

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING  
DISMISSALS AND CONTINUANCES

January 24, 2019

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER  
KATHLEEN MURPHY, TECHNICAL EXAMINER  
TERRY WARNELL, TECHNICAL EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner; Kathleen Murphy and Terry Warnell, Technical Examiners; and David K. Brooks, Legal Examiner, on Thursday, January 24, 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.

REPORTED BY: Mary C. Hankins, CCR, RPR  
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1 (8:58 a.m.)

2 EXAMINER McMILLAN: I'll be in charge of  
3 the docket now. Remember, we're not setting firm dates,  
4 and it really looks like the 21st is full if you're  
5 requesting continuances at this time.

6 Okay. Go ahead, Jim.

7 MR. BRUCE: Case Number 15 on the docket.

8 EXAMINER McMILLAN: 16496.

9 MR. BRUCE: Yes. Yes. Jordan has entered  
10 an appearance for EOG on that case, and --

11 EXAMINER McMILLAN: Get Jordan.

12 MS. BENNETT: I'll get her.

13 EXAMINER McMILLAN: Case 16496.

14 MS. KESSLER: Jordan Kessler on behalf of  
15 EOG.

16 MR. BRUCE: Mr. Examiner, that case is  
17 ready to go. It's been continued a couple of times.  
18 EOG wanted more time to decide what they wanted to do,  
19 and Mewbourne is willing to give it to them. So it  
20 should be continued to the next available continuance  
21 docket.

22 MS. KESSLER: We concur with that.

23 EXAMINER McMILLAN: Okay.

24 MS. KESSLER: Thank you.

25 EXAMINER McMILLAN: Next?

1 Do you have any more, Jim?

2 MR. BRUCE: No. The others -- you know, I  
3 emailed the other requests in.

4 EXAMINER McMILLAN: Okay.

5 Go ahead, Seth.

6 MR. McMILLAN: Mr. Examiner, Seth McMillan,  
7 Montgomery & Andrews, here on behalf of Tap Rock  
8 Operating. I'm looking at cases three and four, Tap  
9 Rock's application for the Nick Cage wells, and that is,  
10 in fact, a misspelling of Nick, I believe.

11 In any event, these cases -- we had  
12 requested by email -- meaning I had requested by email  
13 on the 16th of January that these be continued to the  
14 February 21st docket. I understand, based on prior  
15 discussions, that that ship may have sailed. I would  
16 nonetheless note for the record that I made that request  
17 earlier, and I request that these cases be continued by  
18 agreement between Tap Rock and Marathon, I believe, who  
19 had jumped in. And we'd like to continue and ask for  
20 the February 21st but whatever your pleasure is.

21 EXAMINER McMILLAN: Okay. Well, that's  
22 what I have in my notes, is the 21st of February.

23 MR. McMILLAN: Great. I'm not sure why  
24 we're on today's docket.

25 EXAMINER McMILLAN: We just put the cases

1 that were supposed to be on, and then we were also  
2 listing any continuances.

3 MR. McMILLAN: I see.

4 EXAMINER McMILLAN: So you're on the 21st  
5 docket.

6 MR. McMILLAN: Fantastic. Thank you.

7 MS. LEES: Zoe Lees, with the Modrall  
8 Sperling law firm, on behalf of Marathon.

9 I'm looking at cases 44 through 46. We had  
10 also requested via email a continuance of these cases.  
11 It's Case Numbers 20164, 20165 and 20163, and we had  
12 requested a continuance to the February 21st docket or  
13 the next available continuance docket.

14 EXAMINER McMILLAN: Yeah. I have these as  
15 on the 21st.

16 MS. LEES: Okay. Great.

17 I also have a few more cases. I am now  
18 switching roles.

19 EXAMINER McMILLAN: That's great.

20 MS. LEES: Zoe Lees on behalf of NGL. I'm  
21 looking at case numbers 49 through 54, and we requested  
22 a continuance for these cases to the next available  
23 docket.

24 EXAMINER McMILLAN: Yeah. I have these as  
25 the 21st.

1 MS. LEES: Great. Perfect. Thank you very  
2 much.

3 EXAMINER McMILLAN: Thank you.

4 MS. CALLAHAN: Candace Callahan.

5 And I just wanted to confirm that I  
6 received and we're on the docket for February 21st for  
7 case number five, Devon Energy, 20154. We had requested  
8 February 21st.

9 EXAMINER McMILLAN: This is the first time  
10 I've heard of this, so, therefore, it will be on the  
11 first available docket.

12 MS. CALLAHAN: All right. Well, I sent it  
13 yesterday, so --

14 EXAMINER McMILLAN: Well, it's the first  
15 available.

16 MS. CALLAHAN: Okay.

17 And then on items 30 and 31, Novo, we had  
18 previously requested -- I guess those have been  
19 scheduled or were scheduled for February 7th; is that  
20 right? They're related to Matador's Case 16231, which  
21 is item six.

22 EXAMINER McMILLAN: I have 30 cases -- 30  
23 and 31 continued to February 21st.

24 MS. CALLAHAN: Oh, to February 21st.

25 EXAMINER McMILLAN: Yeah.

1 MS. CALLAHAN: Okay. All right. Let's  
2 see. On the last page, five, Novo's Cases 16282 through  
3 16284, we have requested those be continued also. I'm  
4 not sure --

5 EXAMINER McMILLAN: I have these down as  
6 February 21st.

7 MS. CALLAHAN: On the 21st.

8 EXAMINER McMILLAN: Yes.

9 MS. CALLAHAN: Thank you.

10 EXAMINER McMILLAN: Is that it?

11 MS. CALLAHAN: That's it.

12 EXAMINER McMILLAN: Okay. All right.

13 MS. BENNETT: If I may just briefly, Deana  
14 Bennett on behalf of Marathon Oil Permian, LLC.

15 MR. McMILLAN: And Seth McMillan on behalf  
16 of Tap Rock Operating.

17 MS. BENNETT: While Mr. Warnell is in the  
18 room, we do have a special docket date set for January  
19 31st, and as Mr. Warnell knows from communications with  
20 Tap Rock and Marathon, there is a question about whether  
21 that hearing is going to go forward based on Tap Rock's  
22 recent communication to Mr. Warnell.

