

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 No. 22378

APPLICATION OF SIANA OIL & GAS CO. FOR
AN ACCOUNTING UNDER ORDER NOS. R-21292
AND R-21293 AND TO DECLARE CERTAIN
ACCOUNTING PRACTICES IMPROPER,
LEA COUNTY, NEW MEXICO.

Case No. 22439

APPLICATION OF SIANA OIL & GAS CO. TO
AMEND ORDER NOS. R-21804 AND R-21805
TO EXTEND TIME FOR PAYING ESTIMATED COSTS,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS
EXAMINER HEARING
APRIL 21, 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 ROSE-COSS on
Thursday, April 21, 2022, through the Webex Platform.

Reported by: PAUL BACA PROFESSIONAL COURT REPORTERS
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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

EMERGENCY MOTION and MOTION TO DISMISS 03

REPORTER CERTIFICATE 49

1 HEARING OFFICER BRANCARD: All right. We are
2 back on the record. It is April 21, 2022, the hearing for
3 the New Mexico Oil Conservation Division. We are calling
4 our last two cases, Numbers 42 and 43 on the worksheet in
5 Case 22378 and 22439, Siana Oil & Gas.

6 Do I have an appearance for Siana?

7 MS. SHAHEEN: Thank you, Mr. Examiner. Sharon
8 Shaheen of Montgomery & Andrews on behalf of Siana Oil &
9 Gas.

10 HEARING EXAMINER BRANCARD: We have an entry of
11 appearance in each of these cases, I believe, with different
12 representation for Mewbourne Oil Company, 22378.

13 MS. HARDY: Yes, Mr. Examiner. Dana Hardy with
14 Hinkle Shanor on behalf of Mewbourne Oil Company.

15 HEARING OFFICER BRANCARD: In 22439, Mewbourne.
16 Mr. Bruce?

17 (No audible response.)

18 HEARING OFFICER BRANCARD: Mr. Bruce?

19 MR. BRUCE: Can you hear me now?

20 HEARING OFFICER BRANCARD: I can hear you now,
21 barely, but I can hear you.

22 MR. BRUCE: Okay. Yes, I'm entering an
23 appearance on behalf of Mewbourne.

24 HEARING OFFICER BRANCARD: All right. So any
25 other entries of appearance in Cases 22378, 22439?

1 (No audible response.)

2 HEARING OFFICER BRANCARD: Hearing none, so we
3 have two motions here. We have a motion to dismiss by
4 Mewbourne in Case 22439, and then we have an emergency
5 motion by Siana. I don't know if it applies to both cases
6 or just one.

7 MS. SHAHEEN: It applies to both cases, and it's
8 been filed in both cases.

9 HEARING OFFICER BRANCARD: All right. Why don't
10 we start with the emergency motion, Ms. Shaheen?

11 MS. SHAHEEN: Thank you. In this emergency
12 motion Siana Oil & Gas requests an order amending four
13 orders, Order Numbers R-21292, R-21293. Both of those
14 orders relate to, to the cases in which wells B2OJ1 and
15 B2PI1 were drilled.

16 Siana also requests an order amending Orders
17 R-21804 and R-21805. Those orders relate to wells B2ML1,
18 B3ML1, B2NK1 and B3NK1. Of those, three of them have been
19 completed, but B3NK1, I don't believe, has been completed.

20 Just a little background. Mr. Ragsdale, Siana,
21 principal of Siana elected to participate in the first two
22 wells, the B20J and B2PI and paid his estimated cost, and
23 therefore participating there, but the revenues have been
24 withheld and various joint interest billings have been
25 netted even for all three wells.

1 With respect to the B2ML1 and B3ML1 and the B3MK
2 wells, Mr. Ragsdale, on behalf of Siana, elected to
3 participate, but was hampered in his ability to pay
4 estimated costs due to Mewbourne's wrongful action under the
5 first two orders.

6 So I hope that clears up the numbers because it
7 can get very confusing. Stop me if you have any questions
8 about that.

9 So in Case Number 22378, applicant seeks relief
10 for numerous violations by Mewbourne of Orders R-21292 and
11 R-21293, and those violations are alleged in the application
12 that was filed in Case 22378.

13 In Case 22439 applicant seeks relief from
14 Mewbourne's demand for cash calls under Order Numbers
15 R-21804 and R-21805 because Mewbourne's practice is to
16 withhold payment of revenues, it's withholding prepayment
17 overages, it's withholding production due to the applicant
18 while simultaneously making cash calls for additional wells.

19 One thing I would like to note about this motion
20 to suspend time for paying estimated costs, it's even more
21 important that this motion be granted because of the late
22 continuance that was granted to Mewbourne last week.

23 These cases were set to be heard on the merits
24 today, but they were continued to some unknown date, so that
25 is why it is especially important for this emergency motion

1 to be granted because the time for paying estimated costs at
2 this point is April 30, which is just a little more than a
3 week away.

4 So as noted in the application, Siana has
5 identified numerous wrongful actions and violations of the
6 orders themselves. We have provided an example of those in
7 Paragraph 3, they have wrongfully withheld prepayment
8 overages for certain wells in amount of \$406,136.43. Those
9 are overages related to the B20J and B2PI, I believe.

10 In addition, they refuse to pay interest on that
11 prepayment overage, they refuse to allow applicant to take
12 his production in kind, they refuse to pay revenues due to
13 the applicant for wells in which applicant paid 1.61 million
14 in drilling and completion costs and elected to participate.

15 They are netting joint interest billings from
16 wells -- drilling wells under the orders from revenues due
17 under other unrelated wells, wells that we have not talked
18 about today, but in which Siana has an interest, most of
19 which are subject to forced pooling order -- Siana is
20 subject to forced pooling orders. I believe only one of
21 Mewbourne's wells that Siana is in is under a joint
22 operating agreement.

23 And they are also, I believe, netting those JIBS
24 for other wells from the well that Siana is participating in
25 under a joint operating agreement. These are all merit

1 issues that would be presented at the hearing.

2 And finally our last example is that Mewbourne,
3 while it's conducted these wrongful actions with respect to
4 revenue, production and overages, it continues to propose
5 new wells under the same orders as infill wells and making
6 cash calls while wrongfully withholding the prepayment
7 overages and the production due to the applicant.

8 So for these reasons we would like to have an
9 evidentiary hearing on Mewbourne's actions, but in the
10 meantime we think it's only just and fair and equitable and
11 protection of Mr. Ragsdale -- Siana's correlative rights
12 here, to protect his correlative rights in this instance.
13 These orders should be amended for the singular, simple
14 purpose of suspending the time for paying estimated costs.

15 So -- and I would also note that Mewbourne has
16 refused to provide any kind of accounting. Upon information
17 and belief the total value of the overages and production
18 due to Siana is approximately \$4,250,000. And Mewbourne is
19 acting in bad faith by refusing to pay monies due to Siana
20 while demanding another \$2,329,980 in cash calls by April 30
21 of this year. Mewbourne's conduct is in violation of all of
22 the existing orders.

