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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 NOS: 22973

APPLICATION OF CATAMOUNT ENERGY PARTNERS, LLC,
FOR APPROVAL OF A NON-STANDARD HORIZONTAL WELL
SPACING UNIT FOR A MULTILATERAL WELL AND
COMPULSORY POOLING,
SAN JUAN AND RIO ARRIBA COUNTIES, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS
EXAMINER HEARING
AUGUST 4, 2022
SANTA FE, NEW MEXICO

This matter came on for virtual hearing before
the New Mexico Oil Conservation Division, HEARING OFFICER
WILLIAM BRANCARD and TECHNICAL EXAMINER JOHN GARCIA on
Thursday, August 4, 2022, through the Webex Platform.

Reported by: PAUL BACA PROFESSIONAL COURT REPORTERS
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A P P E A R A N C E S

For the Applicant:

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I N D E X

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REPORTER CERTIFICATE	32

1 HEARING EXAMINER BRANCARD: Are there people here
2 for case 22973?

3 MR. SANCHEZ: Miguel Sanchez here for (unclear
4 audio).

5 HEARING EXAMINER BRANCARD: Okay. And then, Mr.
6 Feldewert, are you representing the applicant?

7 MR. FELDEWERT: Yes, sir.

8 HEARING EXAMINER BRANCARD: Is there anyone else,
9 Mr. Sanchez? I know we had people attempting to submit
10 prehearing statements or entries of appearance. We had Greg
11 Santistevan, Danny Quintana.

12 MR. SANCHEZ: I'm not sure. I did see those in
13 the filings, but I don't know those people.

14 HEARING EXAMINER BRANCARD: Okay. Are any of
15 those persons here?

16 (No audible response.)

17 HEARING EXAMINER BRANCARD: All right. Mr.
18 Feldewert, we can go ahead. This may take a little bit of
19 time. Are you willing to go forward?

20 MR. FELDEWERT: Yes, sir, if you're ready to go.

21 HEARING EXAMINER BRANCARD: Let's do it then.
22 Case 22973, Catamount Energy Partners.

23 MR. FELDEWERT: Mr. Examiner, I remember during
24 the enactment or prior to the enactment of the horizontal
25 well rules, there was a lot of discussion among the

1 technical people about multilateral horizontal wells.

2 And when we got to the hearing on the horizontal
3 well rules, the Commission ended up defining multilateral
4 horizontal wells and issued rules governing them which are
5 under 19.15.16.15(B)(7) which is what we're operating under
6 here today.

7 And this application is the first to my knowledge
8 that seeks to create a spacing unit for these (unclear
9 audio) lot of people would consider very efficient
10 horizontal wells.

11 We presented initially our package of exhibits in
12 a timely manner. When I went through them I noticed that we
13 needed a little supplementation, so we filed an amended
14 package yesterday to add compulsory pooling checklist, which
15 was inadvertently left out, and additional information for
16 Exhibit A-3 which is the ownership breakdown.

17 I would encourage you at the beginning here to
18 take a look at Exhibit A-1. There -- it's comprised of
19 three different plats, and a picture is worth a thousand
20 words, and I like the second page of that exhibit which
21 shows the Navajo Lake and the relationship it has to this
22 application.

23 And you will see that this acreage is right
24 along -- just south of the Colorado, New Mexico state line.
25 And they seek to -- the company seeks to create in that pool

1 a non-standard spacing unit in the Fruitland Coal Gas for a
2 horizontal well that's going to have three laterals.

3 And if you look at -- I'm looking at the second
4 page of Exhibit 1, and you will see that the, you will see
5 the surface whole there on the left, which is the blue
6 circle that's in the E/2 E/2 of Section 10, so it's off the
7 acreage at issue.

8 And then from there the lateral reaches out into
9 Section 11; first take point is actually where that blue
10 circle is. And then following that first take point, the
11 three laterals then reach out into -- through the remainder
12 of Section 11 and into Section 12.

13 What was interesting to me, and in the course of
14 doing that, I didn't realize this, the county line runs
15 right along kind of inside the lake, so there is a yellow
16 line there where you see the wellbore crosses from San Juan
17 for all three laterals, cross from San Juan County into Rio
18 Arriba County, so that's why we listed both counties on our
19 application.

20 And they created this as a non-standard spacing
21 unit in the sense that it was going to be smaller than what
22 it normally would be in utilizing the spacing applicable to
23 Fruitland Coal and Gas. And the reason that they have
24 excluded those three tracts down there in the SE/4 of
25 Section 12 is because they visited with BLM, both the

1 Farmington office and Santa Fe office, and it was unclear
2 when, if ever, the BLM was going to lease that unleased
3 federal land and that portion of Section 12 that also
4 continues to the east of this area.

