

STATE OF NEW MEXICO
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

CASE NOS: 22323

APPLICATION OF ELIZABETH KAYE DILLARD
TO REOPEN CASE NO. 21226 (ORDER R-21354),
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS
EXAMINER HEARING
MAY 19, 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 LEONARD LOWE on
Thursday, May 19, 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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1 HEARING EXAMINER BRANCARD: All right. We have
2 come to the final item on our agenda, Case 22323. And I
3 believe, Mr. Morgan, you are here. Are we about to have a
4 contested hearing?

5 MR. MORGAN: I believe so, Your Honor.

6 HEARING EXAMINER BRANCARD: Ms. Delgado, you want
7 to take a little break.

8 REPORTER: That might be a good idea.

9 HEARING EXAMINER BRANCARD: Let's get back here
10 about 5 to 11 and hopefully we will go as long as we can.

11 (Recess taken.)

12 HEARING EXAMINER BRANCARD: We are back on the
13 record. This is May 19, 2022, the hearing of the New Mexico
14 Oil Conservation Division. Today's docket, we are on the
15 final item, Item Number 56 on the worksheet. This is case
16 22323. Start by asking asking for appearances. Elizabeth
17 Kaye Dillard.

18 MR. MORGAN: Good morning, Mr. Examiner. Scott
19 Morgan with the law firm of Cavin & Ingram in Albuquerque on
20 behalf of Mrs. Elizabeth Kaye Dillard.

21 HEARING EXAMINER BRANCARD: Colgate Operating?

22 MS. HARDY: Good morning. Dana Hardy with the
23 Santa Fe office of Hinkle Shanor on behalf of Colgate
24 Operating.

25 HEARING EXAMINER BRANCARD: Are there any other

1 parties to this case, 22323.

2 (No audible response.)

3 HEARING EXAMINER BRANCARD: Hearing none, we are
4 on the application to reopen Case Number 21226, Order
5 R-21354, application filed by Elizabeth Kaye Dillard. I
6 guess, I would like each of the attorneys to provide a brief
7 opening statement and then sort of give us a little hint of
8 the evidence you are about to submit.

9 As I look at your prehearing statements, each
10 party is offering one witness today. So with that, I will
11 start with Ms. Dillard's case.

12 MR. MORGAN: Mr. Examiner, thank you. I will do
13 my best to keep it brief, so I won't address the
14 constitutional issues quite yet, but the evidence, the
15 question in the December 2 hearing as set by the examiner
16 was really the question of, was Ms. Dillard on notice of the
17 underlying proceeding, and that was the question to be heard
18 today.

19 We'll address the, primarily from Colgate's
20 exhibits, the fact that prior to the hearing they had
21 multiple addresses for Ms. Dillard and did not use all of
22 those addresses, that the single address they used was the
23 address that was returned, unable to forward and
24 undeliverable, that subsequent to the entering of that
25 order, they were able to find the correct address,

1 additionally, that the publication notice was not timely and
2 was not published as against Ms. Dillard and that therefore
3 there was no notice to Ms. Dillard of those hearings.

4 And that, in a nutshell, and very brief is
5 evidence we will be presenting today. Additionally, Ms.
6 Dillard is here and we do have an affidavit from her saying
7 she did not receive notice of the underlying proceedings.

8 HEARING EXAMINER BRANCARD: Thank you. Ms.
9 Hardy?

10 MS. HARDY: Thank you, Mr. Examiner, and I will
11 be brief as well. Colgate used due diligence to attempt to
12 locate Ms. Dillard's contact information, and our witness,
13 landman Mark Hajdik will explain the actions that he took in
14 that regard.

15 And further, in December of 2020, Colgate sent a
16 post order well proposal to Ms. Dillard at the address she
17 claims is correct. That correspondence notified her of the
18 pooling order and gave her another opportunity to
19 participate in these wells. Ms. Dillard did not respond and
20 did not file her application to reopen this case until
21 almost a year later.

22 As set out in our prehearing statement her claims
23 are consequently barred by laches and equitable estoppel.
24 Ms. Dillard also lacks standing because she was in fact
25 afforded an opportunity to participate in the wells based on

1 the post order well proposal. As a result, any issue
2 regarding the hearing notice did not cause her injury, so we
3 would ask that her application be denied. Thank you.

4 HEARING EXAMINER BRANCARD: Thank you. Mr.
5 Morgan, how would you like to proceed today.

6 MR. MORGAN: I think it would be easiest to walk
7 through the exhibits, walk through our argument and reserve
8 witnesses primarily for rebuttal as necessary, if that's
9 acceptable to all parties and to you, Mr. Examiner.

10 HEARING EXAMINER BRANCARD: Are you going to walk
11 through the exhibits, or are you going to do it through a
12 witness?

13 MR. MORGAN: I will walk through the exhibits
14 attached to the affidavits, if there is no objection to
15 that.

16 HEARING EXAMINER BRANCARD: I will ask Ms. Hardy.
17 Is that okay with you?

18 MS. HARDY: That's okay with me, but I would like
19 to have a chance to objection if something objectionable
20 comes up.

21 HEARING EXAMINER BRANCARD: Oh, absolutely.

22 MS. HARDY: Thank you.

23 MR. MORGAN: No objection.

24 HEARING EXAMINER BRANCARD: Normally we present
25 exhibits through a witness, but at this point, you know, to

1 move things along that sounds fine at this point if there is
2 no objection to it. Other than objection to specific
3 exhibits.

4 MS. HARDY: Yes, thank you.

5 HEARING EXAMINER BRANCARD: All right. With
6 that, Mr. Morgan, please proceed.

7 MR. MORGAN: Mr. Examiner, thank you.

8 In the December 2 hearing, after some discussion,
9 the OCD set this for the singular question of whether there
10 was proper notice to Ms. Dillard of the underlying
11 proceeding.

12 With respect to other issues, we'll address those
13 briefly at the end of the primary question. The real
14 question, the most important question is whether notice was
15 actually given. The New Mexico Administrative Code outlines
16 what is required and what actions are required in order to
17 give notice.

18 There are really three points, number one, the
19 applicant must send via certified mail notice of the
20 proceeding to the individuals to be affected, they must
21 conduct a good faith, diligent search to find those
22 individuals, and if and only if applicant is unable to
23 locate persons entitled to notice, then they shall provide
24 notice to those individuals by publication.

