

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: 21236, 21237

APPLICATION OF CIMAREX ENERGY COMPANY
OF COLORADO FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS

EXAMINER HEARING

May 14, 2020

SANTA FE, NEW MEXICO

This matter came on for virtual hearing before the New Mexico Oil Conservation Division, EXAMINERS FELICIA ORTH, BAYLEN LAMKIN, DYLAN COSS and SCOTT COX on Thursday, May 14, 2020, at the New Mexico Energy, Minerals, and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

Reported by: Irene Delgado, NMCCR 253
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A P P E A R A N C E S

For the Applicant:

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For Devon Energy and XTO:

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I N D E X

CASE CALLED

STATUS CONFERENCE 03

REPORTER CERTIFICATE 09

(Note: Poor audio connection.)

1 HEARING EXAMINER ORTH: Move then to matters
2 21236 and 21237, the applicant is Cimarex Energy. These are
3 applications for compulsory pooling relating to well Red
4 Tank 4.

5 Is that you, Mr. Hough, on behalf of the
6 applicant?

7 MR. HOUGH: Good morning, Madam Examiner, yes,
8 it's Lance Hough on behalf of Cimarex Energy Co of Colorado
9 in both cases, two cases.

10 I would note, it appeared to be set (unclear)
11 notation here on the docket, but my understanding it's set
12 for a status conference that as you see on the online file
13 submitted notice to the Division that Devon and XTO in the
14 case (unclear) Mr. Feldewert received confirmation that it's
15 set for a status conference. So I just wanted to confirm
16 that procedurally.

17 HEARING EXAMINER ORTH: Okay. Mr. Feldewert, it
18 appears you are here for Devon Energy and XTO.

19 MR. FELDEWERT: I'm -- that's correct, Madam
20 Examiner.

21 HEARING EXAMINER ORTH: Is there anyone else
22 entering their appearance this morning?

23 (No audible response.)

24 HEARING EXAMINER ORTH: No, all right. So
25 Mr. Hough, I have it on the docket as for a status

1 conference. That was our understanding of what was sought.
2 I would say the appropriate thing to talk about this
3 morning, given the Division's evolving calendar, if you
4 will, around time to hear the uncontested matters
5 expeditiously and moving -- moving ahead perhaps slowly with
6 contested matters.

7 So as I understand the guidance from the
8 Division, to the extent there is a contested matter on a
9 docket and you want to move toward hearing, the first step
10 there is to do a status conference in which I would either
11 present a stipulated joint prehearing order so that we could
12 actually set it for hearing at a time when I'm available and
13 the court reporter is available, or in the event you do not
14 have a stipulated prehearing order, I would effectively
15 invite you to submit one, and Mr. Feldewert to submit one,
16 and when the time is right, I would be issuing an order and
17 actually setting the thing for hearing in the future.

18 MR. HOUGH: Okay. Well, I guess one question
19 would be, Mr. Feldewert had an (unclear) and I don't -- we
20 agreed that -- you know, exhibit and with of A through G
21 here, and you know, A through D all (unclear) and we agreed
22 we could (unclear) in advance of the hearing that
23 information.

24 And then there is items E, F, G of -- E is, you
25 know, filing of a prehearing evidentiary objection, we can

1 schedule that and all be submitted based on my conversation
2 with Mr. Feldewert, you know, a week before that hearing.

3 So a lot of two items, F and G, as I understand
4 it, would be something the court would be submitting -- or,
5 I'm sorry, the Division would be submitting. So if you want
6 us to include a notice hearing order that (unclear) the
7 Division to select at the discretion of the schedule. I
8 just wanted more guidance on that if possible.

9 HEARING EXAMINER ORTH: Thank you very much for
10 asking that question. I think it would be best to leave it
11 blank and let the Division fill that in. That's not
12 something I can do with the order. So you're right, let's
13 leave it blank for now, and that will be -- that will be
14 set after this call. Are there other questions?

