

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:

Case No. 22171-22172

Application of for Compulsory Pooling and

Eddy County, New Mexico

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, OCTOBER 7, 2021

SANTA FE, NEW MEXICO

This matter came on for hearing before the
New Mexico Oil Conservation Division, William
Brancard, Esq. Hearing Examiner, Dylan Rose-Coss,
Technical Examiner, on Thursday, October 7, 2021,
via Webex Virtual Conferencing Platform hosted
by the New Mexico Department of Energy, Minerals and
Natural Resources

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Reported by: Mary Therese Macfarlane.
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A P P E A R A N C E S

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C O N T E N T S

Cases 22171, 22172	PAGE
CASES CALLED:	3
BRIEFING SCHEDULE DETERMINED:	9
CASES CONTINUED TO NOVEMBER 4, 2021:	10

1 (Time noted 8:40 a.m.)

2 EXAMINER BRANCARD: All right. Now we get to
3 the interesting part of the docket here. I'm going to
4 call Cases 16 and 17, 22171 and 22172, Alpha Energy
5 Partners.

6 MS. HARDY Good morning, Mr. Examiner. Dana
7 Hardy and Michael Rodriguez on behalf of Alpha Energy
8 Partners, and our plan was for Mr. Rodriguez to address
9 Case 22171 and for me to address the status conference in
10 Case 22172.

11 EXAMINER BRANCARD: Well, we're going to start
12 out talking about both of these cases together. Okay?

13 MS. HARDY: That's fine.

14 EXAMINER BRANCARD: Thank you.

15 MRC Permian.

16 MR. FELDEWERT: May it please the Examiner,
17 Michael Feldewert with the Santa Fe office of Holland &
18 Hart on behalf of MRC Permian.

19 EXAMINER BRANCARD: The City of Carlsbad.

20 MS. BENNETT: Good morning, Mr. Examiner. Deana
21 Bennett, Modrall Sperling, on behalf of the City of
22 Carlsbad.

23 EXAMINER BRANCARD: Okay. And Realeza Del
24 Spear. I'm sure I mangled that.

25 MR. MORGAN: We all mangle it. It's perfect.

1 Good morning, Mr. Examiner. Scott Morgan
2 with Cavin & Ingram on behalf of Realeza Del Spear.

3 EXAMINER BRANCARD: All right. So you're
4 proposing today, Ms. Hardy, to go forward on the hearing
5 on 22171 and then because of the concerns of Realeza Del
6 Spear set some future date for 22172; is that correct?

7 MS. HARDY: That's correct.

8 EXAMINER BRANCARD: So, Ms. Hardy, let me ask
9 you a question. I don't really mean to embarrass you
10 here, but have you looked at a map where these wells are?

11 MS. HARDY: Yes, we have, Mr. Examiner.

12 EXAMINER BRANCARD: Do you realize they are
13 right next to the Carlsbad Brine Well Cavity?

14 MS. HARDY: We do. And I think that Alpha would
15 be amenable to including language in a Pooling Order
16 that's similar to what's being discussed in the SPC
17 Resources case that Alpha has also entered an appearance
18 in.

19 EXAMINER BRANCARD: Okay. I'm a little
20 concerned that the Division has not entered an appearance
21 in this case. I know they're thinking about it. So I'd
22 like to hear from them at some point.

23 But let's just go backwards here and start
24 from the rear end. What were you considering doing with
25 22172?

1 MS. HARDY: With 22172 the only party opposing
2 is Realeza Del Spear, and they have only raised one issue,
3 and that's good faith negotiation. The Prehearing
4 Statement claims that they have received insufficient
5 offers, from their perspective, and they have attempted to
6 raise a constitutional taking issue, which I think is not
7 valid under the law. So those are the only issues.

8 Alpha has lease expirations in these cases
9 coming up in December, so it's a relatively urgent
10 situation and we would like to have a decision as soon as
11 possible, so we would ask for a hearing to be set on this
12 one issue, and I think it would be a short hearing, as
13 quickly as possible.

14 EXAMINER BRANCARD: I'm sorry, you want a
15 hearing on Realeza Del Spear's concerns?

16 MS. HARDY: Well, I mean we would prefer to go
17 forward by affidavit, but since they objected by their
18 prehearing statement, I think leaves us with a hearing.

19 EXAMINER BRANCARD: Sounds like they just want
20 more money from you.

21 MS. HARDY: I think that's what they want,
22 Mr. Examiner, exactly.

23 MR. MORGAN: I will concur with Ms. Hardy on
24 that.

25 EXAMINER BRANCARD: Okay.

1 Let me just throw this quickly to Mr.
2 Feldewert, we can add the discussion to.

3 MR. FELDEWERT: Ours is fairly simple, and I
4 think if Ms. Hardy can confirm -- as I read their
5 exhibits, MRC Permian has been removed as a pooled party.
6 If that is the case, our issue is resolved.

7 MS. HARDY: That's correct.

8 EXAMINER BRANCARD: That's good. Yeah, there
9 you go.

10 MR. FELDEWERT: So I will turn off my video.

11 EXAMINER BRANCARD: Ms. Bennett, the City of
12 Carlsbad. What's your interest?

13 MS. BENNETT: The City of Carlsbad is currently
14 an unleased mineral interest owner, and is -- my
15 understanding is that the City is working with Alpha
16 Energy Partners, but at this point I don't have any
17 information on whether a lease has been agreed to. But
18 the City also is not objecting to either Case 22172 or
19 22171 going forward subject to further negotiations
20 between Alpha Energy and the City, and if those
21 negotiations prove fruitful then the City would be removed
22 from the pooled parties.