23 Now, in their response Mewbourne raised the issue
24 that the Division has no authority to extend the time for
25 paying cash calls. And with all due respect, I would point

1 you the relevant statute here. First of all, the Division
2 is charged with protecting correlative rights, that can't be
3 debated. And here, that's exactly what Siana is asking the
4 Division to do is to protect its correlative rights that are
5 being violated by Mewbourne's violation of the forced
6 pooling orders.

7 I would also note, as a side housekeeping, there
8 is no motion to dismiss in the 22378 case. That motion to
9 dismiss relates only to the 22429 case.

10 So turning to 70-2-6, in addition to the
11 Division's authority to protect and obligation to protect
12 correlative rights, the Division has jurisdiction and
13 authority over all matters related to the conservation of
14 oil and gas as a result of oil and gas operations.

15 It has jurisdiction, authority and control over
16 all persons, matters or things necessary or proper to
17 enforce effectively the provisions of the Oil & Gas Act or
18 any other law of this state including the orders issued
19 under those laws related to the conservation of oil or gas
20 and the prevention of waste.

21 In addition, under 70-2-17, the Division is
22 charged with affording the owner of each property in a pool
23 the opportunity to produce his just and equitable share of
24 the oil and gas, and orders affecting pooling under 70-2-17
25 shall be upon such terms and conditions as are just and

1 reasonable and will afford to the owner of each tract or
2 interest the opportunity to recover or receive without
3 unnecessary steps his just and fair share of the oil or gas.

4 Now, in my opinion, that provides the Division
5 with the necessary authority to grant this motion and to
6 grant -- and to approve both applications that have been
7 filed in this matter. And on Page 3 of Mewbourne's
8 response, they state that no provision of the Act authorizes
9 the Division to consider private, contractual disputes.

10 We are not raising a private, contractual dispute
11 here. There is no JOA. There is no agreement between the
12 parties, there is only the forced pooling orders. And
13 that's why we are here before the Division because it's the
14 Division who must consider the forced pooling orders and the
15 operator's violations of those orders.

16 With respect to authority, every order includes
17 the Division's observation that it has the right, it
18 reserves jurisdiction under all of these orders to enforce
19 the orders and to amend them as necessary.

20 So with that, I think it's clear the Division has
21 the authority to address these issues.

22 HEARING OFFICER BRANCARD: And, Ms. Shaheen, I'll
23 allow you to respond to the motion to dismiss later, by the
24 way.

25 MS. SHAHEEN: Oh, thank you. I wasn't ready to

1 do that yet. Now I'm just looking at my notes, and I
2 appreciate you being patient with me. So Mewbourne misreads
3 the motion and application in the way it states that the
4 purpose of the motion and application.

5 Mewbourne's violations of the very orders are
6 what is at issue here, and we detail those in the
7 application, and I provided the example just a few minutes
8 ago.

9 I believe I've covered the points that I have at
10 this point, but what I would finally say is that Siana
11 elected to participate, but its ability to pay estimated
12 costs is directly due to Mewbourne's wrongful actions under
13 the orders, under the very orders that are at issue in these
14 two cases.

15 So the only other thing that I could note is that
16 with respect to clarifying which orders are at issue, the
17 three orders that currently have infill well proposals, the
18 cash calls include Order Numbers R-21805, R-21292 and
19 R-21293. So those are the orders under which the current
20 cash call which is due on April 30 were demanded.

21 With that, I would ask that the Division grant
22 the emergency motion to suspend the time for paying
23 estimated costs until 60 days after final resolution of Case
24 Number 22378. I'm happy to answer any questions.

25 HEARING OFFICER BRANCARD: Thank you. Mr.

1 Rose-Coss, any questions?

2 TECHNICAL EXAMINER ROSE-COSS: Mr. Brancard, I do
3 have questions, but I feel like I want to pass the
4 microphone to you first so that maybe this sounds like some
5 legal matter that needs to be addressed and how we are going
6 to proceed with this case. Is that fair?

7 HEARING OFFICER BRANCARD: Sure. And I, you
8 know, I think we may both have questions at the end of all
9 the lawyers, so we may wait until they are all done, too.

10 TECHNICAL EXAMINER ROSE-COSS: That might be
11 best.

12 HEARING EXAMINER BRANCARD: I just want to start
13 with -- I have other questions, Ms. Shaheen, I'll address
14 later, but what exactly is the remedy you are seeking from
15 the Division, your client is seeking?

16 MS. SHAHEEN: With respect to the merits or with
17 respect to this motion?

18 HEARING OFFICER BRANCARD: Well, both, actually.

19 MS. SHAHEEN: Well, with respect to this motion
20 we are asking that the time for paying cash call be
21 suspended until 60 days after final resolution of case
22 Number 22378.

23 HEARING OFFICER BRANCARD: So but these are cash
24 calls under different orders that are approved under 22378.

25 MS. SHAHEEN: The orders under 22378 are R-21292

1 and R-21293. And the reason there is this distinction made,
2 it directly relates to how Mewbourne is conducting itself
3 under these orders.

4 The reason that we filed Case 22378 with respect
5 to 21292 and 21293 is because Mr. -- is because Siana
6 participated in those wells, it timely paid its cash call,
7 and it has had -- it has not received an accounting from
8 Mewbourne. It has not received the requisite statement of
9 actual costs that are required under the order. It hasn't
10 received any of that, but what it has received as it
11 participates, it received revenue statements, it received
12 joint interest billing and received daily drilling reports.

13 So what Siana has done is it had a chance to comb
14 through all of those documents, Mewbourne's documents and
15 try to figure out what Siana is owed but has not been paid.
16 And they haven't been paid a penny under those wells, but
17 they tried to figure out, what are we owed, what are the
18 prepayment overages, what is our production that we are
19 entitled to. So they had the documents under those two
20 orders to figure that out.

21 In these other cases, they did not have the
22 funds, as a result of Mewbourne's failure to provide them
23 with the funds due under the orders in Case 22378, they did
24 not have the funds to pay the cash costs for the wells that
25 have been drilled, and so they don't have any of those

1 documents, they don't have revenue statements, they don't
2 have joint interest billings, and they don't have daily
3 drilling reports. And even though they should have this as
4 a participant, they do not have the requisite statement of
5 actual costs that Mewbourne is required to provide all of
6 the non-operators under the orders.

7 Mewbourne just doesn't do that. All it does is
8 it sends out a joint interest billing, revenue statement if
9 you are participating. But if you are not participating
10 because they deemed you non-consent because you don't pay
11 the cash call in time, then you don't get any of that.

12 So we weren't able to bring a case with respect
13 to an accounting for that case yet, but maybe that would
14 happen in the future. But that's the difference, as I see
15 it, between the two cases. One, we have been able to make
16 some determination or at least some estimate. The other one
17 we don't have any information whatsoever.

18 HEARING OFFICER BRANCARD: Right. But I'm trying
19 to figure out if you are telling us, if you are asking the
20 Division to take action against a particular well, that that
21 well is from a different order from where the violation has
22 occurred.

