

3 IN THE MATTER OF THE HEARING CALLED
4 BY THE OIL CONSERVATION DIVISION FOR
5 THE PURPOSE OF CONSIDERING:

5 APPLICATION OF NEARBURG EXPLORATION
6 COMPANY, L.L.C. FOR A NONSTANDARD
7 OIL SPACING AND PRORATION UNIT,
8 UNORTHODOX OIL WELL LOCATION,
9 AND COMPULSORY POOLING, LEA
10 COUNTY, NEW MEXICO.

CASE NO. 14996

ORIGINAL

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS

10 PRE-HEARING TRANSCRIPT

11 July 11, 2013

12 Santa Fe, New Mexico

13
14 BEFORE: RICHARD EZEANYIM, CHIEF EXAMINER
15 DAVID K. BROOKS, LEGAL EXAMINER
16 PHILLIP GOETZE, TECHNICAL EXAMINER
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18 This matter came on for hearing before the
19 New Mexico Oil Conservation Division, Richard Ezeanyim,
20 Chief Examiner, David K. Brooks, Legal Examiner, and
21 Phillip Goetze, Technical Examiner, on Thursday, July
22 11, 2013, at the New Mexico Energy, Minerals and Natural
23 Resources Department, 1220 South St. Francis Drive,
24 Porter Hall, Room 102, Santa Fe, New Mexico.

23 REPORTED BY: Mary C. Hankins, CCR, RPR
24 New Mexico CCR #20
25 Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102

1 (9:27 a.m.)

2 EXAMINER EZEANYIM: It is my opinion that
3 Case 14996 -- we got an e-mail. What is happening with
4 that case? I'm not hearing anything. Are we going to
5 hear it today?

6 MR. BRUCE: Mr. Examiner, are you talking
7 about --

8 EXAMINER EZEANYIM: Yeah, Case Number
9 14996. This is the case I got an e-mail on this
10 morning.

11 MR. BRUCE: Mr. Examiner, my witness is in
12 town. I would like to put on one witness. Counsel for
13 OXY has indicated that she would like a further
14 continuance. That's up to the discretion of the
15 Examiners, but I would at least like to put on my
16 witness. And if it's continued, so be it.

17 EXAMINER EZEANYIM: Is counsel for OXY
18 here?

19 MS. CHAPPELLE: Yes, Your Honor.

20 EXAMINER EZEANYIM: Why are you quiet? Say
21 something.

22 MS. CHAPPELLE: As I said in my e-mail, our
23 witness could not be available today, and I provided
24 notice to Mr. Bruce and the Commission as well -- I mean
25 the Hearing Examiners as well to indicate that we tried

1 everything we could to get him here, and due to some
2 family commitments, he couldn't come at the last minute.
3 So we apologize.

4 MR. BRUCE: And one reason I didn't want to
5 continue it at the next hearing is because my witness
6 wasn't available. So I would like to put on my witness.
7 He won't be exceedingly long, you know, at the end of
8 the day.

9 EXAMINER EZEANYIM: Are you suggesting we
10 hear the case in two bits, one today, one next time?

11 MR. BRUCE: Well, because of the
12 availability of witnesses, we may have to do that. I
13 don't think either party objects to that.

14 EXAMINER EZEANYIM: At that time I will
15 forget what you said.

16 MR. BRUCE: Well, I'll send an e-mail
17 (laughter).

18 EXAMINER EZEANYIM: Sometimes I don't
19 really trust that.

20 How is it that the two of you can't get
21 together and know what's going on here? A witness is
22 here; a witness is not here. I don't want to do it
23 piecemeal.

24 MR. BRUCE: Well, Mr. Examiner, it's
25 already been done that way. The case was continued once

1 voluntarily by Nearburg. The last hearing, OXY
2 requested another continuance, and the Division granted
3 it. But the bulk of the testimony was already put on
4 two weeks ago, and at that hearing, you mentioned that
5 you'd like some engineering evidence, and that's what
6 we're putting on today.

7 MS. CHAPPELLE: We don't have an objection
8 to having them put on their expert today. It'll be on
9 the record, so we can all refresh our recollections with
10 respect to that.

11 I think what I would request is that I have
12 the ability to cross-examine him when I have my -- when
13 I have my witness present. And we'll have the records,
14 so it'll be easy.

15 EXAMINER EZEANYIM: Right. No, I have to
16 have the record, but, you know, we are short staffed
17 here.

18 Anyway, in lieu of the docket we have here
19 and the fact that the witness is already seated, there
20 is no need for him traveling all the way from Houston
21 and not testifying. I defer to David on what to do
22 here.

23 EXAMINER BROOKS: I think it's entirely
24 appropriate to go ahead as Mr. Bruce has suggested.
25 It's been done in many prior OCD cases.

1 EXAMINER EZEANYIM: Okay. Today we're
2 going to hear one side of the case, when it gets to that
3 time, and then we'll hear it whenever you guys continue
4 it. So can we decide when we're going to continue this
5 case? When can we hear it?

6 EXAMINER BROOKS: We can announce at the
7 conclusion of the case what date it's continued to.

8 EXAMINER EZEANYIM: Who determines when
9 it's going to be continued, because --

10 EXAMINER BROOKS: You.

11 EXAMINER EZEANYIM: I mean, I can say this
12 week, and you don't have a witness for
13 cross-examination.

14 MR. BRUCE: After today, I'm not presenting
15 witnesses, Mr. Examiner.

16 EXAMINER EZEANYIM: I know, but the witness
17 is subject to cross-examination.

18 EXAMINER BROOKS: Well, that's one thing we
19 can't accommodate, is the request to cross-examine the
20 witness at a different point, because the whole point
21 is -- it's my understanding, Mr. Bruce, that your
22 witness is available right now?

23 MR. BRUCE: (Indicating.)

24 EXAMINER BROOKS: And her witness is not
25 available today. My recommendation would be that we put

1 on Mr. Bruce's witness today and proceed with the
2 cross-examination, and then we can put on -- then
3 Ms. Chappelle can put on her witness at the subsequent
4 hearing.

5 EXAMINER EZEANYIM: Okay. We'll do that.

6 (Case Number 14996 continued to July 12,

7 2013.)

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 14996
heard by me on 7-11-13.

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_____, Examiner
Oil Conservation Division

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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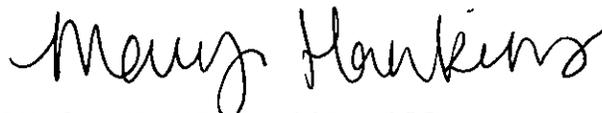
4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, New Mexico Certified
6 Court Reporter No. 20, and Registered Professional
7 Reporter, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that
9 the foregoing pages are a true and correct transcript of
10 those proceedings that were reduced to printed form by
11 me to the best of my ability.

12 I FURTHER CERTIFY that the Reporter's
13 Record of the proceedings truly and accurately reflects
14 the exhibits, if any, offered by the respective parties.

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

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MARY C. HANKINS, CCR, RPR
Paul Baca Court Reporters, Inc.
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2013

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