5 So we, we then provide notice of this hearing to
6 BLM because they are the only party affected by the
7 non-standard spacing unit. Pooling is required here
8 because, as you can imagine, this land up here is very
9 complicated due to previous condemnation proceedings. There
10 is also a lot of unprobated estates, and then there are a
11 number of lots that exist along the Navajo Lake.

12 At the end of the day we seek to pool are
13 unleased mineral owners and various estates, along with a
14 group of overriding royalty interest owners that are
15 highlighted at the end of Exhibit A-3, which should be page
16 25 of the 56-page PDF.

17 And what you will see from that list is that
18 Catamount itself owns 56 percent of the working interest.
19 There is a number of other working interest owners that have
20 voluntarily committed. I did the math real quick, and it's
21 roughly 82 percent are committed. So all the remaining
22 owners that you see in red are the parties that the company
23 seeks to pool who own very small interests in this
24 non-standard spacing unit.

25 Now, I'm glad Mr. Sanchez is here. I understand

1 you work for Exxon and has filed a prehearing statement in
2 this case and we will get to that in a minute. But I also
3 want to alert you to the fact that there was one other owner
4 contacted Catamount recently objecting to their development
5 plan because her family owns a family compound (unclear
6 audio). Her name is Carla Clark. She is a highlighted
7 party that we seek to pool.

8 She is apparently a spokesperson for the family.
9 Her address is of record for the acreage, so she received
10 notice of this hearing, and just, to be up front, she
11 informed Catamount that the family objected to the
12 development because there are too many wells in their
13 opinion already surrounding her family property.

14 Mr. Sanchez is here. He has filed his prehearing
15 statement. I took a look at that, and I understand from him
16 that they seek to ensure that the pooling order is limited
17 to the Fruitland Coal Formation and ensure that the pooled
18 owners have an opportunity to participate in the well upon
19 the issuance of the pooling order, both of which I can
20 confirm, Mr. Sanchez, and I think you could too,
21 Mr. Brancard, will be addressed and granted by the standard
22 language in the pooling order.

23 I also saw that there were a number of e-mails in
24 the file that you kindly forwarded to me yesterday
25 afternoon. My understanding is that -- understanding is

1 that both Danny Quintana who sent one of the e-mails and
2 Gregory Santistevan who sent the second e-mail, they are all
3 heirs of Maria Dina Santistevan, who is one of the pooled
4 parties, as is Mr. Quintana and Mr. Santistevan.

5 As I read the e-mails, they express disagreement
6 with the lease terms. What I take the meaning there,
7 Mr. Brancard, is that there has obviously been discussion
8 about the development plan with these parties, there's been
9 discussions about voluntarily agreements, both the JOA and
10 leases. This has been going on for months now, at least
11 since right before May, but they've just simply been unable
12 to reach a voluntary agreement.

13 So with that introduction, I'm prepared to
14 quickly go through the exhibits that we have filed. We have
15 our package which contains the application of the compulsory
16 pooling checklist.

17 Exhibit A is the self-affirmed statement of Ms.
18 Greer. She is a land -- senior landman with the company.
19 She has previously testified before this Division. She
20 identifies the spacing unit that the company seeks to pool,
21 which is non-standard, and describes the development that
22 they are seeking to do here under the Navajo Lake with a
23 multilateral horizontal well.

24 We have already talked about Exhibit A-1.

25 Exhibit A-2 is the C-102s that we put together,

1 and I don't know, Mr. Brancard, if you file an individual
2 C-102 for each lateral, or whether you file a C-102 -- one
3 C-102 that shows all three laterals. Ms. Greer has put
4 together a draft C-102 that contains all the information for
5 each individual lateral, but you will see that they share a
6 common surface location, and they share a common portion of
7 the wellbore until they diverged.

8 Exhibit A-3 is the information on the tracts that
9 are on there, and it starts with a tract map. And you will
10 see that Section 11 is pretty easy. There is a tract to the
11 north, and there is a tract to the south. In fact, there is
12 some existing vertical wells in the Fruitland Coal Gas Pool
13 that are dedicated to the N/2 of Section 11 and the S/2 of
14 Section 11.

15 Those vertical wells are located on the E/2 E/2
16 of Section 11, and we have sent out notice, Ms. Greer
17 testifies we sent out notice of the overlapping spacing
18 units to all the working interest owners and nobody has
19 objected to it.