23 MS. SHAHEEN: That's why we filed two different
24 cases because it covers all four of those orders, and that's
25 why these cases were set for hearing on the same date today

1 because they are interrelated. And Mewbourne's actions
2 under the first two orders have impacted and -- have
3 impacted on Mr. Ragsdale's correlative rights under the
4 second two orders.

5 So we have done our best. It's a little
6 convoluted and there is no -- but, you know, we have
7 complied with the requirements in 19.15 -- I think this is
8 starting to veer into the motion to dismiss, but we have
9 complied with the requirements for filing an application in
10 both cases.

11 We provided the general nature of the relief
12 sought, and we have identified the orders that are at issue,
13 and we think that the Division has authority to address the
14 issues in these two cases.

15 HEARING OFFICER BRANCARD: So but I'm still
16 addressing what the remedy is here. You want us to either
17 block Mewbourne from drilling unrelated wells, or allow them
18 to drill the wells with their own money, but allow Siana to
19 later come back in and participate in the wells? Is that
20 what the remedy is you are seeking here?

21 MS. SHAHEEN: The remedy we are seeking first
22 with respect to the emergency motion, we are seeking that
23 the time for paying the cash call be suspended until these
24 cases are finally resolved.

25 And then with respect to the first application --

1 and I'm just going here directly to the relief that we
2 requested. First of all, I would note that this was filed
3 in November, end of November of last year. We requested
4 that the matter be heard on the January 6 docket, that the
5 Division determine that Mewbourne's accounting practices are
6 in violation of Orders 21292 and 21293 in New Mexico law,
7 that the Division enter an order requiring Mewbourne to
8 provide an accounting to applicant and to immediately return
9 any funds improperly withheld, with interest, and that the
10 Division provide any and all other relief appropriate to
11 ensure that Mewbourne acts in compliance with the orders and
12 with New Mexico law. That's what we have asked for in the
13 application in Case 22378.

14 In Case Number -- I apologize, I'm having to
15 move things around here to find the application for the
16 other order. In Case 22439, and here again I'm looking at
17 our wherefore clause on Page 4, "Applicant respectfully
18 requests" -- this was filed December 7 of 2021 --
19 "Respectfully requests that the matter be heard before the
20 Division on the January 6 docket, that the Division amend
21 the orders to extend the time for Siana to pay its estimated
22 cost for the later wells." That's how we have defined the
23 B2ML and the B2NK -- the NK and the ML wells, "to 30 days
24 after the accounting issues raised in Case 22378 have been
25 resolved, Mewbourne has paid Siana for the improper charges

1 on the previous wells," and that's the OJ and PI wells, "and
2 Mewbourne has provided Siana with its share of production
3 from the previous wells" -- again that's the BJ, the B2OJ
4 and B2PI wells -- "And that the Division provide any and all
5 other relief appropriate to ensure that Mewbourne acts in
6 compliance with the orders and with New Mexico law."

7 So, I mean, the bottom line is, Mewbourne has not
8 acted in compliance with these orders, and Siana is asking
9 that the Division provide relief to protect its correlative
10 rights that has resulted from Mewbourne's violation of all
11 four orders.

12 HEARING OFFICER BRANCARD: Thank you. All right.
13 Ms. Hardy, did you want to respond to the emergency motion,
14 or is that Mr. Bruce or --

15 MS. HARDY: Mr. Brancard, I believe that both us
16 of plan to respond to the emergency motion because it's been
17 filed in both cases, so I would be happy to go first.

18 HEARING OFFICER BRANCARD: All right. Please
19 don't be repetitive.

20 MS. HARDY: We will do our best. There is no
21 basis for Siana's request that the Division suspend the time
22 for it to pay estimated well costs for infill wells that
23 have been proposed by Mewbourne under Orders R-21293 and
24 R-21292, and those are the two orders that are impacted by
25 the application in Case 22378.

1 Siana's motion basically asks the Division to
2 amend the pooling order with respect to the payment of
3 infill well costs, and that's been my understanding as part
4 of Ms. Shaheen's argument here. But there is no application
5 to amend the pooling orders in Case 22378. Siana's
6 application only asks to declare certain accounting
7 practices improper. So I don't think that pooling orders
8 can be amended through a motion.

9 And their request for an accounting order
10 regarding the initial wells drilled under the orders, it
11 does not have any impact on the estimated costs for the
12 infill wells. Mewbourne vigorously disputes the allegations
13 in Siana's application for an accounting and will address
14 those at hearing, but I will be brief here because Ms.
15 Shaheen has raised a number of them in her argument.

16 Siana has refused to pay any of the JIBs, so that
17 a major part of the issue here. There is no right to
18 production in kind under New Mexico law or under the pooling
19 orders, and there is no basis for interest being owed to
20 Siana in this circumstance.

21 Mewbourne did provide cost information to Siana.
22 It may not have been in the format they wanted, but it was
23 provided nonetheless and as required by the pooling orders.
24 And Mewbourne did return payment overages to Siana that are
25 determined were owed, and Siana refused to accept those

1 payments. So it's not correct that Mewbourne has ignored
2 the pooling order or not complied and has failed to provide
3 payments that were due to Siana.

4 Siana's interest in the wells that have been
5 drilled, the initial wells under these orders, has been held
6 in suspense as required by the Oil & Gas Produce Payment Act
7 because there is a lawsuit in Texas pending about Siana's
8 interest. Their interest is challenged by other parties who
9 claim the interest.

10 So all of Mewbourne's actions are appropriate and
11 we will demonstrate that at hearing. Regardless, none of
12 the claims in Siana's application for an accounting involves
13 the infill wells. Siana is specifically seeking accounting
14 information regarding the initial wells which are the B20J
15 and B3 -- I'm sorry -- B20J and B2PI infill wells. The
16 infill wells that have been proposed are the B30J and B3PI.
17 So there is no basis for the requested suspended payment of
18 well costs.

19 In addition the pooling orders and Division's
20 regulations govern infill well proposals and payment. And
21 those provisions do not allow for the suspension of time to
22 pay estimated well costs. The pooling orders incorporate
23 the infill well regulations, and Mewbourne complied with
24 those requirements as they are set out in NMAC 19.15.13.10.

25 And the general authority of the Division under

1 the Oil & Gas Act that have been discussed by Ms. Shaheen,
2 does not, and I don't think it can, supercede the Division's
3 specific regulation on infill wells as they are incorporated
4 into the pooling orders and as they apply here, and that is
5 especially true when Siana has not sought to amend the
6 pooling orders and is trying to do that improperly through a
7 motion.

8 Siana's claim that Mewbourne acted in bad faith
9 by proposing infill wells that are expressly contemplated by
10 the orders and permitted by the regulations lacks merit.

11 So in conclusion, there just really is no basis
12 for either the emergency motion or the application here, but
13 I realize it's the emergency motion that's before the
14 Division at this point, so we would ask that it be denied.
15 Thank you.