25 In this case Colgate failed on all three prongs.

1 Colgate's letter sent via certified mail in the underlying
2 proceeding, which is attached to their prehearing statement
3 as Exhibit A-3, was returned undeliverable as addressed and
4 unable to forward. That, that alone indicates that a new
5 address was needed and there would be additional due
6 diligence that's necessary.

7 Mr. Hajdik's affidavit attached as Exhibit A to
8 Colgate's prehearing statement on Page 2, Paragraph 7,
9 states, this is prior to notifying parties of the pendency
10 of the proceeding, I identified several potential addresses
11 for Ms. Dillard.

12 So at the time that they were giving notice,
13 Colgate was in possession of multiple addresses for Ms.
14 Dillard and they chose to use one that was returned. At
15 that point, Colgate elected to give notice via publication.
16 However, that publication itself was also deficient.

17 Attached to Colgate's prehearing statement,
18 exhibit, I believe it's the second page of A-3 or the fourth
19 page of A-3 is their affidavit of publication. That
20 affidavit reflects that the notice of publication was filed
21 and was published May 22, 2020, which was only six days
22 prior to the hearing, not more than the ten days required
23 under the regs.

24 But if you look at the actual notice for
25 publication, publication was given to several parties who

1 were unavailable or addresses couldn't be obtained or
2 addresses returned. Notably, Ms. Dillard was not included
3 in that notice of publication, so she was not noticed as
4 required.

5 Finding it also interesting, in our prehearing
6 statement, and this is Exhibit B, there is a letter in which
7 Colgate attempts to buy Ms. Dillard's interest in these
8 lands that is sent to the correct address through its agent.
9 So the assertion, in our view, that a good faith diligent
10 search was undertaken can't be met because they tried to buy
11 her interest at the correct address.

12 The fact that it didn't ever send her -- they
13 never sent her certified mail to an address that was
14 sufficient when they had multiple addresses with them, and
15 finally, they didn't publish notice against Ms. Dillard,
16 period. They published against other parties, but they
17 never published against her.

18 You know, Mr. Hajdik's affidavit in Line 9 does
19 reflect that doing additional research they were then able
20 to find that address. We would submit that with reasonable
21 diligence they would have had it from the beginning because
22 they tried to buy her interest, that they had multiple
23 addresses, that they had ample opportunity to get in touch
24 with her, but when they couldn't purchase her interest, they
25 elected to pool her without notice. It simply fails all of

1 the requirements to give notice.

2 To briefly address the other arguments of the
3 mootness and loss of appealability, it fails under the
4 slightest scrutiny. The 30 days to appeal being a bar
5 doesn't apply because if Ms. Dillard received a letter from
6 Colgate in December 2010, there is evidence that a letter
7 was sent, no evidence that it was received, that was still
8 210 days after the hearing, 180 days after the right to
9 appeal would have applied.

10 As this hearing is set on the question of whether
11 she received notice, we are not prepared to introduce
12 evidence of discussions. Ms. Dillard did in fact contact
13 Colgate, requested an opportunity to participate, was
14 provided an election letter that was incorrect, incorrect
15 numbers, incorrect interests, was then told she could
16 participate -- and we can put Ms. Dillard on the stand if we
17 need to -- and after begging for a new election, they
18 subsequently determined that she was unable to.

19 We can give more on that if necessary. The other
20 part of that is New Mexico law does not support any sort of
21 finality on judgments when due process is not involved.
22 When individuals are not noticed, they are not subject to
23 the order.

24 The New Mexico Administrative Code specifies
25 under 19.15.14.12.B, if notice has not been given, then

1 that's sufficient and that upon proper showing the case
2 should be reopened, not automatically and necessarily
3 appealed.

4 And I will reserve any other in-depth
5 constitutional arguments for rebuttal if they are necessary,
6 but the fact is, notice was not given to Ms. Dillard. She
7 was not afforded an opportunity to, to participate in the
8 hearings, to take the risk penalty assessment or other
9 discussions.

10 She was simply not provided that opportunity.
11 The order does not apply to her, and notice was not given.
12 If that was intentional or inadvertent, I could not say, but
13 it's an absolute bar to being able to -- no notice is a bar
14 to be in the pool, it's an absolute bar, and the remedy is
15 reopen the case under the New Mexico code.

16 And that, walking through the affidavits of --
17 their own affidavits, their own exhibits reflect that notice
18 was not given. And with that, we will turn it back to the
19 Examiner and reserve rebuttal.

20 HEARING EXAMINER BRANCARD: What exhibits are you
21 seeking to admit?

22 MR. MORGAN: I apologize, Mr. Examiner, thank
23 you. We would seek to admit Exhibits A, B and C and D to
24 our prehearing statement, which exhibits, Exhibits A, C and
25 D are all parts of -- excuse me -- Exhibits A and D are

1 from the underlying proceeding. Exhibit B is the letter
2 from Shaw Interests on behalf of Colgate at the correct
3 address attempting to purchase Ms. Dillard's interest. And
4 Exhibit C is an affidavit of Ms. Dillard with respect to her
5 conversations and communications with Colgate in this case,
6 as well as Exhibits A and A-3 to -- and A, A-2 and A-3 to
7 Colgate's prehearing statement.

8 HEARING EXAMINER BRANCARD: These are all --
9 these are the exhibits attached to your prehearing
10 statement?

11 MR. MORGAN: The first ones, A, B, C and D are
12 attached to our prehearing statement, and the Exhibits A,
13 A-2 and A-3 are attached to Colgate's prehearing statement.
14 So they can move them as well, but we are happy for them to
15 be in the record.

16 HEARING EXAMINER BRANCARD: Let's just start with
17 your exhibits. So, Ms. Hardy, objections to any of these
18 exhibits? Let's start with that.

19 MS. HARDY: I don't object to admission of the
20 exhibits. I do want to note that Exhibit A to Ms. Dillard's
21 prehearing statement is the notice affidavit of Mr. Padilla
22 from the original Colgate proceedings, and that relates to
23 two cases, the Shamrock Wells and Dawson Wells, and only the
24 Dawson Wells are at issue here. So I don't object to the
25 admission of the exhibit, but I think only the portions that

1 relate to the Dawson Wells are relevant.

2 (Dillard Exhibits A, B, C, D admitted.)

3 MS. HARDY: And I also wanted to mention that I
4 think Mr. Morgan presented, really, I think, testimony as
5 part of his going through the exhibits, and I do object to
6 portions of that.

7 I think his discussion of the election and other
8 proposal related to the Shamrock Wells, not the Dawson
9 Wells, and the Shamrock Wells are not at issue here, so I
10 wanted to mention that. I think testimony should be
11 presented from a witness, not from counsel.

