

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

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

APPLICATION OF OXY USA, INC. FOR CASE NOS. 20763,
COMPULSORY POOLING, EDDY COUNTY, 20764
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

September 6, 2019

Santa Fe, New Mexico

BEFORE: KATHLEEN MURPHY, CHIEF EXAMINER
WILLIAM V. JONES, TECHNICAL EXAMINER
DYLAN ROSE-COSS, TECHNICAL EXAMINER
DANA Z. DAVID, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Kathleen Murphy, Chief Examiner; William V. Jones and Dylan Rose-Coss, Technical Examiners; and Dana Z. David, Legal Examiner, on Friday, September 6, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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APPEARANCES

FOR APPLICANT OXY USA, INC.:

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1 (1:20 p.m.)

2 EXAMINER MURPHY: Let's go back on the
3 record.

4 And we're going to hear Cases 20763 and
5 20764.

6 They're combined, correct?

7 MS. BROGGI: Yes. I would ask to
8 consolidate them.

9 EXAMINER MURPHY: So this is the
10 application of OXY USA, Inc. for compulsory pooling,
11 Eddy County, New Mexico.

12 Call for appearances.

13 MS. BROGGI: Julia Broggi, with Holland &
14 Hart, on behalf of the Applicant, OXY USA, Inc.

15 And I'm not aware of any other appearances
16 in this case.

17 EXAMINER MURPHY: Okay. Any witnesses?

18 MS. BROGGI: No. We intend to present the
19 cases by affidavit.

20 EXAMINER MURPHY: Please proceed.

21 MS. BROGGI: Thank you.

22 So Exhibit A to the packet before you is an
23 affidavit from the landman. I think he refers to
24 himself as a land negotiator. And this is for both
25 Cases 20763 and 20764.

1 So in 20763, OXY is seeking an order
2 pooling all uncommitted interests in the Bone Spring
3 Formation underlying a standard 640-acre horizontal
4 spacing unit comprised of the east half of Sections 8
5 and 17, Township 24 South, Range 29 East, N.M.P.M., Eddy
6 County, New Mexico.

7 And Exhibit A1 to the landman's affidavit
8 is a C-102 for the proposed Oxbow CC 27-A Fed Com #35H
9 well. And OXY is proposing to dedicate the spacing unit
10 to this proposed well.

11 EXAMINER DAVID: Do we need to qualify
12 Mr. Murphrey as an expert?

13 MS. BROGGI: He has testified before, and
14 his credentials have been accepted.

15 EXAMINER DAVID: Just for the record, so.

16 MS. BROGGI: Madam Examiner, paragraph two
17 is Mr. Murphrey's credentials, and he has been qualified
18 before as an expert witness in petroleum land matters.
19 And so we would tender him again as an expert witness in
20 petroleum land matters.

21 EXAMINER MURPHY: So qualified.

22 MS. BROGGI: Again, turning to Exhibit A1,
23 which is that C-102, you will see that incorporating the
24 proximity tracts the completed interval will comply with
25 the Division setback requirements, and there are no

1 depth severances in the Bone Spring Formation.

2 In the second case, Case Number 20764, it's
3 the same horizontal spacing unit, but in this case, OXY
4 is seeking to pool all uncommitted interests in the
5 Wolfcamp; Purple Sage Formation, and they are seeking to
6 dedicate the spacing unit to three proposed wells. They
7 are the Oxbow CC 17-8 Fed Com Numbers 34H, 36H and 38H
8 wells. And we have C-102s for each of these
9 corresponding wells found at Exhibit A2, Exhibit A3 and
10 Exhibit A4.

11 Now, when you incorporate the proximity
12 tracts, the completed intervals for the 34H well and the
13 36H well do comply with the state setback requirements,
14 but for the Oxbow 38H well, OXY is separately seeking
15 administrative approval for a nonstandard well location.
16 And there are no depth severances in the Wolfcamp
17 Formation.