16 HEARING OFFICER BRANCARD: Thank you. Mr.
17 Rose-Coss, any questions?

18 TECHNICAL EXAMINER ROSE-COSS: There is no
19 questions at this time. Thank you.

20 HEARING OFFICER BRANCARD: All right. Just to be
21 clear, Ms. Hardy, you are stating that Mewbourne has offered
22 to pay the overages as required under the pooling order?

23 MS. HARDY: That's right. They did.

24 HEARING OFFICER BRANCARD: Have you filed any
25 affidavit or anything supporting that?

1 MS. HARDY: That would be part of our testimony
2 at the hearing.

3 HEARING OFFICER BRANCARD: Okay. They haven't
4 withheld those because the title dispute; is that correct?

5 MS. HARDY: So that's correct with respect to
6 payment overages, yes. Siana's revenues from the wells is
7 held in suspense because of the title dispute.

8 HEARING OFFICER BRANCARD: Okay. But you didn't
9 put the 1.6 million that Siana gave you into a suspense
10 account, did you?

11 MS. HARDY: Well, I think there is -- I don't
12 believe so. No, I think it's the revenue interest that is
13 suspended.

14 HEARING OFFICER BRANCARD: So you spent their 1.6
15 million?

16 MS. HARDY: The wells have been drilled, so I
17 expect that that's the case.

18 HEARING OFFICER BRANCARD: Even though there is a
19 title dispute, you spent their 1.6 million?

20 MS. HARDY: That's my understanding.

21 HEARING OFFICER BRANCARD: Okay. All right. Mr.
22 Bruce?

23 MR. BRUCE: Yes. What I'm going to say is
24 probably directly applicable to both the emergency motion
25 and my motion to dismiss, but it's hard to -- I don't want

1 to repeat the argument twice.

2 HEARING OFFICER BRANCARD: If you want to do both
3 at the same time, that's fine, then Ms. Shaheen can respond
4 to your -- and that would be the next item after that.

5 MR. BRUCE: I'm looking just at the two orders in
6 the wells drilled under the two orders in Case 22439.
7 Mewbourne pooled those tracts and proper notice was given
8 and Siana entered an appearance in the cases.

9 Two orders were issued on August 26, 2001, and
10 under the terms of the orders Mewbourne has a year to
11 commence the wells approved by the orders. Siana --
12 Mewbourne sent election letters on the four wells I'm
13 involved with. Siana elected to join in the wells, but
14 Mewbourne never received payment within the pertinent time
15 period, so in the three wells that have been drilled, Siana
16 is non-consent.

17 So they have drilled three of the four wells they
18 plan on drilling. As stated in the motions, they plan on
19 drilling the fourth well before -- commencing the fourth
20 well before the order expires in late August of this year.
21 And pursuant -- and let's stop right there for a minute.

22 It's my position that these cases are all
23 separate. When you look at the pleadings in my case, Siana
24 drags virtually all of its complaints against Mewbourne in
25 the other case over into, into -- from Dana's case over

1 into my case, and I'll tell you what's wrong with that.

2 And, again, pursuant to Division rules and the
3 pooling orders, election notices were sent out for
4 additional wells, totally proper. Siana again elected to
5 join in the wells, but has not yet paid. It has until the
6 end of April to pay. Siana simply wants more time to pay.

7 Well, the point is, despite all of the
8 allegations of wrongdoing and egregious behavior, Mewbourne
9 has done nothing wrong, nothing improper. If you look
10 closely at the matters in my particular case, Siana has made
11 no specific allegations of wrongdoing; it just tries to
12 combine both cases and throw mud on the wall.

13 The fact of the matter is, he just -- Siana just
14 wants more time to pay. There is a couple of problems with
15 that. First of all, I think the proper procedure would have
16 been to reopen the cases, as Ms. Hardy said, not do this by
17 motion.

18 The second problem is that, if the relief is
19 granted, by the time everything is said and done and you get
20 final orders in these cases, the wells under Mewbourne's
21 orders in my cases will be drilled and probably completed,
22 and, therefore, Mr. Ragsdale -- Siana, excuse me -- will get
23 a free look at everything. That's unfair.

24 He simply wants more time. He claims he doesn't
25 have the money, that -- you know, you are in the oil and gas

1 business, you ought to -- it's like me making promises --

2 "Oh, I will pay you, but I've got to sell my car
3 to my uncle before I do that."

4 "When is that going to happen?"

5 "Maybe a year from now."

6 It's just totally improper. If he wants to join
7 in, there are ways to get it other than giving him, giving
8 Siana an unfair advantage where it gets to see all of the
9 well data before it has to really decide whether or not to
10 pay the money.

11 And I think, granting this relief will also cause
12 headaches. Is everybody going to start coming in every time
13 they want a different deal, they want additional time to
14 pay, they are having financial difficulties or whatever,
15 it'll just be a zoo.

16 And really the problem is this: The rules are
17 proper, the orders were properly entered, they were properly
18 followed by Mewbourne, they have done nothing wrong, and
19 it's up to Siana to come up with the money under the orders.
20 It's not Mewbourne's responsibility to act as Siana's bank
21 to fund those wells.

22 So what I'm getting at is that, number one,
23 looking -- particularly at Case 22439, there is no need for
24 an emergency order. He can either pay or he can't. And
25 since there are actually no allegations of wrongdoing

1 against Mewbourne in Case 22439, the case should be
2 dismissed -- what is there to litigate, what is there to
3 litigate. Thank you.

4 HEARING OFFICER BRANCARD: Thank you. Mr.
5 Rose-Coss, any questions?

6 (No audible response.)

7 HEARING OFFICER BRANCARD: I will take that as a
8 no.

9 TECHNICAL EXAMINER ROSE-COSS: (Inaudible) all
10 the case file numbers and motions that are requests, and I'm
11 also unsure as to whether -- my question would be directly
12 to Mr. Bruce, if I have any questions about what Mr. Bruce
13 just presented.

14 And then so I should -- I should question Ms.
15 Shaheen at this time about anything Mr. Bruce just said, is
16 that how it goes?

17 HEARING EXAMINER BRANCARD: She needs to respond
18 right now to Mr. Bruce in this particular case, 439.

19 MS. SHAHEEN: If I may, should I respond to, to
20 everything that, that Ms. Hardy and Mr. Bruce said? That
21 would be easier than me trying to separate it out.

22 HEARING EXAMINER BRANCARD: Sure. So this can be
23 your reply to the responses and an your response to the
24 motion to dismiss.

25 MS. SHAHEEN: Yes. Hopefully I'm not shooting

1 myself in the foot. First of all I would note that
2 Mewbourne has raised numerous disputed facts that request a
3 need for an evidentiary hearing in both cases. For example,
4 this is a little -- a little -- first of all, Mr. Bruce
5 suggests that Mewbourne hasn't -- doesn't have a
6 responsibility to act as Siana's bank here. Well, frankly,
7 Mewbourne is holding all of the revenues due to Siana for
8 its ten percent record interest. It's Mewbourne -- it's
9 Siana who is acting as Mewbourne's bank, and that's just
10 simply unfair. But, again, that may be a question of fact
11 that we need to have raised at an evidentiary hearing.