20 And one of the reasons that we perforated, the
21 interval starts outside of the E/2 E/2 of Section 11 is in
22 part because of those existing vertical wells. We then --
23 she then provides an ownership breakdown for each of the
24 these numerous tracts, again highlighting the owners they
25 seek to pool. All of this culminates in a summary of the

1 ownership on Page 25 of this -- of this PDF, and in that
2 list, you will see a group of overriding royalty interest
3 owners that they seek to pool.

4 She provides as Exhibit A-4 the well proposal
5 letter which doubles both as a well proposal letter and
6 notice of the overlapping spacing unit that is being created
7 here to accommodate this small time lateral horizontal well.

8 And then Exhibit A-5 is the chronology of
9 contacts. One thing I want to make note of before I forget
10 is that -- oh, the -- you will see in her affidavit a
11 couple of things. One, in Paragraph 10, she notes that
12 since the issuance of their initial well proposal letter,
13 the location of that northern-most lateral was moved to the
14 south in the S/2 N/2 equivalent of that irregular Section 12
15 in order to comply with the setbacks that apply to the Basin
16 Fruitland Coal Gas Pool.

17 The other thing of note in her affidavit is that
18 on Paragraph 14, they are requesting overhead rates of
19 \$14,000 a month, and 1,400 a month while producing. I asked
20 her about that, and she testified in here that those costs
21 are consistent up here in the San Juan Basin with what
22 Catamount and other operators are charging in this area for
23 standard horizontal wells.

24 So while it's a little different from what you
25 see in the Permian, the testimony is that these are the

1 rates that they are seeing up there for standard horizontal
2 wells.

3 She also then confirms in Paragraph 15 that, yes,
4 there are a large number of parties that they seek to pool,
5 and some of them they have been able to find address, and
6 some they have been unable to find addresses. But they
7 conducted, as part of this process, a diligent search of
8 public records in both counties. They consulted phone
9 directories, they engaged into computer searches, they
10 discussed with family members trying to get telephone
11 numbers.

12 So they have undertaken good faith efforts not
13 only to reach agreement with those they have been able to
14 locate, but also to try to find these very small interest
15 owners, many of which are under unprobated estates.

16 Exhibit B, as in boy, is the statement of Rusty
17 Kelly. He's a geologist with the company. This is the
18 first time he has testified before Division as a petroleum
19 geologist. He has provided his resume, his credentials as
20 Catamount Exhibit B-1, and I believe they qualify him to
21 testify as an expert, Mr. Brancard, in petroleum geology.

22 From there Exhibit B-2 is a structure map that
23 he's created that highlights the spacing unit, non-standard
24 spacing unit and again shows the general trajectory of the
25 multilateral horizontal well.

1 B-3 is the exhibit that provides the location of
2 the well logs in relation to the proposed spacing unit and
3 unifies to create a west to east cross section which I
4 believe is a stratigraphic cross section -- yes, a
5 stratigraphic cross section that is provided as Exhibit B-4.
6 When you bring it up, it comes up very big, so you can kind
7 of see it, but you can shrink it down and stay oriented
8 within that.

9 On that exhibit he identifies with a red dash
10 line the approximate landing depth of each of the three
11 laterals in the Basin Fruitland Coal Gas Pool.

12 Exhibit C is my affidavit providing -- indicating
13 notice was provided to the parties we have been able to
14 locate with the attached letter and provides the update of
15 the status of delivery as of July 28 when we filed these
16 exhibits.

17 I did see in there when I was there at the post
18 office, and I had the same questions you had, Mr. Brancard,
19 I don't know what that means. But because there was so many
20 estates involved and parties we have been unable to locate,
21 Exhibit D as in David, is an affidavit of publication that
22 is directed by name to the parties they seek to pool and the
23 estates.

24 And one was published timely in the San Juan
25 County, Farmington, Farmington Daily Times. And the second

1 publication was timely filed in Rio Arriba County in the Rio
2 Grande Sun.

3 So with that, I would ask the admission of
4 Catamount Exhibits A through D, as in David, and that the
5 matter be taken under advisement.

6 HEARING EXAMINER BRANCARD: Thank you. Let me go
7 to Mr. Sanchez. Are you still on?

8 MR. SANCHEZ: Yes, I am.

9 HEARING EXAMINER BRANCARD: Would you like to
10 make some comments then for the record?

11 MR. SANCHEZ: The only comment I would make is
12 that it's kind of (unclear audio) the parties that are
13 there, entries, and it's hard to characterize Catamount's
14 proposal to the small owners as (unclear audio) given that
15 terms offered were much worse than if we proceeded to
16 compulsory pooling.

17 So I don't think that there is an objective to go
18 beyond what we already have, which is 56 percent owned and
19 to engage in any sort of good faith negotiations.