12 HEARING EXAMINER BRANCARD: So Case 21226, that's
13 the case we are dealing with -- we are seeking to reopen.

14 MS. HARDY: Correct.

15 HEARING EXAMINER BRANCARD: Those are the Dawson
16 Wells.

17 MR. MORGAN: Correct.

18 HEARING EXAMINER BRANCARD: And you are saying,
19 Ms. Hardy, that the, that the evidence submitted in the
20 prior proceedings related to two cases?

21 MS. HARDY: That's correct.

22 HEARING EXAMINER BRANCARD: And Mr. Morgan, Ms.
23 Dillard was not part of the other case; is that correct?

24 MR. MORGAN: Ms. Dillard was part of the other
25 case. She was afforded the opportunity to participate.

1 HEARING EXAMINER BRANCARD: Initially or later?

2 MR. MORGAN: Subsequently. But she was afforded
3 an opportunity to participate.

4 HEARING EXAMINER BRANCARD: So it's only -- it's
5 only this one case, 21226 that you are seeking to reopen?

6 MR. MORGAN: Correct, Mr. Examiner, that is
7 correct. We of course completely understand Ms. Hardy's
8 position with respect to testimony that must be presented by
9 witnesses. I would just point to the fact that in the
10 December hearing, this was set solely on the question of
11 whether notice was given.

12 HEARING EXAMINER BRANCARD: Right. So then this
13 Exhibit B, the letter to Ms. Dillard at what you are
14 claiming is her correct address is an address she can be
15 reached at?

16 MR. MORGAN: That is correct, Mr. Examiner, an
17 address that she could be reached at.

18 HEARING EXAMINER BRANCARD: Is that proposal for
19 the property under Case 21226?

20 MR. MORGAN: I believe it is, Mr. Examiner, but I
21 will, I will verify that. It's the same section, so I'm
22 double checking right now.

23 Mr. Examiner, it does appear that the Dawson
24 Wells are all Section 4 based on the publication notice that
25 was undertaken, although not against Ms. Dillard, and that

1 leasehold purchase proposal does include the Section 34.

2 HEARING EXAMINER BRANCARD: Ms. Hardy, do you
3 have anything to add to that?

4 MS. HARDY: I do not. I believe that a portion
5 of the land addressed in the letter were involved in case
6 22216 -- 21226 -- apologies, dyslexia there for a moment.

7 HEARING EXAMINER BRANCARD: So, Mr. Morgan, is
8 Ms. Dillard available for questioning or rebuttal or --

9 MR. MORGAN: She is, Mr. Examiner. Again our
10 position is that's not necessary because the question really
11 is notice, not necessarily what subsequently took place with
12 respect to the order.

13 HEARING EXAMINER BRANCARD: Ms. Hardy, how would
14 you like to proceed?

15 MS. HARDY: I would like to call our witness,
16 landman Mark Hajdik to go through our exhibits.

17 HEARING EXAMINER BRANCARD: Okay. Why don't we
18 do that.

19 MS. HARDY: I would note though that if, if Mr.
20 Morgan intends to present testimony of Ms. Dillard, since he
21 is the applicant, I don't know that it's appropriate to
22 reserve for rebuttal unless it really is rebuttal.

23 HEARING EXAMINER BRANCARD: Let's cross that
24 bridge when we get there.

25 MS. HARDY: Okay. Then I will call Mr. Mark

1 Hajdik, and I believe he is on the hearing, but I'm not sure
2 if he is designated as a panelist. He can speak.

3 MR. HAJDIK: Can you hear me?

4 MS. HARDY: Yes, we can hear you.

5 MR. HAJDIK: Or see me.

6 MS. HARDY: We can see you and hear you.

7 HEARING EXAMINER BRANCARD: Ms. Delgado, will you
8 swear in Mr. Hajdik?

9 (Oath administered.)

10 MARK HAJDIK

11 (Sworn, testified as follows:)

12 DIRECT EXAMINATION

13 BY MS. HARDY:

14 Q. Can you please state your full name for the
15 record?

16 A. Mark Hajdik.

17 HEARING EXAMINER BRANCARD: Okay. Can you spell
18 your name for the record?

19 MR. HAJDIK: Mark, with a k, last name is
20 H-a-j-d-i-k.

21 HEARING EXAMINER BRANCARD: Thank you.

22 BY MS. HARDY:

23 Q. By whom are you employed and in what capacity?

24 A. Landman for Colgate Operating.

25 Q. Have you previously testified before the New

1 **Mexico Oil Conservation Division?**

2 A. I have.

3 **Q. Were your qualifications as a petroleum landman**
4 **accepted and made a matter of record.**

5 A. Yes.

6 MS. HARDY: Mr. Examiner, I request that
7 Mr. Hajdik be qualified as an expert in petroleum land
8 matters.

9 HEARING EXAMINER BRANCARD: Mr. Morgan?

10 MR. MORGAN: We would ask for clarification on
11 what petroleum land matters means, whether that's geology or
12 title or regulatory issues.

13 HEARING EXAMINER BRANCARD: So I assume we are
14 talking about title and regulatory issues?

15 MS. HARDY: That's correct.

16 MR. MORGAN: No objection.

17 HEARING EXAMINER BRANCARD: Thank you. So he
18 will be recognized as an expert.

19 MS. HARDY: Thank you.

20 BY MS. HARDY:

21 **Q. Mr. Hajdik, are you familiar with Colgate's**
22 **development of the Dawson Wells that are subject of Ms.**
23 **Dillard's application?**

24 A. Yes.

25 **Q. Did you submit an affidavit in Case Number 21226?**

1 A. Yes.

2 Q. Do you have a document in front of you that is
3 marked as Colgate Exhibit A?

4 A. Hang on. What's the heading of the document?

5 Q. That should be your self-affirmed statement in
6 this case.

7 A. Okay. I'm there.

8 Q. Is this document your self-affirmed statement in
9 this case?

10 A. Yes.

11 Q. And did you prepare that affidavit?

12 A. (Inaudible.)

13 Q. I couldn't hear your answer.

14 A. Yes. Sorry, I don't know why this computer
15 doesn't have a good microphone on it.

16 Q. Thank you. Is it true and correct to the best of
17 your knowledge, information and belief?

18 A. Yes.

19 Q. I would like to walk through the attachment to
20 that affidavit. Can you please identify Exhibit A-1.

21 A. The order.

22 Q. Is it the order in Case 21226?

23 A. Yes.

24 Q. Okay. And that was the order that pooled the
25 interests addressed by Colgate's application. Is that

1 correct?