12 And I think that Mr. Brancard has hit the nail on
13 the head in some parts here when asking Mewbourne's counsel
14 about whether Mewbourne has spent the \$1.6 million even
15 though there is a title dispute and they are holding all the
16 revenues in suspense.

17 And that's one of Siana's points that I haven't
18 made yet in the brief, but they are JIBing and demanding
19 estimated costs for wells in which they are holding funds in
20 suspense. In other words, they are -- they are sending an
21 election letter to Siana for that entire ten percent of the
22 interest -- and by the way, it's not the entire ten percent
23 of the interest that's in dispute. The letters that
24 Mewbourne has received from those who are disputing title
25 laid out exactly what the percentage is that's in dispute,

1 yet Mewbourne doesn't suspend only that portion in suit,
2 they suspend the entire ten percent.

3 So while they are keeping that in suspense, and
4 they are, again, charging Siana for the full ten percent for
5 cash call, and they are charging Siana for the full ten
6 percent for joint interest billing. And that's just another
7 instance of Mewbourne requiring Siana to act as Mewbourne's
8 bank, and this is simply unacceptable.

9 So going -- I would like to just address some of
10 these item by item. I think I have already addressed the
11 basis for our request. Now, Ms. Hardy says that the
12 application to amend doesn't -- she doesn't believe pooling
13 orders can be amended under a motion. She provides no
14 support for that.

15 I would note that the application in Case 22439
16 specifically asks that the orders be amended to suspend the
17 time for paying the cash call. Now, one of the reasons that
18 it's not as tied up in a bow as Mewbourne seems to insist it
19 should be is because we didn't get that cash call until
20 months, literally months, I believe in March we received a
21 cash call.

22 And so we -- I mean, I suppose I could file a
23 motion to amend the two pending applications, but we didn't
24 know there was a need to, to amend all four orders to
25 suspend the time for paying until March, months after filing

1 these two applications. So if I need to amend, I'm happy to
2 do that, but frankly I think Mewbourne is just hiding behind
3 that.

4 Now, she said that it doesn't have an effect on
5 the estimated cost. Again, I just explained why it does,
6 because they are charging Siana ten percent yet withholding
7 the entire ten percent when less than that is disputed.

8 Now, they note that we refuse to pay any of the
9 JIBS. Well, frankly, we don't think the law requires Siana
10 to pay the JIB when it's not getting paid, and I think that
11 Mr. Brancard recognized that.

12 Now, she also said without any supporting
13 authority, and this goes to the merits, there is no right to
14 take production in kind, and this is disputed. It's a legal
15 question that's in dispute, and that's another need --
16 another reason that we need a hearing.

17 Mewbourne did provide -- she said Mewbourne did
18 provide cost info as required by the pooling orders. Again,
19 they did not comply with the particular paragraph that says,
20 "And when you are done drilling, after you file your
21 completion form, you are going to send out a tally of actual
22 costs." Mewbourne never did that, Mewbourne never does
23 that, and yet it's required under the order.

24 She also stated that Mewbourne returned overages
25 that Siana claimed it was owed. What happened is

1 Mewbourne -- excuse me -- Siana made a demand for its
2 overages and for its interest.

3 So Mewbourne didn't voluntarily come forward and
4 say, "Here is the actual cost," like they are required to do
5 under the order, they didn't do that.

6 They didn't come to Siana and say, "Oh, we
7 drilled those wells and they came in under 25 to 30 percent
8 under the AFE," and they didn't come forward to provide
9 that.

10 Instead they said, "We are going to take your
11 accounting that we derived from the joint interest billing
12 and revenue statement and the daily drilling reports, we
13 will give you that number back, but we are not giving
14 interest."

15 So to avoid any question about accord and
16 satisfaction or acquiescence or anything like that, Siana
17 properly exercised its rights to refuse to accept a partial
18 payment.

19 And then she says, "None of the claims involve
20 the infill wells in requesting accounting info." I think I
21 have explained the way the two applications interrelate and
22 the fact that the infill wells were not proposed until
23 months after the application.

24 The pooling orders, Mewbourne also said the
25 pooling orders govern infill well proposals and payment and

1 do not allow for suspension of time. Frankly, I do not read
2 the infill well rule that way. If you look at 19.15.13.9,
3 it says nothing about payment for wells. And as I mentioned
4 earlier, I believe the Division clearly has authority to
5 amend an order even though the application doesn't say
6 "amend order" in the caption, I think that the Division has
7 authority to do that. And Mewbourne is well aware of what
8 we are asking for, and it's not like they are going to be
9 prejudiced because they don't have notice.

10 And then finally she said, the general authority
11 under the Oil & Gas Act cannot supersede the Division on
12 infill wells. Well, the infill wells doesn't say anything
13 about the payment of cost for infill wells.

14 Moving on to Mr. Bruce's argument on behalf of
15 Mewbourne, these issues had not arisen when the original
16 forced pooling hearings were held. I think I have explained
17 why these cases are not all separate, but nonetheless we
18 have two separate applications that are interrelated and we
19 think we provided the notice required under the regulation.

20 And I've addressed his issue about Mewbourne's
21 position that it's somehow acting as a bank for Siana which
22 is simply incorrect.

23 Now, proper procedure would have been to reopen
24 the case and not do this by a motion. As I noted in his
25 case, we actually did file an application to amend the order

1 to extend the time for paying estimated costs. So I don't
2 see that we have done anything that's inconsistent with the
3 regulations related to procedure.

4 This business about Siana getting a free look at
5 everything, that's -- I don't think that Mewbourne has a
6 right to act the way its acted in violation of the forced
7 pooling orders, and then to say, "We don't have to correct
8 our violation because that's not fair for Mr. -- for Siana
9 to know about the well data before they drill the wells."
10 Well, I have had this discussion about Mewbourne's actions
11 in other cases, and that's -- I think that's a red herring.

12 Creating a slippery slope, I have never seen any
13 other operator act the way Mewbourne has acted in this
14 particular instance with respect to Siana, so I don't think
15 we are creating a slippery slope here. This is not a common
16 circumstance.

17 With respect to no identification of wrongdoing,
18 I think I explained why there wasn't an identification of
19 wrongdoing in the application, and that's because the
20 instant -- we don't have the information related to those
21 wells, and the infill wells were not proposed until months
22 later. And with that, I will stand for questions. Thank
23 you.

24 HEARING OFFICER BRANCARD: All right. Mr.
25 Rose-Coss, any questions? I think, at this point, you know,

1 if you like to ask questions of any counsel, feel free to.
2 Go ahead.

3 TECHNICAL EXAMINER ROSE-COSS: Okay. So it seems
4 to me that one of the sticking points is Mewbourne did file
5 actual well costs or submit actual well costs to Siana or
6 the completion reports with the Division. Is that -- am I
7 correct that that is one of the major sticking points, and
8 is that a correct statement of facts -- and that might be to
9 Ms. Hardy. Has all of the completions and actual well costs
10 been appropriately submitted?