23 EXAMINER BRANCARD: Okay. All right. Here's
24 what we are going to do.

25 We are going to move these cases to the

1 November 4th docket. I know Marlene is going to scream
2 because the November 4th docket is jammed right now. But,
3 Ms. Hardy, you have indicated that there is a lease issue
4 here for your client?

5 MS. HARDY: That's correct.

6 EXAMINER BRANCARD: So I think I want to hear
7 from the Division by then. You can be prepared to go
8 ahead with the hearing, I think on at least one case. I
9 think your offer of trying to resolve this in a similar
10 way as 22102 is a good start here, but we haven't resolved
11 22102 yet, either. I'm still waiting Mr. Feldewert, for
12 Mr. Rankin's response in that case.

13 And so hopefully between now and then we
14 will have an Order issued in that case that will hopefully
15 set a precedent that possibly we could follow in 22171.

16 Am I making sense here?

17 MR. FELDEWERT: Were you talking about the Santa
18 Petroleum case?

19 EXAMINER BRANCARD: I'm -- 22102, the SPC.

20 MR. FELDEWERT: Yes, I think you will see a --
21 we will be in a position, hopefully, to enter an Order
22 here fairly soon.

23 EXAMINER BRANCARD: Thank you.

24 So that's what I want to do with that.

25 As for 22172, obviously the parties are

1 free to continue to negotiate on that issue with Realeza
2 Del Spear, but I think what you're hoping for, Ms. Hardy,
3 is to resolve the issue one way or the other. Is that
4 correct?

5 MS. HARDY: That's correct, Mr. Examiner.

6 EXAMINER BRANCARD: All right. So do you want
7 to file something, a brief or something in that matter?

8 MS. HARDY: We can certainly do that.

9 EXAMINER BRANCARD: Mr. Morgan?

10 MR. MORGAN: We can absolutely do that.

11 EXAMINER BRANCARD: Okay. So as I read the
12 record, and I'm not very good at reading the record but,
13 Mr. Morgan, you have raised this issue in your Prehearing
14 Statement but you may want to flesh it out a little more.
15 Would that be fair?

16 MR. MORGAN: Absolutely, yeah.

17 EXAMINER BRANCARD: How long might you take to
18 be able to do that in a brief brief?

19 MR. MORGAN: I think we probably could have
20 those prepared in just a couple of weeks.

21 EXAMINER BRANCARD: All right. So why don't we
22 give Realeza Del Spear two weeks to prepare a brief on its
23 issue.

24 And how much time do you need to respond,
25 Ms. Hardy?

1 MR. HARDY: Mr. Examiner, I think that two weeks
2 would be sufficient.

3 EXAMINER BRANCARD: Okay. So on Case 22172
4 Realeza Del Spear will lay out its issues in a pleading
5 due two weeks from today, and then Alpha Energy Partners
6 will respond two weeks following. Okay. And then we will
7 set it on a docket for either further discussions or a
8 decision at that point.

9 We will go separately, then, for
10 November 4th for 22171 and see if we can resolve that case
11 on that docket.

12 Am I being clear?

13 MS. HARDY: Yes. Thank you, Mr. Examiner.

14 MR. MORGAN: Thank you, Mr. Examiner.

15 EXAMINER BRANCARD: Mr. Feldewert? Oh, you're
16 already out of the case. You're fine.

17 Ms. Bennett.

18 MS. BENNETT: That's fine with the City of
19 Carlsbad. Thank you.

20 EXAMINER BRANCARD: Okay. So just to recap,
21 22171 is set for November 4th and then 22172 we have a
22 briefing schedule, and we will set that for a future
23 docket to resolve that.

24 MS. HARDY Mr. Examiner, on 22172, since we have
25 this lease expiration issue, can we have that case also

1 set on November 4?

2 EXAMINER BRANCARD: I don't know that your
3 response will be in by then?

4 MS. HARDY: I think we can get our response in
5 earlier.

6 EXAMINER BRANCARD: Okay. You have this issue
7 with both tracts?

8 MS. HARDY I believe that's correct, yes.

9 EXAMINER BRANCARD: All right. We'll put them
10 both on the docket, then, for November 4th and see what we
11 can resolve.

12 MS. HARDY: Okay. Thank you.

13 EXAMINER BRANCARD: If not, you, can just
14 declare force majeure.

15 MS. HARDY: Okay. Thank you.

16 EXAMINER BRANCARD: So Cases 22171 and 22172 are
17 set for November 4th.

18 MS. HARDY: Thank you, Mr. Examiner.

19 MR. MORGAN: Thank you, Mr. Examiner.

20 (Time noted 8:51 a.m.)

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1 STATE OF NEW MEXICO)

2 : ss

3 COUNTY OF TAOS)

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5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday,
8 October 7, 2021, the proceedings in the above-captioned
9 matter were taken before me; that I did report in
10 stenographic shorthand the proceedings set forth herein,
11 and the foregoing pages are a true and correct
12 transcription to the best of my ability and control.

13 I FURTHER CERTIFY that I am neither employed by
14 nor related to nor contracted with (unless excepted by the
15 rules) any of the parties or attorneys in this case, and
16 that I have no interest whatsoever in the final
17 disposition of this case in any court.

18

/s/ Mary MacFarlane

19

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