

1 STATE OF NEW MEXICO  
2 ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
3 OIL CONSERVATION DIVISION  
4

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

8 CASE NOS: 21361-21364

9 APPLICATION OF MEWBOURNE OIL  
10 COMPANY FOR COMPULSORY POOLING,  
11 EDDY COUNTY, NEW MEXICO.

12 CASE NOS: 21489-21490

13 APPLICATION OF APACHE CORPORATION  
14 FOR COMPULSORY POOLING AND  
15 APPROVAL OF A HORIZONTAL SPACING  
16 UNIT FOR A POTASH DEVELOPMENT  
17 AREA AND PILOT PROJECT,  
18 EDDY COUNTY, NEW MEXICO.

19 CASE NOS: 21393-21394

20 APPLICATION OF ASCENT ENERGY,  
21 LLC, FOR COMPULSORY POOLING,  
22 EDDY COUNTY, NEW MEXICO.

23 REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
24 EXAMINER HEARING  
25 AUGUST 4, 2022  
SANTA FE, NEW MEXICO

26 This matter came on for virtual hearing before  
27 the New Mexico Oil Conservation Division, HEARING OFFICER  
28 WILLIAM BRANCARD and TECHNICAL EXAMINER JOHN GARCIA on  
29 Thursday, August 4, 2022, through the Webex Platform.

30 Reported by: PAUL BACA PROFESSIONAL COURT REPORTERS  
31 500 Fourth Street, NW, Suite 105  
32 Albuquerque, NM 87102  
33 505-843-9241

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A P P E A R A N C E S

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1 HEARING EXAMINER BRANCARD: Let's get going.  
2 Let's start with cases 1 through 9 on the worksheet. These  
3 are Case Numbers 21361, 21362, 21363, 21364, 21489, 21490,  
4 21491 -- did I miss anything -- 21393, 21394. I'm starting  
5 with Mewbourne Oil Company.

6 MS. HARDY: Good morning, Mr. Examiner. Dana  
7 Hardy with the office of Hinkle Shanor on behalf of  
8 Mewbourne Oil Company.

9 HEARING EXAMINER BRANCARD: Thank you. Ascent  
10 Energy?

11 MR. SAVAGE: Good morning. Darin Savage with the  
12 Santa Fe office of Abadie & Schill for Matador Production  
13 Company, successor to Ascent Energy.

14 HEARING EXAMINER BRANCARD: Thank you. Apache  
15 Corporation?

16 MS. BENNETT: Deana Bennett on behalf of Apache  
17 Oil Company.

18 HEARING EXAMINER BRANCARD: Thank you. So I  
19 think I have some other entries of appearance here for  
20 Colgate Operating.

21 MR. LAWTON: Good morning. Troy Lawton with  
22 Montgomery & Andrews for Colgate Operating LLC.

23 HEARING EXAMINER BRANCARD: Good morning,  
24 welcome. EOG?

25 MR. PADILLA: Mr. Examiner, Ernest L. Padilla for

1 EOG.

2 HEARING EXAMINER BRANCARD: And I think we have  
3 Jalapeno here on a couple of cases. Jalapeno Corporation?

4 MR. BECK: Matt Beck. I don't know if you can  
5 hear me.

6 HEARING EXAMINER BRANCARD: We can hear you  
7 Mr. Beck.

8 MR. BECK: (Inaudible).

9 HEARING EXAMINER BRANCARD: Now we can't hear  
10 you.

11 MR. BECK: Can you hear me now? Matt Beck.

12 HEARING EXAMINER BRANCARD: We can hear you.

13 All right. So are there any owe other entries of  
14 appearance for cases 21361, 362, 363, 364, 393, 394, 489,  
15 490, 491.

16 (No audible response.)

17 HEARING EXAMINER BRANCARD: Hearing none, I think  
18 we have a row of status conferences here, and so where are  
19 we? Let's start with Ms. Hardy.

20 MS. HARDY: Thank you, Mr. Examiner. My  
21 understanding is the parties are still talking. They are in  
22 negotiations. I think we have discussed it would be the  
23 preference to set a hearing date in these cases on the  
24 second October docket to give the parties some incentive to  
25 move forward with their negotiations and try to get these

1 cases resolved. They have been pending for a very long  
2 period of time.

3 HEARING EXAMINER BRANCARD: Thank you. Mr.  
4 Savage?

5 MR. SAVAGE: Yes, thank you, Mr. Hearing  
6 Examiner. It's my understanding also negotiations are  
7 steady, and on the positive side of the fence and that  
8 progress needs to be -- seems to be being made. You know, I  
9 think Matador's preference would be one additional status  
10 conference to see where we stand and go from there. I think  
11 that would be at the discretion of the OCD.

12 HEARING EXAMINER BRANCARD: Okay, thank you. Ms.  
13 Bennett, do you want to break the tie? I don't mean break  
14 the tie.

15 MS. BENNETT: Thank you, Mr. Examiner. I think  
16 that Apache likely would want to also have this case set for  
17 a status conference or a contested hearing. I haven't  
18 checked with Apache, though, about their availability for  
19 the second docket in October, but I think that would be  
20 workable, or it seems like a reasonable next step to start  
21 having the parties hone in on what's actually going to be at  
22 issue at the hearing.