20 HEARING EXAMINER BRANCARD: Thank you. Mr.
21 Garcia, questions?

22 TECHNICAL EXAMINER GARCIA: Yeah, I have a few.
23 Bear with me one second, Mr. Feldewert.

24 I just wanted to see what 14,000 looked like on a
25 checklist. It's higher than what we're used to, so it's

1 interesting to see it.

2 I guess I will start with the NSP portion. I'm
3 looking at -- before we -- can we take a look at the picture
4 of the lake. I was there two weekends ago. I guess my
5 question is, as far as NSP goes, there's a lot of I guess
6 confusion on NSP because of the (unclear audio) but I guess
7 my question is, in general, OCD's formal policy is when we
8 do NSP applications, whether they be admin or hearing order
9 on process, if the straps surrounding the NSP are also
10 noticed and (unclear audio) I guess the question is, are
11 they -- I have been reading 19.15.15 and 19.15.4 and
12 19.15 -- just 4 and 15 all these times for the last few
13 minutes, basically the policy updates -- and if you want the
14 citation I'm referring to, it's 19.15.15.11(B)(2) little
15 (b). And basically, you know, on our website it breaks down
16 to like the Purple Sage group, they are 320 building blocks,
17 you noticed 160 acre spacing units. So I don't know that
18 Fruitland Coal's building block of memory, it's gas, so I'm
19 assuming it's 160. So we would notice half of that, 80
20 acres out which north is Colorado. Notices get a little
21 vague with Colorado and Texas.

22 So I know you notified the people you were
23 reading off, which is BLM, but I guess I'm curious about the
24 other people that surround this tract.

25 MR. FELDEWERT: Mr. Garcia, I, first off, the

1 good thing is the horizontal well rules have specific
2 language dealing with these non-standard horizontal spacing
3 units. And when you look at those, those trump any other
4 conflicting language with the rules.

5 When you look at 19.15.16.15(B)(5), non-standard
6 horizontal spacing unit, it talks about the administrative
7 rule process, and it specifically states in subpart 5(B) as
8 in boy, the notice requirements.

9 And what it says is that, in (B)(1), the affected
10 persons in all tracts that are excluded from the horizontal
11 spacing unit if the horizontal spacing unit would be
12 standard except for the exclusion of tracts, which is what
13 we have here.

14 Because what you will see is that they, the
15 normal spacing unit would encompass all of Section 11 and
16 all of Section 12 because there are quarter sections, but
17 because we are making it smaller, the rule states you
18 provide notice to those that are being excluded, which here
19 would be only the BLM since it's unleased federal acreage.

20 The next portion of the rule says, it's the or,
21 and it says joined in all other cases. So in every other
22 case you give notice to the owners surrounding it. The time
23 you don't is when you are making it smaller than what it
24 would otherwise be.

25 TECHNICAL EXAMINER GARCIA: I'll have to look at

1 it. 19.15.16 -- what was it again?

2 MR. FELDEWERT: (B)(5)(B).

3 TECHNICAL EXAMINER GARCIA: Most people who ask
4 for NSPs operate are making them massive units as you're
5 aware.

6 MR. FELDEWERT: I think most of what you have
7 seen and what I have presented is always trying to make it
8 larger, right, so then that would fall under (B)(5)(B)
9 little (i)(2). That's where you have to give notice to
10 everybody around.

11 TECHNICAL EXAMINER GARCIA: I will do my reading,
12 and, you know, I obviously always have -- I always tell
13 (unclear audio) if I have any questions I will reach out to
14 you more on it. (unclear audio) subject to question on me
15 every day. That's a citation I will look into it further.

16 Compulsory pooling portion, I see there is a
17 vertical well -- yeah, I guess really the main question
18 is -- I mean, you answered it. It's just interesting, I
19 mean the testimony on it. So I guess in general that's all
20 the questions for now. I will pass to Mr. Brancard and may
21 come back, but I believe I'm done for now.

22 I have one more question actually, sorry. Does
23 anyone -- is anyone subject to notice as far as the lake,
24 Bureau of Rec or anyone like that. Based on my knowledge,
25 Bureau of Rec tends to control waterways and et cetera, BLM,

1 Bureau of Rec, they are both federal entities, but different
2 agencies. Do you know if they are subject to notice?

3 MR. FELDEWERT: Matter of notice would go to the
4 owners of the mineral interests in the acreage. Looking at
5 the tract map on Exhibit A-1, the first page, it's apparent
6 that the -- the owners of the tracts of minerals are
7 accounted for. I haven't exactly gone through the list, but
8 I don't recall seeing the -- what did you say, the bureau
9 of --

10 TECHNICAL EXAMINER GARCIA: Reclamation.

11 HEARING EXAMINER BRANCARD: I don't see them on
12 here which tells me that Bureau of Reclamation doesn't own
13 the minerals.

