

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: 21376

APPLICATION OF WPX ENERGY PERMIAN LLC  
TO RESCIND DIVISION APPROVAL OF APPLICATIONS  
FOR PERMITS TO DRILL FILED BY TAP ROCK RESOURCES  
EDDY COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS

EXAMINER HEARING

AUGUST 6, 2020

SANTA FE, NEW MEXICO

This matter came on for virtual hearing before the New Mexico Oil Conservation Division, EXAMINERS FELICIA ORTH, DEAN McCLURE, JOHN GARCIA and KATHLEEN MURPHY on Thursday, August 6, 2020, hosted by the New Mexico Energy, Minerals, and Natural Resources Department, through Cisco Webex electronic platform.

Reported by: Irene Delgado, NMCCR 253  
PAUL BACA PROFESSIONAL COURT REPORTERS  
500 Fourth Street, NW, Suite 105  
Albuquerque, NM 87102  
505-843-9241

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A P P E A R A N C E S

For the Applicant:

MICHAEL FELDEWERT  
HOLLAND & HART  
110 North Guadalupe, Suite 1  
Santa Fe, NM 87501  
505-954-7286

For Tap Rock:

JAMES BRUCE  
P.O. Box 1056  
Santa Fe, NM 87504-1056  
505-982-2151  
jamesbruce@aol.com

STATUS CONFERENCE

REPORTER CERTIFICATE

1 HEARING EXAMINER ORTH: Moving then to case  
2 Number 21376, WPX Energy Permian. This is an appeal to --  
3 or a request to rescind an order related to a well named  
4 WTG. Who here is from Holland & Hart for the applicant?

5 MR. FELDEWERT: May it please the Examiner,  
6 Michael Feldewert from the Santa Fe office of Holland & Hart  
7 on behalf of WPX Energy Permian.

8 HEARING EXAMINER ORTH: Thank you. And then we  
9 have Tap Rock having made an appearance. Mr. Bruce, are you  
10 here for Tap Rock.

11 MR. BRUCE: Yes, I am.

12 HEARING EXAMINER ORTH: All right. Let me ask if  
13 there are any other appearances this morning.

14 (No response.)

15 HEARING EXAMINER ORTH: Do I understand we are  
16 going to a status conference on this matter? What are we  
17 doing, Mr. Feldewert?

18 MR. FELDEWERT: Well, Madam Examiner, I'm not  
19 sure we we need a status conference because I don't think  
20 any of the facts are disputed. What this case is about, I  
21 mean, this is an application to rescind some APDs,  
22 applications for permits to drill that were approved by the  
23 Division for ten wells. They were filed by Tap Rock. These  
24 are one and a half mile wells. They were all to be drilled  
25 in the with Wolfcamp in the E/2 of Section 27 (inaudible) 26

1 South, 29 East. Our application provides the API numbers  
2 for all of these wells.

3 WPX owns a working interest (inaudible) in the  
4 E/2 of Section 27. These applications to drill were  
5 received by the Division in April of 2020 and approved in  
6 April of 2020. Now, we ask they be rescinded because when  
7 they were received by the Division in April and approved in  
8 April, there was no pooling order for this acreage, and  
9 there is no agreement with WPX, so it violates the  
10 Division's rule under 19.15.16.15.A which states that an  
11 operator shall not file an application for permit to drill  
12 nor commence drilling unless they have a pooling order or  
13 unless they own an interest or have an interest signed up in  
14 each tract which the wellbore is (inaudible).

15 There is no -- when these were received by the  
16 Division in April, and when they were approved in April,  
17 there is no pooling order for this acreage and there is no  
18 agreement with WPX.

19 Now, there had been a pooling (inaudible) that  
20 was Order Number R-20388, which had been, which had approved  
21 the spacing unit for a single well, not ten wells, for a  
22 single well, but that expired in February for failure to  
23 drill.

24 And then these -- the filing of these AFEs,  
25 proceeding before the Division in April, which is a couple

1 of months after the pooling order expired for ten wells, not  
2 one well (inaudible) is a violation of this (inaudible) in  
3 my opinion has to be rescinded if this rule means anything.

4 Now, we provided -- the facts here are not  
5 disputed. We provided you an affidavit from Mr. Young, and  
6 he confirmed that WPX owns in Section 27, they own a working  
7 interest, that's not disputed. He confirms there is no  
8 agreement for these wells, that's not disputed.