11 MS. HARDY: Mr. Examiner, completion reports were
12 timely filed after the wells were completed. So those are
13 in the Division's file, and they were filed timely. And I
14 haven't looked specifically at the well costs, so I would
15 have to look at that, but I know the completion reports were
16 timely filed, so that claim in Siana's application is
17 incorrect.

18 TECHNICAL EXAMINER ROSE-COSS: What about the
19 accounting of actual well costs?

20 MS. HARDY: So it's my understanding that
21 Mewbourne has provided Siana with accounting information,
22 and that's an issue, I think, that is disputed between Siana
23 and Mewbourne whether the information was sufficient or what
24 they wanted, but, I think, from Mewbourne's perspective, it
25 is.

1 TECHNICAL EXAMINER ROSE-COSS: Okay. And then so
2 Siana either didn't like what they received or doesn't
3 believe they received enough information, and they are
4 looking to receive what they believe what they probably
5 overpaid for the well costs and would like the difference
6 repaid, and not just the difference but the difference and
7 interest on what that money might have earned Mewbourne. Am
8 I understanding that correctly?

9 MS. HARDY: That's my understanding of Siana's
10 claims.

11 TECHNICAL EXAMINER ROSE-COSS: Siana, am I
12 understanding that correctly, you are hoping to get a little
13 cash back?

14 MS. SHAHEEN: Yes. And that would be the
15 difference between actual costs and the overrage and the
16 interest. The only other thing I would say is, the operator
17 is the one who had the accounting information. They have
18 not provided us with accounting information in the form of a
19 statement of actual well costs.

20 What they have done is just submitted monthly
21 JIBs and we have to comb through, Siana has to comb through
22 those monthly JIBs, comb through the revenue statements, and
23 comb through the daily drilling reports that they have
24 received on the first wells to try to understand what those
25 actual well costs are, and Mewbourne has never provided that

1 statement of actual well costs.

2 TECHNICAL EXAMINER ROSE-COSS: Okay. So a JIB,
3 what's a JIB?

4 MS. SHAHEEN: Joint interest billing. That's the
5 monthly statement proportionate -- well, of costs, and then
6 the non-operator's proportionate share of those costs.

7 TECHNICAL EXAMINER ROSE-COSS: And that's like
8 overly complicated (inaudible) it's not like to break out
9 what y'all are owed from it. Is that what's going on?

10 MS. SHAHEEN: I think in this instance it's
11 overcomplicated because of the way you get those revenue
12 statements and you get those joint interest billings, it
13 relates to all of Mewbourne's wells that Siana participates
14 in.

15 So you have to go through and look for charges
16 that you think should have been made on a different well, or
17 shouldn't have been made at all, you have to peruse all of
18 the JIBs relating to all of the wells to try to figure out
19 what Mewbourne is doing. And I think that's one of the
20 reasons why the order requires the operator to send out a
21 statement of actual well costs, because the format doesn't
22 really reveal what the actual well costs are for drilling or
23 for completing a particular well.

24 TECHNICAL EXAMINER ROSE-COSS: Okay. And then so
25 does Siana feel that it's not, it's not receiving its

1 appropriate share of income from a particular well that it
2 feels like it's overpaid on?

3 MS. SHAHEEN: Yes. Yes. That's -- yes. It's
4 complicated because they are not receiving -- first of all,
5 they are not receiving any revenues from two of the wells
6 that are the subject of 22378. And then Mewbourne appears
7 to be what's called netting JIB from other completely
8 unrelated wells, and that's why we need an accounting, so
9 that we can see, well, what are they doing, which wells are
10 they netting JIBs from, because my understanding of, of the
11 practice is -- and the requirement is that your -- your
12 cost, your only -- your cost for one well can only be
13 netted, if you will, from the revenue for that well. You
14 can't take costs from one well and net it from revenues for
15 another well.

16 And so that's something that they are doing and
17 they shouldn't be doing, so it's kind of complicated. So I
18 don't know if I answered your question, and, if by answering
19 your question, I made it clear what's really going on.

20 And that's why we are seeking an accounting.

21 TECHNICAL EXAMINER ROSE-COSS: And so today we
22 are deciding whether to go to a more frigid accounting
23 hearing, or today are we just deciding -- are we supposed to
24 be getting into those details?

25 MS. SHAHEEN: My understanding of what

1 Mr. Brancard intends to do is to rule on the two motions
2 that are before you today, which is the motion to dismiss
3 Case 22439, and to rule on the emergency motion to suspend
4 time for paying estimated costs and then to decide whether
5 an evidentiary hearing in one or both cases should be held
6 at a later date. That's my understanding, and Mr. Brancard
7 can obviously jump in and correct me if I'm wrong.

8 TECHNICAL EXAMINER ROSE-COSS: So then the other
9 matter -- so Siana doesn't want to pay for new wells being
10 drilled because it feels like it's being not jipped but -- I
11 don't want to say jipped, it's not appropriate -- because
12 it's not being paid for its past wells.

13 MS. SHAHEEN: Siana is in -- was having
14 financial concerns because it's not getting paid its
15 revenues, it's not being provided with the overages that are
16 due to it. So it's not that they don't want to pay, it's
17 that those monies are being wrongfully withheld, and those
18 moneys could be used to pay these estimated costs. And
19 that's why we are asking for more time to pay the costs, so
20 we can get this resolved and then figure it out.

21 TECHNICAL EXAMINER ROSE-COSS: Does it -- I
22 mean, it also sounds like other options available to Siana
23 could be to pay and then continue to resolve the back-pay
24 issue, and/or not pay and just be force pooled, but they
25 don't want to be force pooled, they are trying to

1 participate.

2 MS. SHAHEEN: They have already been force
3 pooled, and the issue now is whether they will participate
4 or not. And I mean, we are talking millions of dollars here
5 by our -- or by Siana's calculation it's more than \$4
6 million. And they have asked for \$2.4 million, even though
7 they're holding all the revenues related to that particular
8 interest in suspense.

9 So, I mean, they are squeezing Siana so that it
10 doesn't have the ready funds to pay something it shouldn't
11 be paid -- can't be responsible for when they are not even
12 contributing Mr. -- excuse me -- Siana's, the ten percent
13 of Siana's interest, they are not attributing that to him,
14 they are holding it in suspense, but yet making him pay for
15 the cost for the full ten percent.

16 TECHNICAL EXAMINER ROSE-COSS: That's something
17 that's held up in a Texas court, the dispute regarding like
18 ownership or percentage of -- huh-oh, my screen just blanked
19 out.

20 MS. SHAHEEN: Can you hear me?

21 TECHNICAL EXAMINER ROSE-COSS: I can hear you.
22 Can you hear me?

23 MS. SHAHEEN: Yes. There is a case in Texas
24 related to a title dispute with respect to a part of the ten
25 percent interest, but not the entire ten percent interest.

1 So Mewbourne is in violation of the Proceeds Payment Act by
2 withholding -- by holding the full ten percent in suspense
3 under the Proceeds Payment Act.

