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STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

**ORIGINAL**

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

CASE NO. 14192

APPLICATION OF TARGA MIDSTREAM SERVICES  
LIMITED PARTNERSHIP FOR APPROVAL OF AN  
ACID-GAS INJECTION WELL, LEA COUNTY,  
NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

2008 OCT 30 PM 4 53

BEFORE: DAVID K. BROOKS, Legal Examiner  
RICHARD EZEANYIM, Technical Examiner  
TERRY G. WARNELL, Technical Examiner

October 16, 2008  
Santa Fe, New Mexico

This matter came on for hearing before the New Mexico  
Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,  
RICHARD EZEANYIM, Technical Examiner, and TERRY G. WARNELL,  
Technical Examiner, on Thursday, October 16, 2008, at the  
New Mexico Energy, Minerals and Natural Resources Department,  
1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: JOYCE D. CALVERT, P-03  
Paul Baca Court Reporters  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102

## A P P E A R A N C E S

FOR THE APPLICANT, TARGA MIDSTREAM SERVICES LIMITED  
PARTNERSHIP:

J. Scott Hall, Esq.  
MONTGOMERY & ANDREWS LAW FIRM  
325 Paseo De Peralta  
Santa Fe, New Mexico 87501

REPRESENTING RANGE OPERATING NEW MEXICO, INC.:

W. Thomas Kellahin, Esq.  
KELLAHIN AND KELLAHIN  
706 Gonzales Road  
Santa Fe, New Mexico 87501

REPRESENTING CHEVRON U.S.A., INC.:

Ocean Munds-Dry, Esq.  
HOLLAND & HART, LLP  
110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 87501

1 MR. BROOKS: At this time, I will call Case  
2 No. 14192, the Application of Targa Midstream Services Limited  
3 Partnership for Approval of an Acid-Gas Injection Well,  
4 Lea County, New Mexico.

5 Call for appearances.

6 MR. HALL: Mr. Examiner, Scott Hall, Montgomery and  
7 Andrews, Santa Fe, on behalf of Targa Midstream Services  
8 Limited Partnership, the applicant.

9 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of the  
10 Santa Fe law firm of Kellahin and Kellahin appearing this  
11 morning on behalf of Range Operating New Mexico, Inc. We are  
12 one of the parties affected by the application and currently in  
13 opposition.

14 MR. BROOKS: Okay.

15 MS. MUNDS-DRY: Good morning, Mr. Examiner, Ocean  
16 Munds-Dry with the law firm of Holland and Hart here  
17 representing Chevron U.S.A., Inc. this morning.

18 MR. BROOKS: Okay. We had a motion to dismiss -- you  
19 had, Mr. Kellahin.

20 MR. KELLAHIN: That's right, Mr. Brooks.

21 MR. BROOKS: Okay. Are you still -- do you still  
22 want the case dismissed?

23 MR. KELLAHIN: Yes, sir.

24 MR. BROOKS: Okay. You may speak to your motion.

25 MR. KELLAHIN: There are three parts on file with

1 regards to the motion. The case was originally filed by  
2 Mr. Hall back on September 12th, and notice was sent to  
3 numerous parties. As part of his original filing, Mr. Hall and  
4 his client failed to include a Division Form C-108.

5 A reading of Rule 701 makes it obvious that you  
6 initiate disposal well applications with the filing of that  
7 form and the appropriate attachments to it. Targa has chosen  
8 not to do that.

9 I've had subsequent contacts with Mr. Hall. The form  
10 C-108 has not yet been provided. On October 6th, I filed a  
11 motion to dismiss the case for failure to comply with the  
12 filing requirements. Mr. Hall has filed a response to that  
13 motion to dismiss, and I in turn filed a reply to his response.

14 Our point is that the rule requires the filing of a  
15 C-108 for very important reasons. It provides an opportunity  
16 for parties of interest to have the appropriate technical  
17 information that the Division requires in that order so that we  
18 can begin to review the technical aspects of the applicant's  
19 application.