14 TECHNICAL EXAMINER GARCIA: I'm sure they don't.
15 They are typically water ways, lakes, rivers, they care
16 about rivers, lakes, you know. You know, you've done this
17 longer than I have. This is my first case with a lake
18 involved, is why I ask.

19 MR. FELDEWERT: It's my first case with a lake
20 involved, too. I have dealt with towns and cities, but
21 never dealt with a lake.

22 TECHNICAL EXAMINER GARCIA: I mean, I go to this
23 lake all the time (unclear audio) but I will pass to
24 Mr. Brancard who is far more knowledgeable in this area than
25 I am, so --

1 HEARING EXAMINER BRANCARD: It's my first lake
2 case, too, and it makes me nervous. Mr. Feldewert, do you
3 know the depth of these wells, the laterals?

4 MR. FELDEWERT: If you look at the, I believe the
5 Exhibit B-4 would be a source of that, perhaps. You might
6 also look at the well proposal letter. Hold on a second.

7 HEARING EXAMINER BRANCARD: I looked at the
8 geology exhibits and I kind of went --

9 MR. FELDEWERT: I do, too. Let me see here.
10 Look and see if the well proposal letter -- total vertical
11 depth, I'm looking at -- I see the pilot hole, I am looking
12 at the laterals, estimated TVD 2712, looking at Page 28 or
13 29 -- 29.

14 HEARING EXAMINER BRANCARD: That's as deep as
15 they go, 2712?

16 MR. FELDEWERT: That's what I glean from TVD.

17 HEARING EXAMINER BRANCARD: That would be where
18 the lateral is.

19 MR. FELDEWERT: Yes.

20 HEARING EXAMINER BRANCARD: That's a lot
21 shallower.

22 MR. FELDEWERT: I believe the vertical portion is
23 well away from the lake.

24 HEARING EXAMINER BRANCARD: Right. And you
25 wouldn't want to make any estimates on the (unclear audio)

1 which is vertical.

2 MR. FELDEWERT: No. I got as much expertise as
3 you've got.

4 HEARING EXAMINER BRANCARD: Yeah, okay. So go
5 back to Mr. Garcia's question about non-standard spacing
6 units. Your statement is that, if I read this correctly,
7 I'm looking at Page 12, and if we took those three
8 quarter-quarter sections there in the southeast, and we
9 added them to their spacing units, right, the three that are
10 excluded --

11 MR. FELDEWERT: I see them.

12 HEARING EXAMINER BRANCARD: -- you would have a
13 standard spacing unit.

14 MR. FELDEWERT: Yes, because the Fruitland Coal
15 is 320.

16 HEARING EXAMINER BRANCARD: No, it's 160.

17 MR. FELDEWERT: It would be four 160s.

18 HEARING EXAMINER BRANCARD: Yeah. So then when
19 you have those three quarter-quarters in there, wouldn't you
20 have two standard horizontal spacing units, not one?

21 MR. FELDEWERT: Good question. I don't know how
22 far off that middle lateral is, but I will try,
23 Mr. Brancard, since it's the quarter section up there is
24 less than the middle lateral, which I think is lateral one,
25 is sufficiently close to the half section, I think you are

1 correct, and that's a N/2 equivalent and then a S/2.

2 HEARING EXAMINER BRANCARD: Your application does
3 not describe that well as a proximity well.

4 MR. FELDEWERT: Correct.

5 HEARING EXAMINER BRANCARD: But I looked at it,
6 your first take point could be proximity, but your last take
7 point is not, so it wouldn't take much to turn that into a
8 proximity well.

9 MR. FELDEWERT: I'm not a geologist, but I'll
10 visit with them and clearly they chose this spacing for a
11 reason.

12 HEARING EXAMINER BRANCARD: Because, otherwise,
13 the addition of that N/2 into your spacing unit, instead of
14 a second reason for making this a non-standard, in other
15 words, making it an oversized non-standard spacing unit
16 which would trigger the notice to all surrounding parcels.

17 Unless, of course, you kind of step back and sort
18 of refigure this to apply to be one large standard with a
19 proximity well. I don't want to give you suggestions, but I
20 will let John give you suggestions.

21 So at this point you basically have, from my
22 perspective, you should have two causes of a non-standard,
23 things you are leaving out and things you are adding on,
24 which, to my perspective reading the rule, would trigger
25 both notice requirements.

