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A P P E A R A N C E S

For COG Operating, WPX Permian and  
Matador Production Co.:

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Examiner:

Bill Brancard

Technical Examiner:

Dean McClure

1           EXAMINER BRANCARD: We have one unlisted item on  
2 the agenda here, which are cases -- let me get the numbers  
3 right here, 22191 and 22192. This is a motion to reopen  
4 that has been filed in this case. So I would like to hear  
5 that. And the parties have requested that we hear this  
6 immediately, and so we will oblige since we have plenty of  
7 time here. Let me first check with the court reporter.

8           Ms. Roybal, are you doing okay?

9           COURT REPORTER: I'm fine. We can continue.  
10 Thank you.

11           EXAMINER BRANCARD: Thank you.

12           So let's go to cases 22191 and 22192, entries of  
13 appearance, Mewbourne.

14           MR. BRUCE: Mr. Examiner, Jim Bruce representing  
15 Mewbourne Oil Company.

16           EXAMINER BRANCARD: Thank you.

17           And I believe the motion was filed by Matador  
18 Production Company.

19           MS. LUCK: That's correct.

20           Good morning, Mr. Examiner. Kaitlyn Luck with the  
21 Santa Fe office of Holland & Hart on behalf of Matador  
22 Production Company.

23           EXAMINER BRANCARD: Are there any other interested  
24 persons in cases 22191 and 22192?

25           Hearing none. So we have a motion to reopen the

1 cases. These cases were heard by affidavit and now Matador  
2 has filed a motion claiming that they have competing pooling  
3 cases 22257 and 22258.

4 And then Mewbourne filed a motion to strike entry of  
5 appearance and to deny motion to reopen.

6 I -- I will -- since we're here, I will just give  
7 you a very short time, Ms. Luck, to summarize your motion

8 MS. LUCK: Thank you.

9 These cases, the four case numbers that you just  
10 mentioned involve competing pooling applications for the  
11 Bone Spring acreage underlying the south half of Sections 11  
12 and 12. This is all in Township 24 South Range 28 East in  
13 Eddy County, New Mexico. Mewbourne, as you know, filed this  
14 application for the October 5th hearing, but Matador's well  
15 proposal letters had gone out back in April, and Mewbourne  
16 was on notice that Matador had competing proposals for the  
17 subject acreage and that Matador intended to file for  
18 pooling as well. And so when Matador filed its pooling  
19 applications it noted in the applications that it was  
20 seeking a contested hearing with the Mewbourne applications.

21 Unfortunately, our office just inadvertently missed  
22 our entry of appearance in the Mewbourne applications which  
23 were set on the October 5th docket, and so they went forward  
24 by affidavit without Matador entering an objection against  
25 them even though Mewbourne knew that Matador was opposed to

1 the applications and had these competing proposals out  
2 there. So because there wouldn't be any prejudice to  
3 Mewbourne given the fact that there was sufficient notice  
4 prior to this hearing, that there was the competing  
5 proposals and that the competing applications were on file  
6 with the Division, we would just ask that Mewbourne's cases  
7 be reopened so that the Division can properly consider who  
8 was the appropriate operator of these Bone Spring spacing  
9 units. And it is in the interest of conservation,  
10 prevention of waste and the protection of rights for the  
11 Division to consider which operator, whether that be  
12 Mewbourne or Matador would be the correct operator for the  
13 for spacing units. So with that, I would just ask that the  
14 Division reopen the Mewbourne cases and consider them  
15 together with Matador's competing applications.

16 EXAMINER BRANCARD: Sorry, I was muted. Thank  
17 you.

18 Mr. Bruce.

19 MR. BRUCE: Yes, Mr. Examiner, two things: The  
20 first item as put in my very short, simply these cases  
21 were -- proper notice was given of these cases, the cases  
22 were heard and taken under advisement, and the entry of  
23 appearance was not filed until about five days after the  
24 hearing. I think under Commission Order, our 14097A,  
25 Matador is not party of record and cannot file a motion to

1 reopen the cases. That's -- that's my basic argument. I  
2 wish, when I filed my motion, I would have attached a land  
3 plat. Just very briefly, in these cases -- now, Mewbourne's  
4 cases involve the south half of Sections 11 and 12;  
5 Matador's involve the south half of Sections 10 and 11.  
6 Now, they are both seeking to force pool two-mile Bone  
7 Spring wells, but because of development activity around  
8 this area, if Matador gets its wish for Sections 10 and 11,  
9 Mewbourne only has the ability to drill one-mile Bone Spring  
10 laterals in the south half of Section 12; whereas Matador  
11 has the ability to go west from Section 10 into Section 9.  
12 So there's both a legal and a factual reason why these  
13 matters should not be reopened. Thank you.

14 MS. LUCK: If I may respond briefly to the  
15 argument related to Commission Order R14097A.

16 EXAMINER BRANCARD: That's okay, I think we're  
17 done here.

18 So I appreciate Mr. Bruce bringing up 14097A since I  
19 drafted it for the Commission and was quite proud of it.  
20 But today's Commission has taken a different tact on the  
21 issue of party and competing applications. So do you go to  
22 R21679, a more recent order by the Commission? It  
23 effectively reverses that prior order, even though it  
24 doesn't mention the prior order and takes a more liberal  
25 view of what a party is in a proceeding.