20 Among other things, the C-108 will require Targa to  
21 submit updated well bore schematics of this acid-gas injection  
22 well, the proposed well bore schematic of how they're going to  
23 re-complete it for acid-gas injection, a tabulation of well  
24 bore data including cementing and casing data for the  
25 surrounding wells that are going to be affected.

1           The Targa well has an open hole disposal interval of  
2 more than 700 feet. They intend to seek approval to inject  
3 into an active producing formation in the San Andres. We think  
4 it's high risk. These are dangerous operations. It's  
5 appropriate that the Division has recognized for that data to  
6 become available to all of us.

7           The rule itself is subdivided in such a way that  
8 Part A of 701 described that gas injection wells, water  
9 injection wells, waterflood wells -- those kind of wells -- are  
10 all initiated for approval by filing a form designated by the  
11 Division. When you look at Subdivision B and C, they subdivide  
12 the rule and show you what happens in an administrative filing  
13 and what happens if it's sent for an adjudication like this  
14 case has been done.

15           Filing for adjudication does not absolve the  
16 application from filing the C-108. It's an integral part of  
17 both proceedings. There's nothing in the rule or the form that  
18 excuses that filing.

19           So we are at a point now where the case has been  
20 continued to November 13th. And despite my efforts, we still  
21 don't have a form C-108 from the applicant so that we can start  
22 beginning our review of the technical aspects of what they're  
23 trying to accomplish to see what the impact is upon my client.  
24 That, in essence, is why we're here.

25           MR. BROOKS: Mr. Hall?

1           MR. HALL: Mr. Brooks, approximately a year or so ago  
2 the Division made the determination that it was no longer  
3 appropriate to treat acid-gas injection wells as it had Class I  
4 and Class II saltwater disposal well applications. And so  
5 internally the Division made the decision to pursue a  
6 rule-making for acid-gas injection wells with the expectation  
7 that there would be many more of these applications to come.  
8 And there will be.

9           At the time, the Division was spending all of its  
10 time and efforts doing other rule-makings and then defending  
11 those rule-makings.

12           MR. BROOKS: Yes, whenever we make a rule,  
13 Ms. Munds-Dry ties us up in court for a couple of years.

14           MS. MUNDS-DRY: I do my best, Mr. Brooks.

15           MR. HALL: In the interim, what the Division decided  
16 to do, at the direction of Mr. Fesmire, was to hear all of  
17 these acid-gas well injection projects pursuant to the  
18 adjudicatory rules. And so we consulted with the engineering  
19 bureau division. I think we had consulted with you sometime at  
20 the end of this application.

21           On behalf of Targa, we submitted an application for  
22 an adjudicatory hearing under Rule 1206, and under that rule  
23 set out in the face of our application all of the requisite  
24 components sufficient to provide anyone with adequate notice of  
25 the components of the project, the affected injection interval,

1 volumes to be injected, rates, pressures, the basics of what  
2 you would need to know to apprise yourself whether or not your  
3 interests might be affected. And then we put out notice as we  
4 understood we were to do under Rule 701, in addition to Rule  
5 1206 and the 1200 series of those rules as well.

6           It's true Rule 701 says what it says, but in this  
7 transition period, prior to your anticipated rule-making, we  
8 follow at the direction of the Division. The hearing in this  
9 matter will be continued to November 13th. We have indicated  
10 to Mr. Kellahin that we intend to provide him with a full C-108  
11 and supporting material in advance of the hearing date so he  
12 can look at the well bore schematics and detail that supports  
13 the application.

14           We think it's a good idea to have that in the hands  
15 of the Hearing Examiner before the hearing as well so the  
16 Hearing Examiner will have time to look at the application,  
17 make fully-informed decisions about it, and be ready to go with  
18 fully-informed questions, and the case can be handled in the  
19 most expedient manner at the hearing in the adjudicatory  
20 hearing process.

21           So that's what we're doing. It's true that we are  
22 not following precise clean-cut procedure under the rules.  
23 That's simply the way the Division has chosen to handle these  
24 matters from now on, so we're following that.

