

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

4
5 REPORTER'S TRANSCRIPT OF PROCEEDINGS
6 EXAMINER HEARING
7 PRE-HEARING TRANSCRIPT
8 CONTINUANCES, DISMISSALS AND SCHEDULING CONFERENCES

9 April 4, 2019

10 Santa Fe, New Mexico

11
12 BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
13 TERRY WARNELL, TECHNICAL EXAMINER
14 WILLIAM V. JONES, TECHNICAL EXAMINER
15 DAVID K. BROOKS, LEGAL EXAMINER

16
17 This matter came on for hearing before the
18 New Mexico Oil Conservation Division, Michael McMillan,
19 Chief Examiner; Terry Warnell and William V. Jones,
20 Technical Examiners; and David K. Brooks, Legal
21 Examiner, on Thursday, April 4, 2019, at the New Mexico
22 Energy, Minerals and Natural Resources Department,
23 Wendell Chino Building, 1220 South St. Francis Drive,
24 Porter Hall, Room 102, Santa Fe, New Mexico.

25
26 REPORTED BY: Mary C. Hankins, CCR, RPR
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1 (8:17 a.m.)

2 EXAMINER McMILLAN: Good morning. I'd like
3 to call this hearing to order. Today's date is April
4 the 4th, 2019. This is docket 12-19. My name is
5 Michael McMillan. I will be the hearing examiner. And
6 David Brooks will be here shortly.

7 EXAMINER JONES: Also, here is our new
8 director, Adrienne Sandoval.

9 EXAMINER McMILLAN: What I'd like to do now
10 is go through the dismissals and continuances.

11 Okay. On page 1, Case Number 20322 shall
12 be dismissed. Case Number 20323 shall be dismissed.
13 Case 20325 shall be continued. Case Number 20326 shall
14 be continued. Case Number 20330 shall be continued.
15 Case Number 20333 shall be dismissed. Case Number 20334
16 shall be dismissed. Case Number 20336 shall be
17 continued. Case Number 20337 shall be continued.

18 Turning to page 2, Case Number 20338 shall
19 be continued. Case Number 20339 shall be continued.
20 Case Number 20340 shall be continued. Case Number 20341
21 shall be continued. Case Number 20342 shall be
22 continued. Case Number 20343 shall be continued. Case
23 Number 20344 shall be continued. Case Number 20345
24 shall be continued. Case Number 20346 shall be
25 continued. Case Number 20347 shall be continued.

1 Turning to page 3, Number 52 on your
2 docket, Case Number 20227 shall be continued. Case
3 Number 20369 shall be continued. Case Number 203 --
4 excuse me -- 203 -- 20232 shall be continued. Case
5 Number 20371 shall be continued. Case Number 20373
6 shall be dismissed. Case Number 20374 shall be
7 continued. Case Number 20375 shall be continued.

8 Turning to page 4, Case Number 20385 shall
9 be continued. Case Number 20386 shall be continued.
10 Case Number 20387 shall be continued. Case Number 20388
11 shall be continued. Case Number 20389 shall be
12 continued. Case Number 20390 shall be continued. Case
13 Number 20391 shall be continued. Case Number 20392
14 shall be continued. Case Number 20393 shall be
15 continued. Case Number 20394 shall be continued.

16 Turning to page 5, Case Number 20399 shall
17 be continued. Case Number 20400 shall be continued.
18 Case Number 20401 shall be continued. Case Number 20402
19 shall be continued. Case Number 20403 shall be
20 continued. Case Number 20404 shall be continued. Case
21 Number 20312 shall be dismissed.

22 What did I miss?

23 EXAMINER WARNELL: On page 1, did you
24 mention 20328 and 329? I missed those.

25 EXAMINER McMILLAN: No. We've not

1 discussed the scheduling conferences yet.

2 EXAMINER WARNELL: Okay.

3 EXAMINER McMILLAN: Any others?

4 Okay. What I want to do now is talk about
5 the scheduling conferences. The first one I want to
6 talk about -- actually, I take that -- where's Jim?

7 EXAMINER WARNELL: Right here (indicating).
8 (Laughter.)

9 MR. BRUCE: Did I turn invisible?

10 EXAMINER McMILLAN: Yes.

11 Okay. I would like to discuss the
12 scheduling conferences for Cases 20328 and 20329,
13 Mewbourne Charolais wells and the other party involved.