2 A. Correct.

3 Q. Okay. And then is Exhibit A-2 your land
4 affidavit that was filed in Case Number 21226 with the
5 associated exhibits?

6 A. Correct.

7 Q. Can you identify Exhibit A-3? I believe it
8 should be Mr. Padilla's affidavit.

9 A. Flip all the way back. Yes.

10 Q. Okay. And can you identify Exhibit A-4?

11 A. That's the proposal sent to Ms. Dillard.

12 Q. What's the date on the proposal?

13 A. December 10 of 2020 at her Louisiana address.

14 Q. Did you prepare the attachment to your
15 self-affirmed statement in this case and compiled from
16 company business records?

17 A. Yes.

18 Q. Are they true and correct to the best of your
19 knowledge?

20 A. Yes.

21 MS. HARDY: Mr. Examiner, I would like to move
22 the admission of Exhibit A and Exhibits A-1 through A-4.

23 HEARING EXAMINER BRANCARD: Any objections.

24 MR. MORGAN: No objection, Mr. Examiner.

25 HEARING EXAMINER BRANCARD: So admitted.

1 (Exhibits A, A-1 through A-4 admitted.)

2 Q. Mr. Hajdik, did you perform research to obtain
3 contact information for the interest owners in the Dawson
4 Wells including Ms. Dillard?

5 A. I did.

6 Q. Can you explain what you did to attempt to locate
7 Ms. Dillard's contact information?

8 A. We usually start with the county records. In
9 this case that was not available. She had not filed
10 anything in Eddy County where the property is located in
11 recent history or ever.

12 And at that point we proceeded to online search
13 for her. We were able to locate her via an obituary of who
14 I believe was her mother. And via obituary, it appeared
15 that she was living in Plano at the time of the obituary.
16 And at that point we had identified some Plano addresses for
17 her, which is where we sent these notices to.

18 Q. And at the time that you sent the notices, did
19 you believe that the Plano address was most likely correct?

20 A. We had no reason to believe that she did not live
21 at least in Texas, much less the Plano area based on other
22 contacts on our online searches.

23 Q. And you mentioned that you searched county
24 records in an effort to locate her. Is that right?

25 A. Yes.

1 Q. And can you explain how you went about doing
2 that?

3 A. Via both me personally looking in our, you know,
4 paid subscription services, as well as, you know, third
5 party brokers.

6 Q. And did you locate any information at all in the
7 county record?

8 A. Not anything that was tied to an address, no.

9 Q. Had Ms. Dillard filed any document in a public
10 record regarding her mineral interest that would have
11 allowed you to locate her correct address?

12 A. No, not that we can identify.

13 Q. Do you expect parties who own mineral interests
14 to file public documents regarding their interests so they
15 can be located?

16 A. Typically we think that would be a prudent action
17 for owners of real property.

18 Q. Do you believe you used reasonable diligence to
19 locate Ms. Dillard's last known address?

20 A. I do. I mean we -- we had -- we found no other
21 indications at that time that that address would be wrong or
22 that she was not living in Texas.

23 Q. Did you send the initial well proposal to the
24 Plano address?

25 A. We did.

1 Q. Did you receive a response?

2 A. No.

3 Q. Was that unusual?

4 A. No, especially given the large number of parties
5 as well, it's not unusual to not get a response -- double
6 negative. It is not unusual to not hear from parties.

7 Q. And does it occur that people occasionally do not
8 pick up certified mail at all?

9 A. Correct. It is very common to get unclaimed or
10 mail back.

11 Q. And in this case, did you receive a notice from
12 the post office on the well proposal that her address was
13 not in Plano?

14 A. No. We just received it back undelivered.

15 Q. Have you seen the letter from Shaw Interests that
16 was sent to an address for Ms. Dillard in Ruston, Louisiana?

17 A. I have.

18 Q. And I believe that that document was marked as an
19 exhibit by Ms. Dillard. Do you know how Shaw obtained that
20 address?

21 A. Not specifically. I mean, third-party
22 contractor, I assume, an online search of some sort.

23 Q. But in any event, at the time you submitted the
24 well proposal initially, I'm hearing that you didn't have
25 that address?

1 A. Correct, we didn't.

2 **Q. Do you know if Ms. Dillard responded to the**
3 **letter that she received from Shaw?**

4 A. I don't believe she did. Typically the third-
5 party, third-party brokers, they -- we hear something from
6 them if they is a substantive -- if there is a response from
7 the individual. No response from the individual usually
8 results in no response from third-party vendors.

9 **Q. And you didn't receive a response from Shaw**
10 **regarding this letter that was sent to Ms. Dillard.**

11 A. No, not that I'm aware.

12 **Q. After the pooling order was issued, did you send**
13 **out another well proposal to Ms. Dillard?**

14 A. We did.

15 **Q. And is that the document that we have marked as**
16 **Colgate Exhibit A-4.**

17 A. Correct.

18 **Q. When did you send that proposal?**

19 A. In December of 2020.

20 **Q. How was it -- well, first, tell me what address**
21 **you sent that letter to?**

22 A. We sent it to an address it Ruston, Louisiana.

23 **Q. How did you obtain that address at that time?**

24 A. We went back through our parties who -- that we
25 had gotten returned mail from, and I believe that probably,

1 at that point, I don't know why, but the online search
2 indicated a different, you know, brought this up, so we
3 decided to give this address a try.

4 Q. And is it your understanding that Ms. Dillard
5 claimed in this case that that address should have been used
6 for the hearing notice?

7 A. Correct. She has responded to other
8 correspondence in other cases from this address.

9 Q. Did the letter give Ms. Dillard another
10 opportunity to participate in the Dawson wells?

11 A. Correct. She would have had the opportunity to
12 participate.

13 Q. Did the letter also advise her that a pooling
14 order had been issued?

15 A. It did. It provided the pooling order numbers.

16 Q. Did you receive a response to the December 10
17 2020 letter?

18 A. We did not.

19 Q. Do you know if she received it?

20 A. I do not.

21 Q. But it was sent to the address she claimed was
22 correct?

23 A. Correct. We sent it to the address, and as
24 mentioned earlier, it's not uncommon for people to not
25 respond, so --

1 Q. And I think you mentioned that Ms. Dillard has
2 responded to other mail that was sent to that address. Is
3 that correct?