4 TECHNICAL EXAMINER ROSE-COSS: Can I -- can I
5 switch to Ms. Hardy now and have her respond to that?

6 MS. HARDY: Yes, I would be happy to respond, Mr.
7 Examiner. So I think, with respect to the emergency motion,
8 asking for a suspension of time to pay infill well costs, I
9 don't think that there is any basis for that motion because
10 it's not consistent with the rules on infill wells, which is
11 to address payment of costs. And that is set out in
12 19.15.13.10B talks about cost, so -- and so does C.

13 So I think that Mewbourne complied with the
14 pooling order in proposing infill wells. Siana has not
15 filed an application to reopen the pooling orders that are
16 addressed in 22378. So I think there is just no basis to
17 basically go in and amend those pooling orders on infill
18 wells through the filing of a motion. I don't think that's
19 consistent with the Division's regulations.

20 With respect to the merits of the allegations
21 that I think are being discussed, with respect to case
22 22378, I think those would need to be addressed at a hearing
23 on the merits, and I think that the discussion of holding
24 payments in suspense and the use of well cost payments would
25 be something that would need to be addressed by Mewbourne.

1 I don't have information here, I'm not a witness and I'm not
2 testifying.

3 You know, I don't -- I think Mewbourne would have
4 to give more information about how they used Siana's payment
5 and the reason for the suspension. But I think when there
6 is a lawsuit filed challenging title, it -- it is required
7 by the Oil & Gas Proceeds Payment Act to withhold the
8 payments.

9 So I don't think Mewbourne has done anything
10 improper here, and I think we would establish that at
11 hearing. I also think that all of these issues on whether
12 it's appropriate to suspend payments in matters like that
13 are typically not dealt with by the Division, you know, they
14 are subject to a title lawsuit in Texas.

15 So with respect to Case 22378, Mewbourne
16 certainly disputes all of the allegations made in the
17 application by Siana, but, in particular, here there is no
18 basis for the Division to grant Siana's emergency motion
19 regarding the payment of infill wells that have been
20 proposed properly under the pooling orders. I hope that
21 answers questions and didn't cause confusion.

22 TECHNICAL EXAMINER ROSE-COSS: That was helpful,
23 thanks. So understanding this more, Mewbourne, I believe
24 that -- the way that this motion is submitted isn't the best
25 way to address the hearing order or the kind of previously

1 issued compulsory pooling order, and maybe potentially a
2 better way to go about it would be to reopen those hearing
3 orders?

4 MS. HARDY: Well, I think that their application
5 here only asks for an accounting order under those orders.
6 It doesn't ask for an amendment with respect to payment of
7 infill well costs, so I think the application here is
8 insufficient on that issue.

9 TECHNICAL EXAMINER ROSE-COSS: Okay. And my
10 understanding in my short experience here at the OCD, we
11 haven't -- and Mr. Brancard can help me out here, too --
12 dealt with kind of accounting and finances specifically. So
13 I'm not exactly sure how that's addressed in any of these
14 motions, but it sounds like, in any event, an additional
15 hearing might need to take place, and that's what we are
16 discussing is whether or not that's going to happen today.

17 Am I, am I getting this correct, Mr. Brancard?

18 HEARING EXAMINER BRANCARD: You're doing a great
19 job. You make my life easy.

20 TECHNICAL EXAMINER ROSE-COSS: So maybe the Texas
21 court, is that kind of where things that are in a hang up
22 there as well in Texas, all of this. But the drilling of
23 these new infill wells is charging ahead. None of this is
24 going to hold any of that up except for whether or not Siana
25 is going to participate or not participate.

1 MS. HARDY: Mewbourne has proposed those wells
2 under the order.

3 TECHNICAL EXAMINER ROSE-COSS: Okay.

4 MS. SHAHEEN: I might just reiterate that Siana
5 is having -- is in a position of difficulty in terms of
6 paying the cash calls due a week from now when it's not
7 receiving any of the revenues and they're requiring us to
8 pay the full ten percent for the cash calls even though they
9 are not attributing that full ten percent to him.

10 So that's why we are asking for more time on the
11 cash calls. I don't think this is a big ask. Mewbourne is
12 clearly aware of what we are asking for in this emergency
13 motion, and I believe that the Division has authority to do
14 that.

15 TECHNICAL EXAMINER ROSE-COSS: Mr. Brancard, this
16 is -- so if Ms. Shaheen carries the day, Bill and I turn
17 around and write an order saying Mewbourne must delay its
18 cash call?

19 MS. SHAHEEN: With respect to -- well, they have
20 already made the cash call, it's just suspending the time
21 for paying on the cash call until this matter has been
22 resolved.

23 TECHNICAL EXAMINER ROSE-COSS: And that's where
24 Mr. Bruce's claim regarding waiting kind of comes in. It's
25 like, oh, you will see how risky it is, and you will be able

1 to make -- I don't want to participate anymore, it's not
2 worth it, if you get to see, you know, you are not taking on
3 the risk -- or Siana might not be taking on the risk by
4 waiting. But Siana wants to take the risk, and it wants to
5 participate, it just doesn't have the cash right now.

6 MS. SHAHEEN: That's right. And the reason they
7 don't have the cash is because Mewbourne is holding on to
8 its share of the cash.

9 TECHNICAL EXAMINER ROSE-COSS: Okay. I think
10 that's all of my questions. Thank you.

11 HEARING OFFICER BRANCARD: Okay. Okay. You
12 know, Ms. Shaheen, I'm a little confused about Siana. The
13 name sort of rang a bell in my head. I looked back in our
14 old orders, and there is one case, 15475 back in 2015.
15 Siana entered into a settlement agreement with the Division.

16 I believe Siana did not comply with that
17 settlement agreement and they went to district court, and
18 then I believe in 2018 the district court issued a judgment
19 against Siana for over \$2 million. So I was wondering
20 whether you were going to offer the funds that are due to
21 Siana in this case to the Division to pay off that judgment.

22 MS. SHAHEEN: I was not Siana's counsel
23 previously, so I really have no knowledge of that
24 circumstance. I believe my predecessor here may have been,
25 may have represented Siana in that matter, but I'm not even

1 certain about that.

2 HEARING OFFICER BRANCARD: Anyway, just curious,
3 since we are talking about moving money from one place to
4 another and using it for different circumstances.

5 MR. BRUCE: Mr. Examiner, can I discuss briefly
6 one issue?

7 HEARING OFFICER BRANCARD: Sure, Mr. Bruce.

8 MR. BRUCE: Ms. Shaheen attempts to commingle the
9 two cases, and she said that Mewbourne is not getting paid.
10 Well, as I already stated, I want to reiterate that in the
11 first three wells in my particular case, Siana is deemed
12 non-consent, so no payment is due because of being
13 non-consent.

14 There won't be any payment due until cost plus
15 200 percent is recovered and because there is no payment
16 due, there is no interest due. Again, there are no
17 allegations of wrongdoing against Mewbourne in Case 22439,
18 period. Thank you.