1 As I discussed with Ms. Vance in the prior case,
2 don't worry about the lots. You might want to roll that one
3 over, be right up front with you, Mr. Feldewert, we may end
4 up continuing this case anyway because there is a lot going
5 on here, so you may want to consider whether you want to
6 make some changes.

7 The other big issue, obviously, is the more
8 people you are pooling, a lot of people, and as I -- I
9 mentioned to someone earlier, the more people you pool the
10 more evidence you have to provide. It's one of those
11 mathematical things. And you have a fair number unlocatable
12 parties here, so, you know, following with what we talked
13 about in other cases today, I would look first at -- let me
14 see, go to Page 33.

15 MR. FELDEWERT: You're on the chronology?

16 HEARING EXAMINER BRANCARD: Yeah, yeah. You are
17 going to have to have a lot more detail.

18 MR. FELDEWERT: I will speak with our (unclear
19 audio)

20 HEARING EXAMINER BRANCARD: Okay. And on Number
21 3, it says 24 packages have been returned unlocatable.
22 Please, provide that kind of -- you know, when something is
23 unlocatable, that's triggering, you know, notice, due
24 process issues here. So the more detail your folks can
25 provide about the efforts they made to locate people by

1 additional addresses, we tried that, that didn't work, we
2 called somebody, that didn't work. Great. I'm sure it
3 seems tedious to them, but they did all of this work, I
4 assume, and so they can document it, I assume.

5 MR. FELDEWERT: Mr. Brancard, let me ask you
6 about that. So I don't disagree, number one. Number two,
7 there is a couple of ways you go about it. I mean, they
8 would identify each and discuss the effort for each, or are
9 they allowed to aggregate? How do you want to see it?

10 HEARING EXAMINER BRANCARD: Yeah, and there's
11 been evidence from today's cases, there have been a couple
12 of good examples. I think COG did a nice job in one. Some
13 of them actually did, in situations that are similar to
14 yours where there are groups of people, like heirs of so and
15 so, you can aggregate, you know, those conversations.
16 Because there probably were, you tried to communicate with
17 one person, communicate with one person to reach a number of
18 people.

19 MR. FELDEWERT: Right.

20 HEARING EXAMINER BRANCARD: So that's totally
21 reasonable. And in fact, that's a great thing if you can
22 use one party to try to communicate with another party you
23 can't reach, sure, it's all helpful.

24 MR. FELDEWERT: Yup. Got it.

25 HEARING EXAMINER BRANCARD: So that would be sort

1 of my concern there with that. Just curious, do you know
2 whose surface you're on for the surface hole location?

3 (unclear audio)

4 MR. FELDEWERT: I don't know off the top of my
5 head, but I think Ms. Greer is here, she may know.

6 HEARING EXAMINER BRANCARD: I don't know whether
7 there are little subdivisions out in that area or --

8 MS. GREER: Yes, we have a surface agreement from
9 (unclear audio) that are out there.

10 HEARING EXAMINER BRANCARD: Could you identify
11 yourself for the record.

12 MS. GREER: Denise Greer, Catamount Energy.

13 HEARING EXAMINER BRANCARD: That's what I was
14 thinking. I was assuming that the governmental interest
15 here is largely along the shoreline of the lake in terms of
16 recreation, et cetera, controlling use.

17 MS. GREER: It's would all be minerals in our
18 spacing unit.

19 HEARING EXAMINER BRANCARD: All right.

20 MS. GREER: I would like to address the question
21 about offset owners.

22 HEARING EXAMINER BRANCARD: Hang on. Let me
23 first -- raise your right hand. Do you solemnly swear the
24 testimony you are about to give is the truth and nothing but
25 the truth?

1 MS. GREER: I do.

2 HEARING EXAMINER BRANCARD: And can you identify
3 who you are and what your title and responsibility is.

4 MS. GREER: Denise Greer, senior landman with
5 Catamount Energy.

6 HEARING EXAMINER BRANCARD: Thank you.

7 MS. GREER: I did want to say that the offsetting
8 owners, offsetting operators are in our well, but have
9 elected to participate in the well.

10 HEARING EXAMINER BRANCARD: Offsetting as in --

11 MS. GREER: There was a question about --

12 HEARING EXAMINER BRANCARD: Which direction?

13 MS. GREER: All directions -- well, every
14 direction except to the east, which is the BLM, and the BLM
15 was notified.