25           Another matter has come up, and we're asking for the

1 Division's guidance on this in this transition period: What  
2 are our obligations for notice under the new procedures? The  
3 area of review has been expanded from a half-mile to a mile,  
4 and it's also been determined that notice must be given to  
5 everybody within the one-mile area of review, including surface  
6 owners.

7 In this case, we provided notice to 20-odd operators  
8 in the area and in excess of 120 surface owners who were close  
9 to the village of Eunice. I'm getting phone calls every day,  
10 as I know the Division is. But we wonder -- I expect the C-108  
11 in this case will be close to 50 pages with all it's supporting  
12 materials. Would the Division have us provide C-108s, as  
13 Mr. Kellahin would have it, to each and every one of those  
14 100-plus surface interest owners and operators?

15 So that's a question. If we are to do that, by when  
16 must we do that? The current Rule 701 contemplates 15 days'  
17 notice. If that's the direction from the Division, we'll try  
18 to accomplish that. But that's an open question for you.

19 I don't think dismissal is warranted. As I said  
20 before, we'll have the materials in Mr. Kellahin's hands and  
21 anybody else who wants them in advance of the hearing.

22 MR. BROOKS: Fifteen days before the hearing would be  
23 October the 30th, I would assume. Well, I guess it would be  
24 October the 29th. Will you have the C-108 ready by then?

25 MR. HALL: It's my hope that we will. I don't know

1 for sure.

2 MR. BROOKS: Okay. Anything further, Mr. Kellahin?

3 MR. KELLAHIN: Yes, Mr. Examiner. Mr. Hall invites  
4 you to make procedural mistakes that put the whole process at  
5 risk. He's referring to unwritten, unpublished guidelines, a  
6 process that's new to me. I've never heard of it. I can't  
7 find out about it. You can't go on the internet to find the  
8 guidance. You don't see it in the rule. You just come over  
9 here and I guess have a conversation.

10 That is not due process. You're inviting yourself to  
11 make mistakes that will cause a district judge on appeal to  
12 find a flaw in your system. This is not a rule-making case.  
13 If that's what should have been initiated a year ago, that  
14 should have happened. Until a rule is changed, then Mr. Hall  
15 is obligated to abide by the rule. And the rule is very clear.

16 MR. BROOKS: Well, what I think we need to do in this  
17 case is to enter an order. Because under Rule 10.B, I believe  
18 it is, an order takes precedence over a rule to get this case  
19 disposed of an orderly manner. And I'd like to say that will  
20 stand up on appeal. It's 11.B -- under Rule 11.B.

21 So I think what we need to do is enter a pretrial  
22 order. Do you anticipate if you get the -- Mr. Kellahin, if  
23 you get the C-108 by October 29th, would you be ready on  
24 November 13th, or would you need additional time? Should we  
25 leave it on the 13th subject to change, or should we go ahead

1 and try to figure a different time?

2 MR. KELLAHIN: I'm uncertain. Last night Mr. Hall  
3 filed, at 4:30, a response to quash a subpoena I had issued  
4 last Friday.

5 MR. BROOKS: I was going to mention that, too. We  
6 need to take that up if the parties can't work that out.

7 MR. KELLAHIN: And because I got that last night,  
8 I've not had a chance to visit with Mr. Hall to see if we can  
9 work that out.

10 MR. BROOKS: Well, usually --

11 MR. KELLAHIN: I think maybe we can --

12 MR. BROOKS: My philosophy has been that when a  
13 hearing is set on discovery motion, the first thing you do is  
14 tell the parties to talk unless they have already reached an  
15 impasse.

16 MR. KELLAHIN: Well -- and I don't think we're  
17 totally at that impasse, but I would like to suggest that we  
18 postpone -- the motion to quash, I think, releases Mr. Hall  
19 from the obligation today to provide the data as of today.