19 HEARING OFFICER BRANCARD: Thank you, and that's
20 actually a lead into what I was going to ask Ms. Shaheen.
21 I'm looking at your request for relief in the application in
22 22439, and it simply refers to issues or resolving
23 accounting issues in 22378 and paying estimated costs to
24 resolve the improper charges of the previous well which are
25 related to 22378.

1 So I don't see that there is any allegations
2 against Mewbourne in 22439; it is simply seeking relief
3 related back to 22378.

4 MS. SHAHEEN: I think that is correct, however,
5 what I would note is that at that time those three wells
6 that are currently pending had not been proposed, and we had
7 received no information relating to the accounting for those
8 wells. Even though we have been deemed non-consent in those
9 wells, we are still being charged and we should be provided
10 with accounting. For example, we should be provided with
11 the actual well costs for those wells, and we have not been
12 provided with any accounting for those wells.

13 So since that application has been filed, there
14 are allegations of wrongdoing against Mewbourne in those
15 cases that we can make. We would need to amend the
16 application. If so required, I will, respectfully. I don't
17 think that should be necessary because Mewbourne knows
18 exactly what it has done and has not done, and it had plenty
19 of notice with respect to this.

20 But since the application has been filed, there
21 have been -- there have been improper conduct from
22 Mewbourne, and those should be addressed in Case 22439, as
23 well as Case 22378.

24 And I would -- I would kind of take a little side
25 track here, I know that Mewbourne has requested a deposition

1 of Siana's corporate representative, and we have objected to
2 that because it requires good cause and extraordinary
3 circumstances.

4 I would submit that perhaps in preparation for an
5 evidentiary hearing, the parties both be allowed to conduct
6 depositions. I believe Siana would be interested in
7 conducting two depositions of Mewbourne's specific
8 employees.

9 So that's not on the table here, but I thought I
10 would raise it because that subpoena is still sitting out
11 there attached to -- I apologize, I can't remember what
12 it's attached to, but it is out there.

13 MS. HARDY: I believe it's attached to our --
14 well, actually it's attached to our motion for a
15 continuance.

16 MS. SHAHEEN: Okay.

17 MS. HARDY: It's hard to keep track.

18 MS. SHAHEEN: It is.

19 HEARING OFFICER BRANCARD: All right. Now, I
20 want to thank everybody for setting out the issues today. I
21 think this was very helpful and particularly helpful was Mr.
22 Rose-Coss' questions to try to get to what the difference is
23 here and what's what.

24 I have, I have two big concerns. One is that,
25 while Mr. Rose-Coss is right, we are not accountants here at

1 the OCD, there are provisions in our standard compulsory
2 pooling order about payment of estimated well costs and fees
3 and reasonable well costs. Those provisions are quite clear
4 about doing that and what your time frame is for doing that.

5 So while we generally don't get involved with the
6 company's administrative issues, they are in our orders, and
7 I think we do need a factual hearing to determine whether
8 there has been compliance with the provisions of the OCD
9 orders.

10 Now, having said that, my other concern is
11 stepping beyond what is in our orders and getting involved
12 in other issues, other wells that are not part of an order,
13 et cetera, here. There is obviously a tension between
14 what's in our order, which is one part of the accounting
15 that goes on between the companies, the operators and the
16 participants or non-participants and proceeds from the
17 wells, which are not allowed in orders because they are
18 covered, actually, as the parties just mentioned, under a
19 separate statute, the Oil & Gas Proceeds Payment Act, which
20 is not designed for the Division to implement.

21 It has been used as a way of allowing somebody to
22 go to court to implement that. That is generally how you
23 implement that section. There is that First Baptist Church
24 of Roswell that covers that issue.

25 So, I don't want to get beyond, you know, our

1 skis here on what the authority of the Division is, and I
2 think that good points have been raised about that.

3 So with that, I think what I'm going to do is
4 deny the emergency motion because I think it is getting
5 beyond our authority here to simply implement the provisions
6 in our order and is trying to get us involved with other
7 wells, how those wells are related to a different order,
8 which I think we really don't have the authority to give
9 this kind of emergency relief in this case. Okay?

10 That being said, we do need to determine whether
11 there has been compliance with the terms of the compulsory
12 pooling order which Siana is alleging there has not been, so
13 we need to have an evidentiary hearing.

14 Now, second question is, does that hearing
15 involve both cases and should we dismiss the second case.
16 On the one hand I do think that second case really doesn't
17 ask for -- doesn't allege any violations related to these
18 other wells, and so therefore I'm not sure if we even have
19 the second case other than try to bring in the relief that
20 Siana wants.

21 So here is what we are going to do: We are going
22 to dismiss the second case; however, it is clear that we
23 can't have an evidentiary hearing based simply on what the
24 factual patterns were at the time of the applications.
25 Things have changed.

1 And so at the factual hearing we have to
2 determine, you know, if there was compliance, when did it
3 occur. It may not have occurred at the time of the
4 application, but did it occur later, did it occur too late?

5 So I think the factual hearing will open up a lot
6 of these issues, but again, the focus of the factual hearing
7 has to be on compliance or noncompliance with the provisions
8 of the compulsory pooling order.

9 Having said that, when will the parties be ready
10 for a factual hearing? I will offer June 2.

11 MS. SHAHEEN: Mr. Examiner, I'm looking at June 2
12 here, and my concern is that I'm going to be out from the
13 25th of May until the 31st of May, so June 2 may be
14 difficult for me personally.

15 HEARING OFFICER BRANCARD: Okay. Ms. Hardy, Mr.
16 Bruce?

17 MS. HARDY: Mr. Examiner, I will be unavailable
18 on the June 16th docket week for a contested hearing. So I
19 would need to confirm with Mewbourne, but based on their
20 availability, it seems like the July docket may work.

21 HEARING OFFICER BRANCARD: All right. July 7 or
22 21.

23 MS. SHAHEEN: July 7 would work for me, and I
24 would need to confirm with Siana that it would work for them
25 as well.

1 MS. HARDY: I'm in the same situation. That date
2 works for me, I would just need to confirm with Mewbourne
3 about their witnesses.

4 MR. BRUCE: Mr. Examiner, to the extent that I
5 need to be involved, that would be a good date. July 21 is
6 unavailable to me for anything.

7 HEARING OFFICER BRANCARD: Okay. So July 7, I
8 will issue an order on the motions and then a prehearing
9 order for a July 7 evidentiary hearing.

10 Is there anything else?

11 MS. SHAHEEN: Thank you, Mr. Examiner.

12 HEARING OFFICER BRANCARD: Thank you.

13 MR. BRUCE: Thank you.

14 HEARING OFFICER BRANCARD: Thank you. That
15 concludes our agenda for today. Thank you, everyone.

16 (Discussion with Mr. Salmonega held. See
17 04-21-22 OCD Prehearing.)

18 (Concluded.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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REPORTER'S CERTIFICATE

I 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 poor to good quality.

Dated this 21st day of April 2022.

/s/ Irene Delgado

Irene Delgado, NMCCR 253
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