4 A. Correct.

5 MS. HARDY: Mr. Examiner, I have no further
6 questions for Mr. Hajdik. He is available for questions
7 from Mr. Morgan or the Division.

8 HEARING EXAMINER BRANCARD: Mr. Morgan?

9 MR. MORGAN: Thank you, Ms. Hardy, Mr. Examiner.

10 CROSS-EXAMINATION

11 BY MR. MORGAN:

12 Q. Mr. Hajdik, I appreciate you being here today. I
13 want to go back to Colgate's Exhibit A, which is your
14 self-affirmed statement and just affirm that it is correct
15 that you did, prior to the hearing, have multiple addresses
16 for Ms. Dillard; is that correct?

17 A. I believe we sent multiple notices in the Plano
18 area. We did send to multiple addresses there.

19 Q. Is there any evidence of that attached to the
20 record that you did send multiple letters?

21 A. No.

22 Q. Do you have any evidence of what those additional
23 addresses were?

24 A. Not in front of me.

25 Q. You testified earlier as well that you had no

1 reason to believe that this was not Ms. Dillard's correct
2 address when that was delivered unavailable or unable to
3 deliver as addressed, unable to forward at that moment, do
4 you believe you would have had reason to believe this was
5 not the correct address?

6 MS. HARDY: I object. I think the question
7 misstates Mr. Hajdik's testimony.

8 HEARING EXAMINER BRANCARD: Well, the question is
9 a little vague, Mr. Morgan, which, which -- Mr. Hajdik has
10 testified to several letters going out, so if you could sort
11 of specify.

12 And also, you know, there are sort of terms of
13 art here with the post office whether something is actually
14 sent back address unknown or something is simply not picked
15 up, and I'm not sure exactly which one Mr. Hajdik testified
16 to.

17 I think he testified that it was returned address
18 unknown, but I don't want to testify for him. So just try
19 to be a little clearer here.

20 MR. MORGAN: I appreciate that. I will clarify.

21 BY MR. MORGAN:

22 Q. The letter that was attached in the underlying
23 proceeding, 21226, to Ms. Dillard to show evidence that she
24 was provided notice, when that particular letter was
25 returned unable to deliver or forward, would that provide a

1 reason to believe that that was not her correct address for
2 notice purposes in this case?

3 A. I'm trying to follow your question.

4 Q. Sorry.

5 A. Can you reask the question?

6 Q. Mark, I apologize -- excuse me -- Mr. Hajdik, I
7 apologize. If I were to ask that a different way, what is
8 Colgate's typical procedure when they receive a letter back
9 that says, "address unknown" or "unable to forward" or
10 "unable to deliver"?

11 A. We look to see if there is any additional
12 addresses they can be sent to. And at the time our online
13 search pointed us to Plano. I mean, her, you know,
14 Elizabeth Dillard is not an uncommon name, it's not
15 particularly a unique name, so, I mean, we had no reason to
16 believe, based on other -- you know, once which exhaust our
17 resources, and which we thought we did here, that's all we
18 can do.

19 Q. I appreciate that, Mr. Hajdik. And moving to
20 Paragraph 9, stating that after the order was issued, you
21 performed additional research. And you testified that
22 was -- just make sure I'm correct -- that was just
23 additional Google research. Is that correct?

24 A. I don't know. I don't have the exact specific
25 web service in my head at this moment, but --

1 Q. Would you say that additional online research was
2 beyond what would be reasonable to be done?

3 MS. HARDY: Object to the form of the question.
4 I think that's confusing.

5 MR. MORGAN: I was confused by the question
6 myself.

7 Q. Mr. Hajdik, that additional research that you did
8 and included in your affidavit as Paragraph 9, was that
9 research research that was exceptional, extraordinary that
10 you just really, really thought, "It's going got to be out
11 there, let's find her," or was it in the regular course of
12 business normal research that you would do?

13 A. I'm not quite sure I'm following your question.

14 Q. We'll scratch that question, I apologize. Did
15 you ever ask Shaw Interests who was your agent acting on
16 your behalf if they had addresses for the parties that you
17 were attempting to purchase in full?

18 A. I'm sure we did.

19 Q. Okay. You are sure you did, okay.

20 A. The context there is that their letter came well
21 after initial well proposals and whatnot were sent.

22 Q. Are you aware of the date of that letter off the
23 top of your head?

24 A. Sometime in 2019, probably.

25 Q. I'm not going to ask you for an exact date, but

1 sometime before your letter for compulsory pooling notices
2 went out?

3 A. My initial well proposals went out out before the
4 Shaw letter.

5 Q. Not your well proposal letters, your notices of
6 the compulsory pooling proceedings.

7 A. No, that's not what I said.

8 Q. No, that's what I was trying to ask, did it go
9 out before the compulsory pooling letters went out?

10 A. My initial well proposals?

11 Q. No, the notices of the compulsory pooling
12 proceeding. Sorry. Did the shaw letter go out -- my
13 apologies -- did the Shaw letter go out before the letters
14 went out giving notice of the compulsory pooling
15 proceedings?

16 A. They were very close in time.

17 Q. Okay.

18 A. I don't have the dates on me.

19 Q. That's okay, I'm not going to ask you to walk
20 through those dates. The Shaw letters did go out over a
21 month or almost two months before, but those have been
22 admitted, we don't have to necessarily get into those.

23 But I want to turn for minute to the publication
24 in the underlying proceeding, and you have testified --
25 that's going to be part of Exhibit A-3, if you want to open

1 that up. This is going to be Mr. Padilla's, Mr. Padilla's
2 affidavit in cases both 21226 and 21227. And the third page
3 of that is going to be affidavit from the Carlsbad Current
4 Argus regarding publication. Do you see that in front of
5 you there?

6 A. (Inaudible.)

7 Q. Can you tell -- I want to verify -- can you tell
8 me what date is the date that it was published?

9 A. No, I'm not --

10 Q. I want to make sure I've got you on the right
11 page. Do you see the page at the top that says Carlsbad
12 Current Argus, affidavit of publication in Exhibit A-3?

13 A. I have it.

14 Q. And can you see that date on there that shows May
15 or 5-22-2020 as the publication date?

16 A. (Inaudible.)

17 Q. And on the second --

18 REPORTER: I'm sorry, I didn't hear the answer.

19 A. Yes, I can see the text.

20 Q. Thank you. On the second page of that is notice
21 of the actual notice that was published. Does that appear
22 to be correct?