20 MR. BROOKS: Yes.

21 MR. KELLAHIN: I intend to visit with him more  
22 specifically about the details of what I'm interested in having  
23 that I think Targa would need to present to the Division to  
24 justify their application. So at this point, if you enter an  
25 order that requires the C-108 by the end of October and

1 currently put the hearing on the docket for the 13th of  
2 November, that would still give us a window to settle this, and  
3 if not, ask you to further continue the case.

4 MR. BROOKS: Yeah. Did you have any input on this,  
5 Ms. Munds-Dry?

6 MS. MUNDS-DRY: I have nothing to add, Mr. Brooks.  
7 Thank you.

8 MR. BROOKS: I think that that is the course that I  
9 am going to recommend to the Director. I will draft an order  
10 which will be in the nature of a pretrial order that will  
11 direct that the C-108 be filed not later than October 29th and  
12 delivered to the people who have entered appearances.

13 Now, I take it you've given notice to a great many  
14 parties.

15 MR. HALL: Yes.

16 MR. BROOKS: And you said you've received a lot of  
17 phone calls.

18 MR. HALL: Well, a handful. I'd say ten.

19 MR. BROOKS: Yeah.

20 MR. HALL: I know the Division has --

21 MR. BROOKS: Rule 701, as it's presently written --  
22 and that's one of the things that probably needs to be changed  
23 about it -- requires that the C-108 be sent out with the  
24 notice, and I gather you did not do that.

25 MR. HALL: The C-108 was not prepared at the time of

1 the application.

2 MR. BROOKS: And I think that this order should  
3 dispense with the requirement that the C-108 be filed because  
4 otherwise your notice is not valid, and you'll have to go back  
5 and re-notice everybody. But it should also provide  
6 specifically -- if I were starting over again -- I hate to -- I  
7 think it's probably not efficient to make you re-notice a very  
8 large number of people who have not -- at least those who have  
9 not shown any interest in the proceeding. The ones who  
10 appeared, of course, you'll provide the C-108 to those people.

11 But in any additional notices that you send out after  
12 to more people, I think that the notice should state that the  
13 C-108 will be available after a certain date from a contact  
14 either on a website or by phone number. Because the purpose of  
15 the rule is that people have that information. And where  
16 you've got a lot of people to notify, most of them probably are  
17 not going to be interested. I do think it's unreasonably  
18 burdensome to make you send them a large sheath of material,  
19 because postage gets expensive.

20 I will prepare an order to that effect. And then if  
21 anybody feels they need additional time beyond the 13th of  
22 November, they can file a motion to continue.

23 Anything further in 14192?

24 MR. HALL: No, sir.

25 MR. KELLAHIN: No, sir.

1 MR. BROOKS: Very good. Case No. 14192 will be  
2 continued to November 13th.

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13 I do hereby certify that the foregoing is  
14 a complete record of the proceedings in  
15 the Examiner hearing of Case No. 14192,  
16 heard by me on Oct 16 2009.

17 David K. Broth Examiner  
18 Oil Conservation Division  
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**REPORTER'S CERTIFICATE**

I, JOYCE D. CALVERT, Provisional Court Reporter for the State of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

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 proceeding.

DATED this 16th of October, 2008.



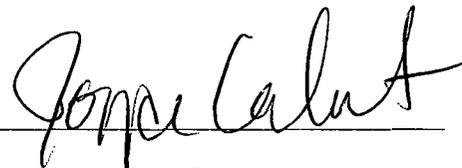
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1 STATE OF NEW MEXICO )  
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2 COUNTY OF BERNALILLO )

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4 I, JOYCE D. CALVERT, a New Mexico Provisional  
5 Reporter, working under the direction and direct supervision of  
6 Paul Baca, New Mexico CCR License Number 112, hereby certify  
7 that I reported the attached proceedings; that pages numbered  
8 1-13 inclusive, are a true and correct transcript of my  
9 stenographic notes. On the date I reported these proceedings,  
10 I was the holder of Provisional License Number P-03.

11 Dated at Albuquerque, New Mexico, 16th day of  
12 October, 2008.

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