15 MR. FELDEWERT: No. I do have one question
16 just -- so as part of the stipulated joint prehearing
17 order -- I'm looking specifically at today's notice from
18 April 22, I'm looking at Subparagraph P as in Paul. It says
19 a full narrative recommended (unclear)

20 Does the Division contemplate -- my concern here
21 would be the filing of particularly direct testimony and in
22 what could be weeks, if not months, in advance of whatever
23 hearing date the Division would be able to accommodate.

24 I'm wondering if, instead, we would be able to
25 supply to that paragraph a date or so many days prior to the

1 hearing in which we would submit the narrative of direct
2 testimony to exhibits, you know, more akin to a prehearing
3 statement.

4 That would seem to make a little more sense to me
5 than trying to put together a narrative of testimony and
6 exhibits when we aren't sure when the hearing is going
7 (unclear). You know, things may change between the
8 submission and perhaps a month or two later before we have a
9 hearing. So that's my question, can we set a date in which
10 we submit -- we would agree to submit our direct testimony
11 of any witness.

12 HEARING EXAMINER ORTH: Yes, that would be my
13 understanding of how this process would work because the
14 Division doesn't have a particular interest in having
15 testimony -- testimony two months before a hearing. The
16 point is to have the testimony in before the hearing so that
17 we don't have verbal presentations, you know, in a virtual
18 room, which leads to all sorts of potential interruptions,
19 for example.

20 MR. FELDEWERT: Do you see any concern in, for
21 example, indicating that we would provide that type of
22 information a week in advance of the hearing similar to what
23 we do for a prehearing statement now?

24 HEARING EXAMINER ORTH: So as to whether it's a
25 week or two weeks, I guess I personally don't have a strong

1 feeling about that. I would hope, though, that the lawyers
2 involved could come to an agreement on that date. That is
3 to say, I think agreement between counsel is more important
4 than whether it's a week or two weeks.

5 MR. FELDEWERT: Understand.

6 HEARING EXAMINER ORTH: So with that, will the
7 two of you then be finalizing the stipulated prehearing
8 order submitted?

9 MR. HOUGH: Yes, Madam Examiner, that's my
10 understanding.

11 HEARING EXAMINER ORTH: Okay. Well, thank you
12 all very much. Is there anything else we need to discuss
13 around our first status conference?

14 MR. FELDEWERT: I just have one other question
15 about this status conference -- related to the status
16 conference. And I don't want to put you on the spot, but do
17 you have any indication as to when the Division may be able
18 to accommodate electronic hearings so we can get a
19 stipulated joint prehearing order? We get inquiries from
20 clients and I'm not sure what to tell them.

21 HEARING EXAMINER ORTH: Right. So I believe we
22 can, because in this matter the two of you are able to, or
23 it appears that you are able to agree on the prehearing
24 order, we would be able to handle this matter sooner rather
25 than later. In those matters where the status

1 conference (unclear) you know, the prehearing order, as I
2 understand it, those cases will be heard later.

3 MR. FELDEWERT: Thank you.

4 HEARING EXAMINER ORTH: All right. Thank you.

5 And by the way, word from a (unclear) stipulated prehearing
6 order, I will be reaching out to the court reporter and to
7 the two of you in order to -- in order to move forward.

8 HEARING EXAMINER ORTH: Okay. Are there any
9 technical examiners with questions about any of this?

10 (No audible response.)

11 HEARING EXAMINER ORTH: Okay.

12 (Status conference concluded.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 REPORTER'S CERTIFICATE

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6 I, IRENE DELGADO, New Mexico Certified Court
7 Reporter, CCR 253, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that the
9 foregoing pages are a true and correct transcript of those
10 proceedings that were reduced to printed form by me to the
11 best of my ability.

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

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

19 Dated this 14th day of May 2020.

20

/s/ Irene Delgado

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Irene Delgado, NMCCR 253
License Expires: 12-31-20

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