23 A. This is Mr. Padilla's affidavit, and what do you
24 mean by correct?

25 Q. I mean, does that appear to be the publication

1 that Colgate gave notice with?

2 A. That is the notice that Mr. Padilla submitted, so
3 I will defer -- I would have to defer to him on it, but via
4 him that is when it was submitted.

5 Q. That's fine, Mr. Hajdik, I appreciate that. Can
6 you identify for me on that publication moving down a couple
7 paragraphs when we get through the opening that states that
8 the hearing will be held May 28, and that says, State of New
9 Mexico, all named parties, and then there is -- when it gets
10 down to to, do you see that portion that says to?

11 A. Yes.

12 Q. Can you read through that paragraph for me, you
13 don't have to on the record, and tell me if you see Ms. Kaye
14 Dillard's name listed in there as a party to whom notice is
15 being given?

16 A. Do not.

17 Q. Okay, thank you. Would it be typical to name the
18 parties to whom you are giving publication notice?

19 A. I am -- this is handled by the attorney, but I
20 would expect.

21 Q. You were moved as an expert in land title in
22 these types of matters. Would it be typical and reasonable
23 to publish notice and name the parties to whom you are
24 publishing notice?

25 MS. HARDY: I object to the question. I think

1 Mr. Hajdik has said their attorney gave notice, and I think
2 that's a legal issue that's the subject of Division rules.

3 MR. MORGAN: We are asking him as his position,
4 his understanding -- he is an expert, he has been moved as
5 an expert -- whether it would be in regulatory matters.

6 MS. HARDY: He is not a legal expert.

7 HEARING EXAMINER BRANCARD: -- it's the lawyers
8 that do that publication, so --

9 MR. MORGAN: Maybe I will rephrase that question.

10 BY MR. MORGAN:

11 Q. Would it be Colgate's position -- there will be
12 an objection, warning everybody -- would it be Colgate's
13 position that an applicant is excused by the failure of an
14 action by their attorney?

15 MS. HARDY: I object to the question.

16 MR. MORGAN: Understood. Appreciate that, Ms.
17 Hardy. Thank you. We have no further questions for
18 Mr. Hajdik.

19 HEARING EXAMINER BRANCARD: Mr. Lowe, questions?

20 TECHNICAL EXAMINER LOWE: Yes. Good morning. I
21 have a few questions for clarification trying to get a
22 general overall sense of what's been going on here. Good
23 morning, sir.

24 THE WITNESS: Morning.

25 TECHNICAL EXAMINER LOWE: Just to -- just from

1 what was being verbalized all morning pertaining to this
2 case, I just want to get at and make sure I'm on the right
3 page of what's been said.

4 The -- I think I had heard from the up front
5 that the, the operator in the case of 2232 -- no, no, the
6 original case, 21226, that Colgate has several addresses for
7 Elizabeth Dillard; is that correct?

8 THE WITNESS: I believe that's what my prior
9 affidavit said. I would have to go back and refresh there,
10 but --

11 TECHNICAL EXAMINER LOWE: And I thought I heard
12 that of the several addresses that was, I guess, for this
13 individual, that there was a correspondence was established
14 by one address and therefore Colgate sent additional
15 correspondence to that determined address; is that correct?

16 THE WITNESS: Later on, yes.

17 TECHNICAL EXAMINER LOWE: Yes, later on. And
18 then after the hearing order was granted, there was a letter
19 sent again to that already established address to Ms.
20 Dillard asking for if she wants to participate; is that
21 correct?

22 THE WITNESS: Correct.

23 TECHNICAL EXAMINER LOWE: Then at that time,
24 after that letter was sent, there was no reply to that
25 letter to Colgate on what was presented; correct?

1 THE WITNESS: Correct. We did not get a response
2 to the initial well proposal.

3 TECHNICAL EXAMINER LOWE: And that latter letter
4 that I just referenced just now, that pertains to the
5 participating for the compulsory pooling portion of the
6 initial case; is that correct?

7 THE WITNESS: Correct.

8 TECHNICAL EXAMINER LOWE: Okay. Also, I, being
9 that this case was reopened in reference to a hearing for a
10 non -- basically the case of what was at play right now for
11 notice not properly done, supposedly, I would suggest that
12 on your end and in your defense, I would suggest you
13 present -- would have presented all the addresses you had
14 for this applicant, or not applicant, but party just so that
15 we can see there was effort made there and determine what
16 was concluded that was of course that you all corresponded
17 to in that sense. That's what I would suggest that you do,
18 but right now we are getting through everything right now to
19 see what was done and what addresses were presented and so
20 forth. Let's see here. And then this particular case right
21 now, this all pertains to the Dawson Wells; correct?

22 THE WITNESS: Yes.

23 TECHNICAL EXAMINER LOWE: And the other wells
24 that were, that were verbalized in the hearing references a
25 different case; right? I forgot the name of the wells.

1 THE WITNESS: Shamrock Wells.

2 TECHNICAL EXAMINER LOWE: Yeah, those are
3 basically not associated with this case here then?

4 THE WITNESS: Correct.

5 TECHNICAL EXAMINER LOWE: Okay. Thank you.
6 That's all I have.

7 HEARING EXAMINER BRANCARD: Thank you. So let me
8 just try to clarify here. If I understand correctly, there
9 were at least four attempts to notify Ms. Dillard. Let me
10 just walk through them and see if you agree, Mr. Hajdik,
11 based on what I've through your testimony. The first is the
12 well proposal, the AFE sent out. I don't know what the date
13 is on that.

14 THE WITNESS: Latter 2019, probably.

15 HEARING EXAMINER BRANCARD: Okay. And that was
16 sent to the Plano address?

17 THE WITNESS: Correct.

18 HEARING EXAMINER BRANCARD: Okay. Correct? And
19 then prior to the application being filed, there is a letter
20 from what you described as a third party -- I assume a
21 contractor, Shaw, to Ms. Dillard. Is this sort of a
22 follow-up to the well proposal? What was the purpose of
23 this letter, sending an assignment to her, proposed?

24 THE WITNESS: In cases where we've got a lot of
25 outstanding interest, in this case we had over a hundred

1 working interest owners at one point, we will engage a third
2 party to try to find parties and see if they are interested
3 in selling their interest prior to hearing, and that was
4 part of that process.

5 HEARING EXAMINER BRANCARD: So this is simply an
6 extra step that Colgate does in certain situations. Is
7 that -- am I getting that correct?