18 Exhibit A5 to the landman's affidavit is
19 the land exhibit, and it identifies the tracts of land
20 in the proposed horizontal spacing unit, and it also
21 shows the ownership by tract and includes a unit
22 recapitulation. And it does that both for the Bone
23 Spring Formation and the Wolfcamp Formation. And OXY is
24 seeking to pool the working interest owners and the
25 unleased mineral interest owners that are highlighted in

1 the yellow on that Exhibit A5. There are overriding
2 royalty interest owners, but OXY has the contractual
3 ability to pool them, so we're not seeking to pool them.

4 EXAMINER JONES: Why would they not want to
5 sign a Division order anyway? I mean, they would,
6 wouldn't they? I mean, they would -- they would agree
7 to take money from the well, but you're saying that they
8 actually -- because of their interest, the way their
9 interest was derived, they have to be in some sort of an
10 official pooling action; is that correct?

11 MS. BROGGI: Well, my understanding of that
12 is with some situations, we do have to come to the
13 Division and ask the Division to pool the overrides, but
14 in this situation, we have the ability from the
15 instruments that create the overrides to do that.

16 EXAMINER JONES: Okay.

17 MS. BROGGI: And then finally, we have
18 well-proposal letters with accompanying AFEs for each of
19 the four proposed wells in these two consolidated cases,
20 and you will find them at Exhibit A6, A7, A8 and A9.
21 And the landman testifies that the costs reflected in
22 the AFEs are consistent with what other operators are
23 charging in the area. And they're seeking approval of
24 overhead and administrative costs of \$7,500 a month
25 while drilling and 750 a month while producing, and OXY

1 respectfully requests that those costs be incorporated
2 into the order issued by the Division.

3 OXY was able to locate contact information
4 for all but one of the parties that it's seeking to
5 pool, and the one party that it wasn't able to locate
6 was Denise Louise McCoy. So we need to actually -- are
7 going to need to continue this case to perfect notice to
8 her through publication. But all of the other
9 uncommitted interests were provided notice of this
10 hearing.

11 I can move to admit this exhibit now or I
12 can go on to the geologist's affidavit and admit them --
13 move to admit them at the end of my presentation.

14 EXAMINER MURPHY: I'd appreciate it at the
15 end.

16 MS. BROGGI: Okay. So turning to the
17 geologist's affidavit, which you'll find at Exhibit B,
18 again the geologist here is Tony J. Troutman. And
19 you'll see at paragraph two of the affidavit that he has
20 previously testified before the Oil Conservation
21 Division, and his credentials as a petroleum geologist
22 have been accepted by the Division and made a matter of
23 record. So we would tender Mr. Troutman again as an
24 expert in petroleum geology.

25 EXAMINER MURPHY: So qualified.

1 MS. BROGGI: Thank you.

2 Exhibit B1 is a location map, and you'll
3 see the proposed wellbore for all four of the proposed
4 wells. The ones in the Bone Spring -- or the single
5 well in the Bone Spring is denoted in purple, and the
6 proposed wells in the Wolfcamp are in red.

7 Exhibit 2 is a subsea structure map that
8 was prepared off the top of the 3rd Bone Spring. And
9 Mr. Troutman testifies that the structure appears
10 consistent in this section, and he does not observe any
11 faulting, pinch-outs or other geologic hazards to
12 developing a horizontal well here.

13 Exhibit 3 is -- shows the three vertical
14 wells that were used to construct a cross section from A
15 to A prime in the stratigraphic cross -- cross section,
16 as well as three vertical wells depicted -- these ones
17 in pink that were used to construct a cross section from
18 B to B prime. And he testifies that he considers all
19 these wells to be representative of the geology in the
20 area.

21 Exhibit B4 is the stratigraphic cross
22 section prepared for the wells from A to A prime, and
23 the landing interval is denoted in purple. This is,
24 again, for the 3rd Bone Spring. And he testifies that
25 the target interval is consistent in thickness across

1 the entire spacing unit.

2 And then Exhibit B5 is a stratigraphic
3 cross section for the wells from B to B prime. Again,
4 the landing interval is denoted on that Exhibit B5, and
5 the geologist testifies that the target interval within
6 the 3rd Bone Spring is consistent in thickness across
7 the entire spacing unit. So that's for the Bone Spring
8 Formation.