9 And the attachment to that affidavit, and I sent  
10 it to you because I thought it was important to have samples  
11 of what we are talking about here, the attachment is -- the  
12 affidavit is just one of the APDs. And if you look at the  
13 Division records what it shows is that they were received by  
14 the Division April 14, 2020, all ten. An API number was  
15 assigned by the Division, and they were entered in the  
16 Division records and approved by the Division in April of  
17 2020.

18 So at this time there was no (inaudible). So if  
19 this rule means anything I believe these have to be  
20 rescinded. Now I will state, having said all of that, that  
21 I don't think Tap Rock did anything nefarious here. I mean,  
22 they had a pooling order which they never drilled and it  
23 expired. So when they received (inaudible) you know, the  
24 pooling order didn't exist. So I don't think they did it on  
25 purpose, but the fact is that it is undisputed that it was

1 received by the Division, approved and an API was assigned,  
2 there was no pooling order, never has been a pooling order,  
3 and there is no agreement with WPX.

4 So I don't think we need to have a hearing. You  
5 just need to make that decision. I didn't file a motion  
6 because last time I filed a motion they told me I had to  
7 file an application, so we filed an application (inaudible)  
8 rule here.

9 HEARING EXAMINER ORTH: All right. Thank you,  
10 Mr. Feldewert. Mr. Bruce?

11 MR. BRUCE: And I don't think the overall case  
12 would take a long time, but I would like time to respond to  
13 the affidavit which I just saw late the other day, and I  
14 have not been able to get ahold of my client to verify all  
15 of the information. At the very least, I would like another  
16 few days to get together with my client to submit our own  
17 affidavit.

18 And if Mr. Feldewert is right, fine, but if we  
19 can continue the cases to August 20 so we have adequate time  
20 to reply. And, you know, it was my understanding that if  
21 you objected to presentation by affidavit, the case would be  
22 put in for a status conference, but I don't think there is a  
23 lot to state, but I would like to get with my clients to  
24 respond to the affidavit.

25 HEARING EXAMINER ORTH: All right. Mr.

1 Feldewert, I think it probably would be helpful to the  
2 Division staff if they were able to have a response, a  
3 written response from Mr. Bruce's -- Mr. Bruce and his  
4 client.

5 MR. FELDEWERT: You know, I don't have any  
6 serious objection to that assuming, number one, if they can  
7 assure me they are not going to go out and commence drilling  
8 between now and then; and, Number 2, if we can then have a  
9 decision on April -- on August 20, because I don't know --  
10 there is no need for a hearing. All the facts are in the  
11 Division's orders.

12 MR. BRUCE: With respect to drilling, I would --  
13 I don't think that will be an issue, Madam Examiner. I  
14 think Tap Rock may well repool the acreage if it can, and  
15 but I will, I will check with them and I will confirm with  
16 Mr. Feldewert that drilling won't occur.

17 HEARING EXAMINER ORTH: All right. Thank you for  
18 that. In that case, Mr. Bruce, if would you, please submit  
19 a response. Can you do that by next Thursday?

20 MR. BRUCE: Oh, yes.

21 HEARING EXAMINER ORTH: That's August 13.

22 MR. BRUCE: I will do it by Wednesday, since,  
23 unfortunately, I'm at a Commission hearing all day Thursday.

24 HEARING EXAMINER ORTH: Oh, okay, thank you.  
25 That's August 12, and then Mr. Feldewert, if you have any

1 reply or additional information you would want to submit  
2 based on the response, if you would do that by August 18,  
3 and we will have this on the August 20 docket. In the event  
4 the Division staff has any questions of you, because I do --  
5 I need to provide them with an opportunity to ask questions  
6 they may have on the way to drafting an order.

7           So I can't -- I can't make any commitments as to  
8 when that order would be forthcoming, but at least they  
9 would have a window there to ask any questions they might  
10 have based on the written submittal.

11           MR. FELDEWERT: That would be on August 20?

12           HEARING EXAMINER ORTH: Right.

13           MR. FELDEWERT: Okay, that's fine. Thank you.

14           MR. BRUCE: Thank you.

15           HEARING EXAMINER ORTH: So that is -- thank you,  
16 Gentleman. That was 21376.

17           (Adjourned.)

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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, do hereby certify that I reported the foregoing  
8 proceedings in stenographic shorthand and that the foregoing  
9 pages are a true and correct transcript of those proceedings  
10 that were reduced to printed form by me to the best of my  
11 ability.

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

16 I FURTHER CERTIFY that the Virtual Proceeding was  
17 of fair quality.

18 Dated this 6th day of August 2020.

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

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