8 THE WITNESS: Correct, yeah. For example, if it
9 was Colgate and EOG, obviously that's nothing this type of
10 situation won't apply here, we had 100 individuals, so we
11 were seeing who wanted to divest rather than participate.

12 HEARING EXAMINER BRANCARD: Okay. And I forgot
13 to ask, was the well proposal, was that -- were those sent
14 certified mail?

15 THE WITNESS: Yes.

16 HEARING EXAMINER BRANCARD: So would that have
17 come back address unknown?

18 MR. MORGAN: I don't believe there is any
19 evidence in the record with respect to those well proposals.
20 We are not going to object, but I don't think there is any
21 evidence on that.

22 HEARING EXAMINER BRANCARD: Well, that's why I'm
23 asking, because I have a witness here, I want to have an
24 answer.

25 THE WITNESS: I would have to look to see what

1 status applies on that, but it was either undeliverable --
2 one of the three options you mentioned, undeliverable,
3 unclaimed or address unknown. I don't really know what
4 undeliverable means because we get that frequently.

5 HEARING EXAMINER BRANCARD: But I think you
6 testified that if that occurs, that's often a trigger for
7 Colgate to look and see if there are other addresses.

8 THE WITNESS: Correct, or we will even try
9 resending. If it's something other than completely --
10 unless it's something that's very clear that person is not
11 there like, you know, the resident writes, "Not here,"
12 something like that, we will even try resending to that same
13 address if it's marked undeliverable in the event the post
14 office made a mistake -- assuming we can't find another
15 address, that that address doesn't seem to make sense.

16 HEARING EXAMINER BRANCARD: I guess it's not
17 clear then, if Shaw had the correct address in Louisiana or
18 an address in Louisiana for Ms. Dillard, how come that was
19 not communicated to Colgate?

20 THE WITNESS: I mean, I believe we did find it by
21 the time we sent her the post order proposal. And at the
22 time that we would have sent out the initial proposals and
23 at the time that I would have provided the address list to
24 the attorney for pooling preparations, I wouldn't have had
25 that address.

1 HEARING EXAMINER BRANCARD: In looking at the
2 documents I have in front of me, the Shaw letter is at least
3 three weeks before the letter the attorney sends out, but
4 you may have provided a list prior to that to the attorneys.
5 Is that what you are saying?

6 THE WITNESS: Correct. I mean three weeks would
7 not have been a lot of time to, to -- given the volume of
8 owners to even identify the, you know, parties essentially.

9 I mean, we usually get -- I try to get the
10 attorneys the information several weeks in advance so they
11 have time to prepare. So there really wouldn't have been
12 much overlap there that I would be aware of.

13 HEARING EXAMINER BRANCARD: And so in the order
14 which is attached to your affidavit, it indicates that the
15 hearing was held on May 28, 2020. And I believe, as
16 indicated by Mr. Morgan's question, the publication was on
17 May 22, 2020. Maybe you should look at that document.
18 Anyone disagree with that?

19 THE WITNESS: No, no, I'm fine. No question.

20 HEARING EXAMINER BRANCARD: All right. Those are
21 the questions I have.

22 TECHNICAL EXAMINER LOWE: I have another
23 question.

24 HEARING EXAMINER BRANCARD: Sure.

25 TECHNICAL EXAMINER LOWE: If I could. Sorry.

1 Mr. Hajdik, is that how you say your name?

2 THE WITNESS: Pretty close, the j is more silent,
3 but, yeah.

4 TECHNICAL EXAMINER LOWE: Mr. Hajdik, is that how
5 you -- I know I asked you a question initially, previously
6 about when you sent a letter to Ms. Dillard after the
7 hearing order was sent in reference to for her to
8 participate and you didn't receive anything back, that
9 letter that you sent, you replied to the question that --
10 not from me, but from the attorney -- that you don't know if
11 she received it or not.

12 Do you not send letters -- because that letter, I
13 assume you didn't send a verification or affidavit to verify
14 that it was received or not, I assume. I don't know.
15 That's what I got. Is that true?

16 THE WITNESS: We send them certified mail. Given
17 all the problems with USPS, it's not uncommon to not receive
18 the green card back. Or if you get them back, it doesn't
19 necessarily have a status assigned to it.

20 TECHNICAL EXAMINER LOWE: But you do know it was
21 delivered?

22 THE WITNESS: I don't know if she picked it up or
23 not.

24 TECHNICAL EXAMINER LOWE: But it was sent
25 certified letter?

1 THE WITNESS: It was sent certified to the
2 address that --

3 TECHNICAL EXAMINER LOWE: -- was established.

4 THE WITNESS: -- we did later establish, correct.

5 TECHNICAL EXAMINER LOWE: Okay. That's all I
6 got, thank you.

7 HEARING EXAMINER BRANCARD: I'm sorry, Mr.
8 Hajdik, I said there were four letters, I only got through
9 three.

10 So the hearing is May 28, the order appears to be
11 issued September 28, 2020. The order requires the operator
12 to again recount to uncommitted interest owners, and I
13 assume that's the purpose of the letter you signed dated
14 December 10, 2020?

15 THE WITNESS: Correct.

16 HEARING EXAMINER BRANCARD: Okay. And at that
17 point you now have the Louisiana address for Ms. Dillard?

18 THE WITNESS: Yes.

19 HEARING EXAMINER BRANCARD: Okay. And I believe
20 you testified that she did not respond to this letter?

21 THE WITNESS: Correct.

22 HEARING EXAMINER BRANCARD: Okay. But she has
23 responded to other offers from Colgate. Is that my
24 understanding?

25 THE WITNESS: She did. In the other case she did

1 respond to those letters at the same address.

2 HEARING EXAMINER BRANCARD: Okay. All right.
3 Thank you. Ms. Hardy, anything else? Any rebuttal, any
4 redirect?

5 MS. HARDY: I have just a couple of redirect
6 questions, Mr. Examiner.

7 REDIRECT EXAMINATION

8 BY MS. HARDY:

9 Q. Mr. Hajdik, when you said earlier that you had
10 identified multiple addresses for Ms. Dillard when you were
11 sending out the initial well proposal, were those potential
12 addresses?

13 A. Meaning like -- yeah, we didn't have any
14 certainty as to the addresses. I mean, there was a number,
15 if I recall correctly, there was number in Plano that showed
16 up, and I believe that was the intent of my statement in
17 that initial affidavit.

18 Q. And did you identify the Plano address that you
19 used as the address you believed to be most likely correct
20 for Ms. Dillard?

