  
15 now to this. These are important questions, both raised  
16 by the Motion to Dismiss and by the Application. As Mr.  
17 Savage noted, today's hearings brought up lots of Notice  
18 questions, so Notice is important for these types of  
19 proceedings so that's why we wanted to take some time to  
20 listen to the arguments here today.

21 But my hope is that we can get a pretty  
22 quick answer to the motion so the parties will know which  
23 way to go in the future here, whether we're going to have  
24 a hearing in front of the Division, whether you should  
25 appeal to the Commission, whatever.

1                   So I think if we do rule against the Motion  
2 to Dismiss, I think we will also try to outline what we  
3 would like to see in the hearing so that we can put some  
4 boundaries on this matter in ways that would help us reach  
5 a decision if we decide to go that direction.

6                   Anyway, we don't have a decision, but we  
7 will hopefully have one soon. And, frankly, I appreciate  
8 the arguments, very well done. It helped to solidify the  
9 questions and the issues for all of us.

10                  With that, Mr. Garcia, I'm ready to be done  
11 for the day. How about you?

12                  EXAMINER GARCIA: Nothing else.

13                  EXAMINER BRANCARD: All right. Well, thank you  
14 everyone. We appreciate it.

15                  (Time noted 4:06 a.m.)

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1 STATE OF NEW MEXICO )

2 : ss

3 COUNTY OF TAOS )

4

5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter  
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday, April 7,  
8 2022, 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

19 /S/CCR/Mary Therese Macfarlane

20 MARY THERESE MACFARLANE, CCR  
21 NM Certified Court Reporter No. 122  
License Expires: 12/31/2022

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