

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 CIMAREX ENERGY COMPANY      CASE NO. 20590  
FOR COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 22, 2019

Santa Fe, New Mexico

BEFORE:   MICHAEL McMILLAN, CHIEF EXAMINER  
          KATHLEEN MURPHY, TECHNICAL EXAMINER  
          DYLAN ROSE-COSS, TECHNICAL EXAMINER  
          SUSAN SITA, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner; Kathleen Murphy and Dylan Rose-Coss, Technical Examiners; and Susan Sita, Legal Examiner, on Thursday, August 22, 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  
                  New Mexico CCR #20  
                  Paul Baca Professional Court Reporters  
                  500 4th Street, Northwest, Suite 105  
                  Albuquerque, New Mexico 87102  
                  (505) 843-9241

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# APPEARANCES

FOR APPLICANT CIMAREX ENERGY COMPANY:

LANCE D. HOUGH, ESQ.  
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.  
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FOR INTERESTED PARTY OXY USA, INC.:

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# EXHIBITS OFFERED AND ADMITTED

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1 (2:30 p.m.)

2 EXAMINER McMILLAN: Let's call Case Number  
3 20590, application of Cimarex Energy Company.

4 MR. HOUGH: Lance Hough on behalf of  
5 Cimarex Energy Company.

6 EXAMINER McMILLAN: Any other appearances?

7 MR. FELDEWERT: Michael Feldewert, from the  
8 Santa Fe office of Holland & Hart, appearing on behalf  
9 of OXY USA, Inc.

10 And we do not object to this case moving  
11 forward by affidavit.

12 MR. HOUGH: Okay. Just a refresher, this  
13 case was continued for notice purposes only from the  
14 July 11th docket. We previously presented the substance  
15 of this -- of the case, and during that, one item was my  
16 affidavit, Exhibit C, to that packet. It's been  
17 admitted as a matter of record. And there I just  
18 provided that we had previously sent notice out to all  
19 interested parties and then published in a newspaper of  
20 general circulation down there in Eddy County. And so  
21 requested it be left open for notice purposes because  
22 there was one potential overriding royalty interest  
23 located shortly before the hearing.

24 And so what I've provided here, my  
25 affidavit that I've passed out today, is simply what

1 I've just explained that was previously presented on the  
 2 11th and requested to be open for notice. And we have  
 3 provided a notice and then a copy of the application via  
 4 certified mail to the additional interest owner's last  
 5 known address, which was determined by a diligent search  
 6 of public records, and that we provided legal  
 7 advertisement published in the Carlsbad Argus down there  
 8 for this hearing. So then attached to this affidavit is  
 9 the -- the actual proof of mailing and then the  
 10 Affidavit of Publication.

11 So I'd just ask that these be admitted as  
 12 the -- into the record and ask that the case be taken  
 13 under advisement, unless there are any questions.

14 EXAMINER McMILLAN: And this has been  
 15 accepted as part of the record?

16 MR. HOUGH: Not this but my prior  
 17 affidavit. So I would say Exhibit C was previously  
 18 admitted, and this is a new affidavit showing that we've  
 19 produced the notice of publication.

20 EXAMINER McMILLAN: So this is new.

21 Any objections?

22 MR. FELDEWERT: No objection.

23 EXAMINER McMILLAN: It's nine days?

24 EXAMINER COSS: From 8/9?

25 EXAMINER McMILLAN: Is it nine or ten?

1                   MR. HOUGH:  What are you looking at?  The  
2   date of publication?

3                   EXAMINER McMILLAN:  Yeah.  Let's make sure.

4                   MR. HOUGH:  Should be ten.

5                   EXAMINER McMILLAN:  Well, let's make sure.

6                   MR. HOUGH:  All right.  Let's do that.

7                   EXAMINER McMILLAN:  "The applicant shall  
8   send notice" -- "if an applicant has been unable to  
9   locate persons entitled to notice after exercising due  
10  diligence, the applicant shall provide a notice by  
11  publication and submit proof of publication."  It says,  
12  "Such proof shall consist of a legal advertisement that  
13  was published at least ten business days before the  
14  hearing in a newspaper of general circulation."

15                  EXAMINER COSS:  Ten days from if you count  
16  the day it was issued.

17                  EXAMINER McMILLAN:  Ten business days?

18                  EXAMINER COSS:  Ten business days, yes.

19                  EXAMINER McMILLAN:  Then it's fine.

20                  MR. HOUGH:  With that, I would ask that be  
21  admitted into the record, and I can take any further  
22  questions or ask it be taken under advisement.

23                  EXAMINER McMILLAN:  Mike, take it under  
24  advisement?

25                  MR. FELDEWERT:  No objection.

1 EXAMINER McMILLAN: Okay. Case Number  
2 20590 shall be taken under advisement.

3 Okay. We're going to take a ten-minute  
4 break.

5 (Recess, 2:35 p.m. to 2:44 p.m.)

6 EXAMINER McMILLAN: I'd like to call this  
7 hearing back to order.

8 I'd like to call Case Number 20590.

9 MR. HOUGH: Lance Hough on behalf of  
10 Cimarex. I'd just want to make one clarification, that  
11 we admit what is labeled Exhibit D into the record.

12 EXAMINER McMILLAN: Okay. And can you  
13 actually get a better quality of the Affidavit of  
14 Publication? The right-hand portion is kind of cut off.

15 MR. HOUGH: Chopped off? Okay. I will  
16 supplement that, and I'll send it to the email.

17 EXAMINER McMILLAN: Any objections?

18 MR. FELDEWERT: No objections.

19 EXAMINER McMILLAN: Okay. It's admitted as  
20 part of the record.

21 Case Number 20590 is taken under  
22 advisement.

23 (Cimarex Energy Company Exhibit D is  
24 offered and admitted into evidence.)

25 (Case Number 20590 concludes, 2:45 p.m.)

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO  
3

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 13th day of September 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  
Paul Baca Professional Court Reporters