1           And of course we have case R -- Order R21454 in the  
2 Ascent Apache case where the Commission took the position  
3 that, quote, potentially competing applications should be  
4 heard by the Division prior to the Commission hearing the  
5 applications. So in other words, they want us to hear  
6 competing applications before they have to hear them.

7           So with that, I'm going to have to, based on  
8 Commission policy, grant the motion to reopen the record in  
9 this case. The case was not closed; the record was closed,  
10 but we're going to reopen the case and so we need to set a  
11 time for a competing compulsory pooling hearing in this  
12 matter.

13           I will say, also based on comments by the Commission  
14 in the Ascent Apache case that I just mentioned, Mr. Bruce,  
15 we will adopt the record. You know, the record is already  
16 there, which your client has presented on their matter, so  
17 they don't need to redo their presentations. But to the  
18 extent they think necessary it will be helpful in comparing  
19 to the existing other applications, they are free to  
20 introduce whatever evidence they'd like.

21           MR. BRUCE: Thank you, Mr. Examiner. I'm sure I  
22 mentioned this plat, which I didn't include, there are  
23 certain things in this plat that would shine a light on the  
24 differences between the two parties' development plans.

25           EXAMINER BRANCARD: I'm sure that would be quite

1 helpful for us.

2 So with that, let's pick a date for a competing  
3 hearing in this case. As I said, we're a bit booked up but  
4 maybe January 6th.

5 MS. LUCK: I just need check with Matador about  
6 their availability. I can do that and circle back in an  
7 email with Jim and you included, Bill.

8 EXAMINER BRANCARD: Sure. But let me check with  
9 Mr. Bruce.

10 MR. BRUCE: Yeah, I was hoping for something  
11 earlier simply because we've heard these rigs are on a  
12 drilling schedule in mid-December, I believe.

13 EXAMINER BRANCARD: Well, December 2nd is  
14 possible.

15 MR. BRUCE: That's what I would prefer, because  
16 I -- like you said, we already have submitted our record, we  
17 only need to spend, I think, a brief amount of time  
18 responding to Matador.

19 EXAMINER BRANCARD: Ms. Luck, have you had a  
20 chance to have any feedback from your client, or do you  
21 think you can get back to us?

22 MS. LUCK: Sorry, I just don't know if they are  
23 available on December 2nd, or I don't know if they are  
24 available on that date, so I would need to check with them,  
25 if you don't mind.

1           EXAMINER BRANCARD: All right. So let's  
2 tentatively set the hearing for December 2nd with a backup  
3 of January 6th.

4           Ms. Luck, check with your clients on their  
5 availability and then we can move forward with this case.

6           MS. LUCK: Thank you. Thank you, I appreciate it.

7           MR. BRUCE: Thank you, Mr. Examiner.

8           EXAMINER BRANCARD: With that, the record in cases  
9 22191 and 22192 will be reopened and we will be set for a  
10 competing compulsory pooling application -- what was the  
11 case numbers against, Ms. Luck?

12          MR. BRUCE: 22257 and 22258.

13          EXAMINER BRANCARD: 22257 and 22258 will be added  
14 and I will issue a pre-hearing order as soon as I hear back  
15 from Ms. Luck.

16          MR. BRUCE: Thanks.

17          MS. LUCK: Thank you.

18          MR. BRUCE: That was kind a record time for 40  
19 cases, Mr. Examiner.

20          EXAMINER BRANCARD: Well, we started with 117 on  
21 the docket to start. We were a little worried there. You  
22 know, next hearing is over 120 cases on the docket, so we'll  
23 see how many we end up with on that one.

24          MR. BRUCE: Yeah. Well, fortunately, for better  
25 or for worse, a lot of these get continued other dismissed,

1 so...

2 EXAMINER BRANCARD: All right. Well, any other  
3 comments for the benefit of the greater good here?

4 Hearing none, I believe today's OCD hearings are done  
5 with. Thank you all.

6 (Hearing adjourned at 9:45 a.m.)

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1 STATE OF NEW MEXICO )  
2 ) SS  
3 COUNTY OF BERNALILLO )  
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5 REPORTER'S CERTIFICATE  
6

7 I, CHRISTINE J. ROYBAL, New Mexico Reporter  
8 No. CCR-50, DO HEREBY CERTIFY that on Thursday, October 21,  
9 2021, the proceedings in the above-captioned matter were  
10 taken before me; that I did report in stenographic shorthand  
11 the proceedings set forth herein, and the foregoing pages  
12 are true and correct transcription to the best of my ability  
13 and control.

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

19  
20 /S/ Christine J. Roybal  
21 \_\_\_\_\_  
22 CHRISTINE J. ROYBAL, CCR, RPR  
23 NEW MEXICO CERTIFIED COURT  
24 REPORTER NO. 50  
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