9 Turning to the Wolfcamp Formation, Exhibit
10 B6 is a subsea structure map prepared off the top of the
11 Wolfcamp Formation, and the geologist testifies that the
12 structure appears consistent in the section and that he
13 does not observe any faulting, pinch-outs or geologic
14 hazards to developing a horizontal well.

15 And as with the Bone Spring Formation, at
16 Exhibit B7, the geologist has prepared an exhibit
17 showing the wells that were used to construct a cross
18 section from A to A prime and from B to B prime, and the
19 geologist testifies that he considers these wells to be
20 representative of the geology in the area.

21 And Exhibits B8 and B9 are the
22 stratigraphic cross sections, B8 for the representative
23 wells from A to A prime, and B9 for the representative
24 wells from B to B prime. And he testifies that he has
25 not identified any geologic impediments to drilling

1 horizontal wells in the area.

2 And finally, he offers his testimony that,
3 in his opinion, the granting of OXY's applications in
4 these two consolidated cases is in the best interest of
5 conservation, the prevention of waste and the protection
6 of correlative rights.

7 Exhibit C is an affidavit from myself with
8 the notice letters and proof of their mailing to all the
9 uncommitted interest owners that OXY is seeking to pool
10 in these consolidated cases. And finally, not that it's
11 much help to us in this case, but there is a Notice of
12 Publication that you'll find at Exhibit D. But as I
13 mentioned, we do need to republish again to provide
14 notice to that one uncommitted interest owner that we
15 weren't able to locate.

16 EXAMINER JONES: They're going to, I think,
17 come up with some rules about -- revising compulsory
18 pooling rules, and one of the proposals is to have some
19 sort of affidavit that happens before the hearings even
20 get set that notice is all complete and it's been
21 posted, because I know sometimes you don't know -- you
22 get kind of surprises. You probably know this stuff
23 happens. We've had some instructions before that we're
24 supposed to dismiss cases and have them reset if we
25 discover at a hearing something like this happens. But

1 then they said, Well, the examiner has some kind of
2 discretion if you think -- that you can allow a
3 continuance. Since we don't have a rule on that yet --
4 you know, yesterday we did that for four cases -- five
5 cases, and those were witnesses that came from -- and
6 they were unopposed and --

7 MS. BROGGI: If it makes any difference,
8 for this one particular uncommitted interest owner,
9 Louise -- Deborah Louise McCoy is her name, I think
10 there is very little chance that we're going to find
11 her. I mean, they really have made extensive efforts to
12 locate her. I spoke with the landman. They've spoken
13 to relatives of her. At one point they thought they had
14 found the correct address for her, but it turned out --
15 so to the extent the Division is worried a month from
16 now she may appear and contest it, I think there is very
17 little risk of that happening here. But, of course, we
18 do need to provide notice by publication.

19 EXAMINER JONES: And the safest way is to
20 have it set for another docket. That way if she does
21 show up or somebody else even can still show up --

22 EXAMINER DAVID: The notice doesn't make
23 any sense if it's not -- a continuance -- the case until
24 after the ten-day requirement for notice by mail --
25 notice by publication. So, you know, it doesn't make

1 any sense just to correct the publication without
2 actually having a -- the matter continued until a time
3 after the reasonable notice period. So --

4 MS. BROGGI: And we know we won't get to
5 the next docket, so what we're asking is it be continued
6 to the second docket in October.

7 EXAMINER DAVID: Yes. The 17th I think is
8 what we're talking about --

9 MS. BROGGI: Yeah. And we will provide
10 notice of publication that the hearing would be heard
11 then.

12 EXAMINER DAVID: Okay. That's all we can
13 do.

14 EXAMINER JONES: That's all we can do.

15 MS. BROGGI: Thank you.

16 EXAMINER JONES: You have to mark that
17 down.

18 EXAMINER MURPHY: I've got it down.

19 EXAMINER JONES: Here it is right here, so
20 basically for those two cases that you're working on
21 right now.

22 MS. BROGGI: Yes. Cases 20763 and 20764,
23 we ask be continued until October 17th just to perfect
24 notice.

25 EXAMINER JONES: Okay. This docket is a

1 nightmare. Okay. If everything is done with those,
2 we're going to continue those.