14 EXAMINER JONES: Catena is Anchor.
15 And is Sharon here?

16 MS. SHAHEEN: I'm back here.

17 EXAMINER JONES: Sharon, what's the name of
18 the wells?

19 MS. SHAHEEN: The Anchor wells and the
20 Cable wells.

21 EXAMINER BROOKS: They quit drilling wells
22 with cable tools a long time ago.

23 EXAMINER JONES: We had a motion to --
24 Sharon, do you want to talk about your
25 motion?

1 (Recess, 8:22 a.m. to 9:20 a.m.)

2 (See separate record for emergency motion
3 to suspend drilling in Case Numbers 20298,
4 20328 and 20329.)

5 (9:21 a.m.)

6 EXAMINER McMILLAN: Okay. Next issue we're
7 going to talk about is the Mesquite SWD.

8 EXAMINER WARNELL: It's my understanding
9 that the cases associated with Mesquite SWD are Cases
10 20313 and 20314. And this is just a scheduling
11 conference here, so call for appearances.

12 MS. BENNETT: Good morning. Deana Bennett
13 on behalf of Mesquite SWD.

14 MR. BRUCE: Mr. Warnell, Jim Bruce
15 representing Kaiser-Francis Oil Company.

16 And we're not here to disrupt the hearing
17 or anything. We're just -- they're an interested oil
18 and gas lessee in the area, and they've come to terms
19 with Mesquite.

20 EXAMINER WARNELL: So you're not here to
21 object?

22 MR. BRUCE: We're not here to object.

23 EXAMINER JONES: We have another
24 appearance.

25 MR. BROOKS: David Brooks for OCD.

1 EXAMINER WARNELL: Ms. Bennett, could you
2 give me a best-guess estimate as to how much time you're
3 going to need for this hearing, your direct and cross?

4 MS. BENNETT: Well, I'd say a day. That's
5 my best guess. We've had some uncontested SWD hearings
6 that take the better part of the morning. And I will be
7 having four witnesses, and I understand that OCD will
8 also have a witness, and so I imagine that a day would
9 likely be sufficient.

10 EXAMINER WARNELL: So right now we're
11 looking at the May 2nd docket, I believe, which the
12 second day of that, of course, would be May 3rd.

13 MS. BENNETT: Well, what I would like to
14 propose, Mr. Warnell, if it's acceptable to the
15 Division, is the second day of the April 18th-19th
16 docket, so it would be April 19th. Mesquite has agreed
17 twice to continue this case at the Division's request,
18 and I have conferred with my witnesses and they're all
19 available on the 19th. So it would be our strong
20 preference to have the hearing that day. And I think
21 that's a reasonable request given that we've agreed to
22 continue this case twice at the Division's request.

23 EXAMINER JONES: Three specials within a
24 week and a half.

25 EXAMINER WARNELL: I don't think that's

1 going to happen, although -- I mean, that really
2 wouldn't be a special hearing. We've got a hearing
3 April 18th and the second day --

4 EXAMINER JONES: I'm not sure how the other
5 side feels about this.

6 MR. BROOKS: Well, I don't know how long we
7 need -- how long we need to prepare. Probably a week
8 would be sufficient. But we can't have a special
9 hearing -- full-day special hearing on the same day we
10 have another hearing set.

11 MS. BENNETT: Is there another hearing set
12 on the 19th at this point?

13 MR. BROOKS: I don't know.

14 EXAMINER WARNELL: I haven't seen the --

15 EXAMINER JONES: It's the 25th, 26th and
16 then the 30th.

17 EXAMINER WARNELL: But what's the 18th
18 docket looks like?

19 EXAMINER JONES: It's way over 100 cases,
20 and then there are -- but, you know, who knows? Mr.
21 Bruce usually continues some so --

22 MR. BRUCE: Lord, I try.

23 (Laughter.)

24 EXAMINER JONES: Hopefully, Holland & Hart
25 will come through with continuances, too, and Modrall.

1 MS. BENNETT: I continued four yesterday
2 already so --

3 MR. BROOKS: Well, the point of a special
4 setting is to get a date that it's not going to
5 interfere with other things and other things are not
6 going to interfere with it. So we would -- I don't
7 really -- it's not that I care what happens on the 19th.
8 I'll be here anyway. But I just like orderly
9 procedures.