23 As Mr. Savage noted, Matador is the successor to  
24 Ascent, but there is nothing in OCD's -- like in the cases  
25 that suggests their applications, and so there still seems

1 to be some uncertainty about how to proceed. And so we need  
2 to start honing in on the details of how this hearing is  
3 going to be set and without a deadline, I don't think that's  
4 going to happen.

5 HEARING EXAMINER BRANCARD: Thank you. Okay.  
6 So, Ms. Hardy, we actually have the first docket of October  
7 available and the first docket in November.

8 MR. SAVAGE: Mr. Hearing Examiner, could I just  
9 make a short comment on Apache's -- just like a -- I mean,  
10 we do have a record -- Ms. Bennett raised a question of  
11 Matador's status and review of the some of the past  
12 testimony, it seems to suggest, and Ms. Bennett can speak to  
13 this if she would, that Apache is considering a motion to  
14 dismiss the cases or at least Matador's case or Ascent's  
15 case. That seems to be one of the considerations of the  
16 directions Apache is going in.

17 And if that turns out to be the case, then it  
18 looks like we are going to be facing some motions and  
19 potentially oral arguments on those motions, and that's  
20 going to extend -- those are very complicated issues. The  
21 facts on this case are very different from cases being  
22 dismissed in the past when they are -- just involved the  
23 Division.

24 So if those oral arguments are going to take  
25 place or potentially take place, you know, we ask that

1 perhaps we should have -- try to have a status conference  
2 before we embark on a set hearing date which would probably  
3 be moved under those circumstances.

4 HEARING EXAMINER BRANCARD: Okay. Well, I didn't  
5 hear any of that in Ms. Bennett's comments, but if she would  
6 like to elucidate, she can.

7 MS. BENNETT: No. I think it's actually  
8 premature for us to consider a motion to dismiss since we  
9 don't even know at this point whether Matador is going to  
10 adopt Ascent's applications. So that's part of the issue is  
11 that there is a large amount of uncertainty here that needs  
12 to have an end date to facilitate us getting to some  
13 certainty to be able to understand Ascent's and Matador's  
14 position and then to evaluate it, and right now I feel like  
15 we are in this limbo where we are not reaching any of that  
16 certainty.

17 HEARING EXAMINER BRANCARD: All right. Okay.  
18 Well, I will go back to Ms. Hardy then.

19 MS. HARDY: Mr. Examiner, I think that we can  
20 check with Mewbourne about dates. I think the first docket  
21 in October would be a possibility depending on their  
22 availability. I think, as an alternative, we could set this  
23 case for another status conference in September on the  
24 September docket.

25 HEARING EXAMINER BRANCARD: Well, we could.

1 (Unclear audio) in favor of status conference here.

2 MS. HARDY: Our concern is we wouldn't want to  
3 wait until October to have a status conference. I think  
4 that's pushing it out too far, so I think we would be fine  
5 with setting a status conference in the first September  
6 docket or alternatively a contested hearing.

7 HEARING EXAMINER BRANCARD: Okay. September 1,  
8 status conference. Ms. Bennett?

9 MS. BENNETT: That's fine, I think. And I hope  
10 that between now and September 1 we can get to some  
11 resolution on some of these outstanding details and come  
12 back to the Division with a more meaningful discussion on  
13 September 1.

14 HEARING EXAMINER BRANCARD: Good. I like  
15 meaningful discussions. Mr. Savage?

16 MR. SAVAGE: I believe -- I still have to talk to  
17 both Apache and Mewbourne, and I think those negotiation  
18 will continue. The comments about a potential motion to  
19 dismiss, even though Ms. Bennett did not mention it today,  
20 it is of record in some of the past hearings. I would  
21 appreciate some clarification on that if Apache can provide  
22 that if they are going to go forward with something like  
23 that at the status conference.

24 HEARING EXAMINER BRANCARD: Well, then if there  
25 is anything you can do, Mr. Savage, to sort of clear the

1 waters who is actually the applicant, that would be helpful,  
2 too.

3 MR. SAVAGE: Matador is the successor to Ascent  
4 Energy. They succeeded to a valid pooling order, and that  
5 was issued by the Division, and they also succeeded to valid  
6 permits issued by the BLM. So it's clear from our end that  
7 Matador is the successor, but we would be glad to provide  
8 additional information on that.

9 HEARING EXAMINER BRANCARD: Hopefully you all can  
10 work something out between now and September 1. I will ask  
11 the other parties, any objection to a status conference on  
12 September 1. Colgate?

13 MR. LAWTON: No objection.

14 HEARING EXAMINER BRANCARD: Okay. Mr. Padilla?

15 MR. PADILLA: Mr. Examiner, we are just  
16 monitoring this case, so we don't have an objection to a  
17 September 1 setting.

18 HEARING EXAMINER BRANCARD: Thank you. Mr. Beck?

19 MR. BECK: Same, September 1 is fine.

20 HEARING EXAMINER BRANCARD: All right. So  
21 September 1, status conference for Cases 21361, 362, 363,  
22 364, 393, 394 and 21489, 490, 491. We will issue a  
23 scheduling order.

24 (Concluded.)

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STATE OF NEW MEXICO  
COUNTY OF BERNALILLO

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 4th day of August 2022.

Irene Delgado  
Court Reporter  
License Expires: 12-31-22

[& - certificate]

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