16 HEARING EXAMINER BRANCARD: Okay. So to the
17 south and to the west and Colorado?

18 MS. GREER: And Colorado.

19 HEARING EXAMINER BRANCARD: Okay. Who is the
20 name of the entity again.

21 MS. GREER: Morning Star is the operator to the
22 north and south, and Simco LLC is the operator to the west.

23 HEARING EXAMINER BRANCARD: Okay. Okay. Thank
24 you. That may solve part of your problem, Mr. Feldewert.

25 MR. FELDEWERT: Well, that's good to hear.

1 MS. GREER: I think you had a question about
2 fracking. If you want that answer, our geologist is on the
3 line and could probably answer that quickly for you.

4 HEARING EXAMINER BRANCARD: I think that's fine.
5 That was just a theoretical question more than anything
6 else.

7 MS. GREER: Okay.

8 HEARING EXAMINER BRANCARD: All right.
9 Mr. Garcia, back to you then. Have further questions now
10 come up for you?

11 TECHNICAL EXAMINER GARCIA: I believe I'm still
12 okay.

13 HEARING EXAMINER BRANCARD: All right. Was there
14 anything you would like to see from the operator -- the
15 applicant? Sorry.

16 TECHNICAL EXAMINER GARCIA: Other than your -- I
17 guess it depends. If like -- the only thing I see
18 outstanding right now would be, I guess, is the contacts,
19 things you used. As far as everything else, I think it's
20 fine the way it is. I'm definitely going to do more viewing
21 of the exhibits for sure. I think we need more detail in
22 the exhibit packet of effort to contact that you requested.

23 MR. FELDEWERT: I have that on my list to update
24 and provide more detail on the chronology of contacts.

25 TECHNICAL EXAMINER GARCIA: As far as maps, one

1 or two, I think we're fine.

2 MR. FELDEWERT: Yeah. And I also wasn't quite
3 sure how to do the compulsory pooling checklist, so we just
4 go with the format on the C-102s and see that we listed the
5 information for each individual lateral, even though it will
6 be, under the Division's rules, a well, a multilateral
7 horizontal well dedicated to a single spacing unit.

8 TECHNICAL EXAMINER GARCIA: I don't think the
9 formation (unclear audio).

10 MR. FELDEWERT: Yes.

11 TECHNICAL EXAMINER GARCIA: I don't think the
12 formation or anything (unclear audio) really formation. The
13 big thing for me is formation (unclear audio) I mean if you
14 have a Bone Spring and Wolfcamp (unclear audio).

15 MR. FELDEWERT: In fact, we dedicated the spacing
16 unit to the (unclear audio) multilateral horizontal well
17 pools.

18 TECHNICAL EXAMINER GARCIA: Yeah, I think that's
19 fine though. You know, after I look into it more if there's
20 anything, I will reach out to you.

21 HEARING EXAMINER BRANCARD: Yeah, when I first
22 glance back to the multilateral well section, it's kind of
23 treated like separate wells in terms of how you fill out the
24 forms, et cetera, and C-102, and I think that was helpful to
25 do.

1 All right. Here's what I propose, Mr. Feldewert,
2 that we continue this case to September 1, and in the
3 meanwhile I will leave it up to you how you would like to
4 resolve the non-standard spacing unit question since you
5 have several options here, you can treat it as one big
6 non-standard spacing unit with two reasons to be
7 non-standard, too small and too large --

8 MR. FELDEWERT: Okay.

9 HEARING EXAMINER BRANCARD: -- which would
10 trigger the notice issues, the offsetting notice issues. Or
11 you can try to make it one non-standard spacing unit with a
12 proximity well, or you can make it one standard spacing unit
13 and one non-standard spacing unit, but you might need to
14 (unclear audio) the application.

15 MR. FELDEWERT: Since I believe the geologist and
16 the engineers want to keep the locations where they are, the
17 application and the notice that was provided was also
18 approval of the non-standard spacing unit, so -- and the
19 testimony has been that the only affected -- all the
20 affected parties that have joined the non-standard spacing
21 unit have then received notice of the application, so I
22 think we are covered.

23 HEARING EXAMINER BRANCARD: That's one of your
24 options.

25 MR. FELDEWERT: Okay, okay.

1 HEARING EXAMINER BRANCARD: Is to treat it as a
2 non-standard spacing unit for two reasons.

3 MR. FELDEWERT: Yes.

4 HEARING EXAMINER BRANCARD: Too small here, too
5 large there.

6 MR. FELDEWERT: That's right.

7 HEARING EXAMINER BRANCARD: That simply triggers
8 the notice issue you just mentioned.

9 MR. FELDEWERT: Which I think we are covered.

10 HEARING EXAMINER BRANCARD: You just need to
11 document that then.

12 MR. FELDEWERT: Document by an affidavit?

13 HEARING EXAMINER BRANCARD: Yes.

14 TECHNICAL EXAMINER GARCIA: They call them
15 waivers where they like waive the 20-day notice period if
16 they're okay with it. It's a legal process.