10 MS. BENNETT: And, frankly, that's why I
11 proposed the 19th to my witnesses as a potential date
12 because it does follow a docket date, which I thought
13 would be more convenient for you-all and would be a good
14 way to wrap this up -- these two cases up because we
15 would all be here already. I haven't -- frankly, I
16 haven't asked for -- I asked for two sets of dates, all
17 of which were between now and April 19th. That's what I
18 asked our witnesses for, were dates next week and dates
19 April 18th and 19th. So I'm not prepared at this time
20 to say whether our witnesses would be available on May
21 2nd. We have four witnesses that we're coordinating,
22 and so I would have to go back to them.

23 If April 19th isn't workable, what I would
24 appreciate is two dates that I could propose to my
25 witnesses that are dates certain, that if we -- if I'm

1 able to get my witnesses to have availability either one
2 of those two dates, that we can be guaranteed that that
3 would be the date that we would have the hearing. What
4 I don't want to do is leave this without a date that I
5 can propose to my witnesses or leave with only a single
6 date and have to come back and try again if they're not
7 available.

8 EXAMINER WARNELL: Right.

9 MS. BENNETT: And the witnesses, as it
10 evident, are crucial to this hearing, and so their
11 availability is a factor that I have to consider.

12 MR. GOETZE: Examiner Warnell, may I speak?

13 EXAMINER WARNELL: You may.

14 MR. GOETZE: On behalf of the UIC program,
15 we currently have 175 applications outstanding. We have
16 56 cases in process. We have -- of those, 60 contested
17 cases. We are trying to do our best.

18 The location proposed for the two wells
19 have been set aside so other competing applications may
20 be processed there. And talking about the scale, this
21 is a large issue which will impact the program and has
22 been so directed by the director to go forth with a
23 proper case. And having seen that we have just gotten
24 done with appearances before the district -- or Court of
25 Appeals, as well as all the other hearings, that we

1 would like to do the 30-day window and, from there, find
2 a date applicable for all parties.

3 EXAMINER WARNELL: So you're saying the
4 19th won't work for you.

5 MR. GOETZE: I may be appearing in another
6 case on that day.

7 EXAMINER WARNELL: That pushes us into May.

8 EXAMINER JONES: (Indicating.)

9 EXAMINER WARNELL: We have an OCC hearing
10 on May 9th.

11 One of the unique things about May for our
12 docket is that we have three dockets in May. We have a
13 May 30th docket.

14 MS. BENNETT: What's the plan for the May
15 30th docket?

16 EXAMINER WARNELL: Well, we may just decide
17 on a plan right now.

18 EXAMINER JONES: It has been agreed that we
19 would not make that a new case docket.

20 MS. BENNETT: That's what I was mostly
21 wondering.

22 EXAMINER JONES: It would be a continuance
23 docket. Mr. Wade agreed.

24 MS. BENNETT: I would rather not wait until
25 May 30th. I know that my druthers are perhaps just

1 that, but if it's possible to have something before
2 that -- just looking at my calendar, that's a month and
3 a half, almost two months from now.

4 I understand Mr. Goetze's point that this
5 does need to be a thoughtful process given the
6 ramifications and the issues that will be at play in the
7 Mesquite case and the broad scope of those issues. So I
8 can understand and appreciate his desire to not rush the
9 process, but I also don't want it to linger and neither
10 does my client.

11 EXAMINER WARNELL: I don't think the OCD
12 wants it to linger either.

13 MR. GOETZE: No. We don't want it to
14 linger, but then we'd have to do just the case and
15 nothing else, and that impacts the overall program,
16 including pending cases which have been taken under
17 advisement.

18 MS. BENNETT: Well, what about May 17th?
19 That's the day after the May 16th docket?

20 EXAMINER WARNELL: Yeah, the 16th docket.

21 MS. BENNETT: Do you happen to have the
22 note from when we set the Homework, Larry and Duda
23 Bides?

24 MR. FELDEWERT: That's the 17th.

25 MS. BENNETT: Okay. It's the 17th.

1 EXAMINER WARNELL: So that's out.

2 EXAMINER JONES: Is that out, depending how
3 long that would take?

4 MR. BRUCE: Whatever date they decide on is
5 okay with me.

6 (Mr. Bruce exits the room.)

7 EXAMINER JONES: Have a good trip.

8 MR. BRUCE: I'm still here.

9 MS. BENNETT: The Homework, Larry cases,
10 there are four of those. And Duda Bides, there's one.
11 And there are probably six or five of Jim's cases. So I
12 don't know that we'd be able to do both that day.