23 And as of yesterday afternoon, Tap Rock had  
24 emailed Marathon a series of questions seeking specific  
25 information, and it's my understanding that that

1 information is being sought to confirm the sufficiency  
2 of Tap Rock's title. And Tap Rock is going to use that  
3 information then to determine whether to continue with  
4 its applications or whether to dismiss those  
5 applications.

6           So if that is the current state of affairs,  
7 I think it would be reasonable for Marathon to agree to  
8 the continuance, or it would be at least a reason for  
9 Marathon to agree to the continuance. But I haven't had  
10 a chance to confirm that with Marathon as of yet. So as  
11 of right now, we don't have a continuance for the  
12 January 31st date, but I did want to report to the  
13 Division that we are in communications with Tap Rock and  
14 are assessing whether Marathon wants to agree to the  
15 continuance or wants to continue to move forward to the  
16 January 31st docket date, which is, as we know,  
17 previously agreed upon by Tap Rock and Marathon.

18           MR. McMILLAN: If I may respond? Yes.  
19 Ms. Bennett's recitation is accurate. Just yesterday we  
20 submitted a specific list of information inquiries to  
21 Marathon and asked that the information be provided so  
22 that Tap Rock can analyze its position and make a  
23 decision as to whether to continue on or to withdraw its  
24 application.

25           It's Tap Rock's request that the matter

1 be -- the matter -- the consolidated matters be  
2 continued a month so that this process can play out. We  
3 are waiting to hear whether Marathon will agree to that  
4 arrangement. I think we can get this sorted out today  
5 and let you know whether we agree to a continuance and  
6 formally make that request or whether Tap Rock's going  
7 to have to file a motion and if we're going to have to  
8 have a little tete-a-tete, a little hearing, on a motion  
9 for continuance. I think today -- I mean, there is a  
10 lot going on today, but I think we can get to a  
11 decision.

12 EXAMINER WARNELL: All right. I appreciate  
13 that. So it looks to me like January 31st is a no-go.

14 MS. BENNETT: I wouldn't want to give that  
15 impression because Marathon has not yet decided whether  
16 January 31st -- I mean, I guess if that signals your  
17 inclination to grant a motion from Tap Rock to continue,  
18 then yes, it would be a no-go. But from Marathon's  
19 perspective, Marathon is not ready to say one way or  
20 another whether it wants to continue the case. So I  
21 guess -- I don't see it as a preordained outcome, but  
22 perhaps, based on a motion that Mr. McMillan might make,  
23 it is. So I think that's where we are.

24 MR. McMILLAN: I'm happy to give that  
25 impression, that January 31st is a no-go for Tap Rock.



1     However, we wanted to be sure and give Marathon an  
2     opportunity to either join in a request for continuance  
3     or oppose the same. So that's where we are.

4                   EXAMINER WARNELL: All right. We'll work  
5     with you either way.

6                   MR. McMILLAN: Okay. We will inform you by  
7     close of business today where we stand?

8                   MS. BENNETT: Yes. Yes.

9                   EXAMINER WARNELL: Close of business day?  
10    Thank you.

11                   MR. McMILLAN: That sound okay?

12                   EXAMINER WARNELL: Yeah. That sounds good.  
13    Thank you.

14                   MS. CALLAHAN: Mr. Examiner, I do have two  
15    more. I just wanted to confirm that we previously --  
16    there was a previous request to continue these cases,  
17    and it's items 30 and 31 for Novo.

18                   EXAMINER McMILLAN: I have those as the  
19    21st.

20                   MS. CALLAHAN: Okay. Great. Thank you.

21                   (The proceedings of dismissals and  
22                   continuances concludes, 9:07 a.m.)

23                   (10:12 a.m.)

24                   EXAMINER McMILLAN: Is that it.

25                   EXAMINER WARNELL: Looks like it.

1 MS. KESSLER: That's all I have. Let me  
2 make sure that's all I have.

3 EXAMINER McMILLAN: Do you have anything?

4 MR. DeBRINE: Mr. Examiner, I don't know if  
5 this was addressed while I was gone. The McElvain case,  
6 16469, and the Cimarex case, 20102, are competing  
7 applications, and we sent in an email requesting that  
8 they be continued to the next docket in February, but we  
9 will be -- we talked to the acting Division Director and  
10 we'll be submitting a request for a special hearing date  
11 of February 14th for those two cases to be heard  
12 together.

13 EXAMINER McMILLAN: Can you -- can you tell  
14 me what number?

15 MR. DeBRINE: Yes. It's the McElvain case  
16 number 42 and Cimarex case number 47.

17 EXAMINER McMILLAN: Okay. 42. Because I  
18 have those continued to the 21st.

19 MR. DeBRINE: Right. We sent an email  
20 continuing those, but we will also be submitting a  
21 request for a special hearing date for the 13th for  
22 those combined cases.

23 MS. KESSLER: That's correct. And Mr. Wade  
24 requested we submit by email a joint request for those  
25 dates, which we will be doing shortly.

1 EXAMINER McMILLAN: Okay. Great.

2 MR. DeBRINE: Thank you.

3 EXAMINER McMILLAN: Well, looks like we're  
4 done.

5 (The proceedings concludes, 10:14 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

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

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

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

20 DATED THIS 8th day of February 2019.

21

22

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