17 MR. FELDEWERT: Got it, I gotcha.

18 HEARING EXAMINER BRANCARD: So in addition we
19 need a more detailed discussion of the summary of
20 communications, and that is, A, communications you actually
21 had with persons, and, B, attempts to locate what appear to
22 be unlocatable parties, what efforts did your client go
23 through trying to track down addresses, et cetera, of
24 people.

25 MR. FELDEWERT: Got it. Can we -- is there a

1 chance -- those are two things we need to do. Can we just
2 supplement the record and you can take it under advisement?
3 Do we have to continue it, because I think the company was
4 trying to fit this into a drilling schedule.

5 HEARING EXAMINER BRANCARD: Aren't they all.

6 MR. FELDEWERT: Well --

7 HEARING EXAMINER BRANCARD: It's not the first
8 time we have heard that. I think, you know, it's going to
9 take a little time to draft your order anyway because this a
10 little bit unusual, and as Mr. Garcia indicated in other
11 cases we have a bit of a backlog right now in orders that he
12 is diligently working his way through.

13 So I'm also hoping that this time frame of four
14 weeks would give your client more time to sort of reduce the
15 number of uncommitted parties, to perhaps work it out.

16 HEARING EXAMINER BRANCARD: Okay. So anything
17 else, Mr. Garcia, that you wanted to hear from --

18 TECHNICAL EXAMINER GARCIA: I don't believe so.

19 HEARING EXAMINER BRANCARD: All right. All
20 right. So this case then will be continued to the September
21 1 docket. If you can file a continuance, that would be
22 great, Mr. Feldewert.

23 MR. FELDEWERT: Will do.

24 HEARING EXAMINER BRANCARD: Thank you.

25 MR. FELDEWERT: Thank you. It's a very

1 interesting case.

2 HEARING EXAMINER BRANCARD: It is.

3 MR. SANCHEZ: Can I just ask one question?

4 HEARING EXAMINER BRANCARD: Sure.

5 MR. SANCHEZ: The input given by the two parties
6 via e-mail regarding a contract on these terms, is that
7 going to be a consideration in the order.

8 HEARING EXAMINER BRANCARD: You know,
9 Mr. Sanchez, we don't -- in these compulsory pooling cases,
10 we don't tend to get involved with negotiations between the
11 parties, the applicants and other interest owners, so it's
12 unlikely. You know, we appreciate those issues, and this is
13 not a bad time to raise the issues and continue to push the
14 issues with the applicant and get the best deal you can get,
15 we certainly understand that, but that's sort of the short
16 answer to that.

17 MR. FELDEWERT: Let me say this, Mr. Sanchez -- I
18 think Mr. Brancard can confirm this -- first off, the
19 pooling order will be limited to the Fruitland Coal Gas,
20 that's the way they are written. And secondly, when you see
21 200 percent risk penalties, cost plus 200 percent, which is
22 the equivalent of what you customarily see is a 300 percent
23 risk penalty in a JOA. So I hope that's --

24 MR. SANCHEZ: Okay. Well, one the applicants had
25 raised concerns with the lease terms beyond those against

1 what he considered a standard terms. And so I think, you
2 know, there is very little ability to negotiate especially
3 once the order gets placed to negotiate any of those terms.
4 I don't know the terms that have been offered across all the
5 parties are the same as the terms being offered to the
6 remaining parties, that's not clear to me.

7 Because I see a lot of communications with
8 negotiations but it's not, it's not well understood what,
9 what you can actually do once a (unclear audio) has his
10 minimum acreage aligned, which you have basics, you already
11 got 60 percent of the ownership.

12 MR. FELDEWERT: I will have Ms. Greer reach out
13 to you after the hearing and you guys can have some
14 discussion about that. Is that okay?

15 MR. SANCHEZ: Thank you.

16 HEARING EXAMINER BRANCARD: Thank you. That will
17 give you a little more time for people to negotiate --

18 MR. FELDEWERT: Okay.

19 HEARING EXAMINER BRANCARD: -- before we enter an
20 order.

21 (Continued.)
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STATE OF NEW MEXICO
COUNTY OF BERNALILLO

REPORTER'S CERTIFICATE

I do hereby certify that I reported the foregoing virtual proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings to the best of my ability.

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

I FURTHER CERTIFY that the Virtual Proceeding was of poor to reasonable quality.

Dated this 4th day of August 2022.

Irene Delgado
Court Reporter
License Expires: 12-31-22

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[circle - different]

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[diligent - feldewert]

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[overlapping - put]

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