13 EXAMINER WARNELL: Sometime between the
14 17th and the 30th.

15 EXAMINER JONES: Okay.

16 MS. BENNETT: What about -- any time the
17 week of the 20th?

18 EXAMINER JONES: Marlene, do you have the
19 calendar?

20 EXAMINER WARNELL: What's the Thursday?

21 MS. BENNETT: Thursday is the 23rd.

22 EXAMINER WARNELL: 23rd?

23 MS. BENNETT: Uh-huh.

24 EXAMINER WARNELL: May 23rd.

25 MS. BENNETT: And can I have the 23rd and

1 the 24th or the 22nd and the 23rd just so I have two
2 dates to propose to my witnesses? I'm just really --
3 I'm trying to avoid having to come back and ask for a
4 different date.

5 EXAMINER JONES: Okay. We just have to
6 clear it because Florene mentioned there is one thing
7 happening here in Porter Hall that can't be changed, but
8 I don't remember the dates. So just like most of these
9 cases, we would have to let you know in the next day or
10 so about the continuance to which date, if you're
11 agreeable, Mr. Warnell.

12 EXAMINER WARNELL: Yeah. So let's say
13 Tuesday, the 21st, and Thursday, the 23rd?

14 EXAMINER JONES: Can you do Tuesday?

15 MR. GOETZE: Not for me. I have an
16 obligation on the 21st. But the 22nd through the 24th,
17 we're available, or the Monday.

18 MS. BENNETT: Or Monday, the 20th? Any day
19 but the 21st?

20 MR. GOETZE: Correct.

21 MS. BENNETT: Okay. What I would propose
22 then is that I take these dates back to my client and
23 the witnesses and see what days they're available and
24 get a couple of days so that if Porter Hall is taken one
25 of those two days, we have an alternative date without

1 having to reconvene.

2 MR. GOETZE: Uh-huh.

3 EXAMINER WARNELL: And those dates are?

4 MS. BENNETT: The 20th and the 22nd through
5 the 24th. That gives me four days to work with, and
6 those are dates that Mr. Goetze is available and that
7 I'm hopeful you-all are available for it as well. But
8 if not, Mr. Goetze and I can work it out.

9 (Laughter.)

10 EXAMINER WARNELL: David, how many
11 witnesses are you going to have?

12 MR. BROOKS: One.

13 EXAMINER WARNELL: Possibly two?

14 MR. BROOKS: I didn't know we had but one.

15 MR. GOETZE: Yeah. They might change your
16 mind.

17 MR. BROOKS: Do it quickly.

18 MR. GOETZE: We try.

19 EXAMINER JONES: So it sounds like
20 interimly we could continue these two cases to a docket
21 before then and then -- and then you could bump it --
22 bump them. Because we're only talking about two cases,
23 and we've just got to decide what's going to happen on
24 this docket.

25 MS. BENNETT: That's right. So if we want

1 to continue them to May 16th, because it sounds like
2 there is no availability between now and May 16th.

3 EXAMINER WARNELL: Yeah.

4 EXAMINER JONES: Sounds good. And then you
5 can talk and --

6 EXAMINER WARNELL: Do we have written
7 prehearing statements?

8 MS. BENNETT: Yes, in fact, we do. Both
9 Mr. Goetze -- I'm sorry -- Mr. Brooks and I had filed
10 prehearing statements.

11 MR. BROOKS: You were right the first time.

12 MS. BENNETT: But I imagine -- my
13 prehearing statements and Mr. Brooks' prehearing
14 statements covered three cases, and we have since
15 dismissed one, and so we may need to amend those. But
16 when the cases were originally set for hearing, we did
17 file prehearing statements.

18 EXAMINER WARNELL: Good.

19 MS. BENNETT: And my witness list has not
20 changed from that prehearing statement that I filed.

21 EXAMINER WARNELL: All right. So Cases
22 20313 and 20314 will be continued to May 16th.

23 MR. GOETZE: Thank you.

24 EXAMINER JONES: We'll take a quick break
25 and get started on the regular docket.

1 (The prehearing record, continuances,
2 dismissals and scheduling conferences,
3 concludes, 9:35 a.m.)

4 (Recess, 9:35 a.m. to 9:52 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
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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 24th day of April 2019.

21

22

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