3 EXAMINER COSS: Did we admit the exhibits
4 as evidence?

5 MS. BROGGI: Sorry.

6 Before we continue, I would move for the
7 admission of Exhibits A through D into the record in
8 both cases.

9 EXAMINER MURPHY: Exhibits A through D in
10 20763 and 20764 are admitted.

11 (OXY USA, Inc. Exhibits A through D are
12 offered and admitted into evidence.)

13 MS. BROGGI: Thank you.

14 EXAMINER MURPHY: And it will be continued
15 to October --

16 EXAMINER JONES: So the examiner is
17 continuing it.

18 EXAMINER MURPHY: The examiner is
19 continuing it to --

20 EXAMINER DAVID: Before we -- just for the
21 sake of the record, since we're here on this case now,
22 so this first thing in Mr. Murphrey's affidavit, he
23 makes reference to identifying uncommitted interest
24 owners. Would you be able to certify that reasonable
25 efforts were made to -- I think you already have in the

1 case of Ms. McCoy that -- I don't think there is
2 anything in here. But reasonable efforts were made to
3 identify all the uncommitted interest owners.

4 MS. BROGGI: Yeah. I spoke with the
5 landman, so that's what he told me. And at paragraph
6 23, he does say that he undertook good-faith efforts to
7 reach agreement with the uncommitted interest owners.

8 It's also possible that the -- I mean, one
9 of the major uncommitted interest owners is EOG, and
10 they're working hard to get a deal with them. So it's
11 very possible that they'll reach an agreement with EOG,
12 and in the event they do, we'll let the Division know
13 that we no longer need to pool that party.

14 EXAMINER DAVID: Okay.

15 And then another issue, too, I guess just
16 for the sake of fairness, that we -- I think another
17 matter today that we asked counsel to provide -- or the
18 Applicant to provide -- I think in this case, too, I'm
19 looking at -- what is it -- Exhibit B -- A5, a list
20 of -- looks like these are all working interest holders.
21 So the overriding royalty holders aren't listed here; is
22 that correct.

23 MS. BROGGI: They're not listed because
24 we're not seeking to pool any overriding royalty
25 interest owners in these cases.

1 EXAMINER DAVID: Okay. Okay. That's fine
2 then.

3 Am I -- am I understanding -- your
4 testimony is that -- that -- that the notice letters
5 were sent to all identified interested parties with
6 perhaps -- except Ms. McCoy?

7 MS. BROGGI: Yes.

8 EXAMINER DAVID: All right. Thank you.

9 EXAMINER COSS: And your geologist can give
10 us a statement stating that drilling north to south is
11 the preferred direction in this zone of the basin based
12 on the stress orientation.

13 EXAMINER JONES: So we admitted it?

14 EXAMINER COSS: We admitted it.

15 EXAMINER JONES: Okay. We're continuing
16 those cases, 20763 and 20764, until the 17th of October.

17 MS. BROGGI: Thank you.

18 (Case Numbers 20763 and 20764 conclude,
19 1:39 p.m.)
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25 STATE OF NEW MEXICO

1 COUNTY OF BERNALILLO

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3 CERTIFICATE OF COURT REPORTER

4 I, MARY C. HANKINS, Certified Court
5 Reporter, New Mexico Certified Court Reporter No. 20,
6 and Registered Professional Reporter, do hereby certify
7 that I reported the foregoing proceedings in
8 stenographic shorthand and that the foregoing pages are
9 a true and correct transcript of those proceedings that
10 were reduced to printed form by me to the best of my
11 ability.

12 I FURTHER CERTIFY that the Reporter's
13 Record of the proceedings truly and accurately reflects
14 the exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither
16 employed by nor related to any of the parties or
17 attorneys in this case and that I have no interest in
18 the final disposition of this case.

19 DATED THIS 6th day of October 2019.

20

21

22 MARY C. HANKINS, CCR, RPR
23 Certified Court Reporter
24 New Mexico CCR No. 20
25 Date of CCR Expiration: 12/31/2019
Paul Baca Professional Court Reporters

24

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