21 A. Yes, it appeared to be the current address that
22 listed her in Plano.

23 Q. With respect to the letter sent by Shaw, I think
24 you said earlier that you didn't -- she didn't respond to
25 that letter that was sent to the address in Louisiana; is

1 **that correct?**

2 A. Correct, she did not that I'm aware of.

3 MS. HARDY: Those are all of my questions.

4 HEARING EXAMINER BRANCARD: Thank you. All
5 right. Where are we on exhibits, Ms. Hardy?

6 MS. HARDY: I believe all of our exhibits have
7 been admitted. I did want to mention that will the well
8 proposal is actually included in Mr. Hajdik's exhibits from
9 the original case. So his initial well proposal, it's not
10 the letter that's specifically addressed to Ms. Dillard, but
11 we do have the well proposal in the record.

12 HEARING EXAMINER BRANCARD: Okay. It's just not
13 the specific letter to Ms. Dillard?

14 MS. HARDY: That's correct. It's part of Exhibit
15 A-2.

16 HEARING EXAMINER BRANCARD: Any other evidence to
17 be presented today? Ms. Hardy?

18 MS. HARDY: Not from me, Mr. Examiner. Thank
19 you.

20 HEARING EXAMINER BRANCARD: All right. Back to
21 you, Mr. Morgan. Is there anything else that you would like
22 to present today, I'll allow each of you an opportunity to
23 sum up.

24 MR. MORGAN: With the exhibits already admitted,
25 we have no other evidence that we would like to introduce.

1 Thank you, Mr. Examiner.

2 HEARING EXAMINER BRANCARD: Thank you. All
3 right. With that, if you are prepared for a brief summary,
4 I would start with Ms. Hardy at this point.

5 MS. HARDY: Thank you, Mr. Examiner. I will be
6 brief. I think, again, that Colgate used reasonable
7 diligence to attempt to locate Ms. Dillard. They sent
8 letters to the address they believed was most likely
9 correct. And then the post order well proposal was sent to
10 the address Ms. Dillard claims is correct and which she had
11 received other mail, and she did not respond.

12 And then there was a ten-month delay before she
13 filed her application to reopen this case. And that post
14 order well proposal had provided notification of the pooling
15 order and another opportunity to participate in the wells,
16 and Colgate didn't receive a response.

17 And Ms. Dillard had also not responded to the
18 letter from Shaw that gave her an opportunity to enter into
19 a transaction with Colgate. So based on really particularly
20 the post order well proposal, there was delay, and I think
21 Ms. Dillard's claims are barred by laches and equitable
22 estoppel.

23 Also I think that she lacks standing due to the
24 fact that she was afforded an opportunity to participate and
25 didn't take it, which means that there was no causation of

1 injury to her resulting from any issues associated with the
2 initial hearing notice.

3 So based on those reasons as set out in our
4 testimony and exhibits our prehearing statement, Colgate
5 requests that Ms. Dillard's application be denied. Thank
6 you.

7 HEARING EXAMINER BRANCARD: Thank you.
8 Mr. Morgan.

9 MR. MORGAN: Mr. Examiner, thank you. I would
10 repeat, this hearing was set on a matter of whether Ms.
11 Dillard received notice of this hearing and subsequent to
12 that hearing. The waiver, laches or estoppel are wholly
13 inapplicable to a party to whom an order does not apply. As
14 this was set really only the question of notice, that's what
15 we are discussing.

16 What we have with respect to -- we believe and we
17 would argue there was not proper due diligence because
18 apparently the address was relatively simple and easy to
19 find it because Shaw found it who was the agent for Colgate.
20 They had multiple addresses, had reason to understand that
21 the address they returned -- the letter was returned from
22 was not the proper address.

23 But even if, arguendo, even if the diligence was
24 proper, notice still had to be published against Ms.
25 Dillard. The publication notice was deficient in that it

1 was not timely and it was not against Ms. Dillard. It did
2 not include Ms. Dillard. She did not receive notice of the
3 proceeding, therefore, she was not subject to the
4 proceeding.

5 Finally, the subsequent opportunity to
6 participate is not an alternative means of service. It's
7 not a substitute for the mandatory service that is required.
8 She did not receive notice. The proper remedy under New
9 Mexico Administrative Code is to reopen the hearing, afford
10 her an opportunity to present evidence on risk penalty, et
11 cetera, as well then enter a new order providing her the
12 opportunity to participate. She was denied all of those
13 opportunities. And we would leave it up to your capable
14 hands to make the determination. Thank you.

15 HEARING EXAMINER BRANCARD: Thank you. I
16 appreciate, actually, the parties' efforts here to move
17 through this. Mr. Lowe, do you have any further questions
18 or comments at this point before we take this under
19 advisement?

20 TECHNICAL EXAMINER LOWE: Mr. Morgan, I have one
21 question for Mr. Morgan.

22 MR. MORGAN: Absolutely.

23 TECHNICAL EXAMINER LOWE: Reference to Ms.
24 Dillard's stance on what is going on here, she is mainly
25 concerned about the compulsory pooling portion of the

1 hearing order; correct?

2 MR. MORGAN: The compulsory, in this hearing,
3 yes. So again, at the risk of testifying, Ms. Dillard would
4 like to be forwarded the opportunity to participate in these
5 wells.

6 TECHNICAL EXAMINER LOWE: Okay. That's all I
7 got, thank you.

8 MR. MORGAN: Thank you.

9 HEARING EXAMINER BRANCARD: Thank you. So we
10 will take this under advisement. As noted we sort of -- we
11 have done this in another case recently, bifurcating the
12 application to reopen to first decide whether we are going
13 to reopen or not, and then if we do reopen, then discuss
14 what the reopening would be about.

15 So that's all we are here today is to decide
16 whether to reopen this case or not, and we will take this
17 under advisement and hopefully get you an order quickly on
18 this matter. Thank you all for your participation today.

19 MS. HARDY: Thank you for your time.

20 MR. MORGAN: Thank you, Mr. Examiner.

21 (Exhibits admitted.)

22 (Taken under advisement.)

23

24

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3 REPORTER'S CERTIFICATE

4 I do hereby certify that I reported the
5 foregoing virtual proceedings in stenographic shorthand and
6 that the foregoing pages are a true and correct transcript
7 of those proceedings to the best of my ability.

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

12 I FURTHER CERTIFY that the Virtual Proceeding was
13 of poor to good quality.

14 Dated this 19th day of May 2022.

15 /s/ Irene Delgado
16 _____
17 Irene Delgado
18 License Expires: 12-31-22
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25