

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: 21536 21537

APPLICATION OF B.C. OPERATING INC.
TO AMEND ORDER NO. R-21070,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS

EXAMINER HEARING

DECEMBER 3, 2020

SANTA FE, NEW MEXICO

This matter came on for virtual hearing before
the New Mexico Oil Conservation Division, HEARING OFFICER
FELICIA ORTH and TECHNICAL EXAMINER BAYLEN LAMKIN on
Thursday, December 3, 2020, through the Webex Platform.

Reported by: Irene Delgado, NMCCR 253
PAUL BACA PROFESSIONAL COURT REPORTERS
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A P P E A R A N C E S

For the Applicant:

SHARON SHAHEEN
MONTGOMERY & ANDREWS
325 Paseo de Peralta
Santa Fe, NM 87501

For Franklin Mountain Energy:

DEANA BENNETT
MODRALL SPERLING ROEHL HARRIS & SISK PA
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Albuquerque, NM 87102
505-848-9710

I N D E X

CASE CALLED

SUMMARY OF CASE AND EXHIBITS 03

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1 HEARING EXAMINER ORTH: Move then to matters
2 21536 and 21537. The applicant is B.C. Operating in this
3 case. This is a request to amend an order. The well name
4 is Broadside. Ms. Shaheen, are you here for the applicant?

5 MS. SHAHEEN: Good morning, Madam Examiner. Yes,
6 I am here -- sharon Shaheen on behalf of B.C. Operating in
7 cases 21536 and 21537.

8 HEARING EXAMINER ORTH: Thank you. Good morning.
9 Franklin Mountain Energy entered an appearance.

10 Who is here from Modrall Sperling for Franklin
11 Mountain.

12 MS. BENNETT: Good morning. This is Deana
13 Bennett on behalf of Franklin Mountain Energy in these two
14 cases, and Franklin Mountain Energy does not oppose these
15 cases going by affidavit, but is entering its appearance in
16 these cases to preserve it's right to seek de novo hearing
17 if necessary. Thank you.

18 HEARING EXAMINER ORTH: Thank you, Ms. Bennett.
19 Ms. Shaheen -- I'm sorry, let me pause for a moment to see
20 if we have another entry this morning.

21 (No audible response.)

22 HEARING EXAMINER ORTH: I hear nothing. Ms.
23 Shaheen, please go ahead.

24 MS. SHAHEEN: B.C. Operating filed these two
25 applications to reopen previous case numbers 20838 and 20839

1 and amend the respective orders, Numbers R-21070 and R-21071
2 to accomplish two things. First they would like to conform
3 the template form of order circulated by the Division by its
4 letter of April 9 of 2020.

5 The original orders were entered in that February
6 period where there was a new form of order that was
7 subsequently revised, and so B.C. Operating is requesting
8 that the most recent form of order be used to issue these
9 amended orders.

10 And secondly, they ask that the time for drilling
11 be extended by one year extended until February of 2021.
12 And the reason for this request is because the economic
13 situation due to Covid and also due to circumstances with
14 oil prices that everyone is aware of.

15 So by these two applications B.C. Operating asks
16 the Division to issue amended orders using the template form
17 of order currently used and extending the time for drilling
18 by one year.

19 Turning to the exhibit package, the table of
20 contents is at PDF Page 2, and you will see that Tab 1 is
21 the affidavit of the landman Phil Hammond. And we have
22 identified the exhibits here.

23 The first two Exhibits 1-A and 1-B are the
24 applications for these particular applications today.

25 Exhibit 2 is copy of the OCD April 9 letter with

1 its attachments including the form of order that we are
2 requesting now.

3 Exhibits 3-A and 3-B are the original orders that
4 were entered in the original matters.

5 Finally, Exhibit 4 is a sample notice letter that
6 went out to all of the folks who were already force pooled
7 under the original orders. Tab 2 is the affidavit of
8 notice.

9 Turning -- and the landman affidavit explains the
10 basis for this request -- turning to Tab 2 to the notice, I
11 would like to talk briefly about notice here. We did send
12 notice out to everyone who received notice for the original
13 cases. There, there were four people who did -- whose green
14 cards were not returned or who did not receive notice by
15 mail, and I have identified them in here.

16 And then, and frankly, I'm going to fall on my
17 sword here, it appears -- I get my newspapers mixed up for
18 the various counties, and I need to double check the
19 publication was in the right county. And not only that, but
20 I need to let you know that the newspaper in which we did
21 publish was full on the day that publication should have
22 occurred, and so publication didn't occur until the day
23 after. So at this point we are only 19 days in front of the
24 hearing for the notice of publication.

25 So what I would like to do, there are two

1 alternatives here, one is I would request that this case be
2 continued to the December 17 docket so that I can follow up
3 with those notice issues, or, in the alternative, I would
4 ask the Division to go ahead and enter these orders, but not
5 force pool those people who are identified in the affidavits
6 of notice and that's at PDF Page 42.

7 Those folks are Devon Energy Production -- it's
8 hard for me to believe that they didn't get their certified
9 mail, but apparently the, the USPS lost it; Mark A. Lilly
10 and his wife Lisa M. Lilly, Franklin Mountain Energy LLC,
11 Franklin Mountain has entered an appearance so I don't think
12 we need to worry there; and one other unleased mineral
13 interest owner, Susan J. Croft.

14 And as I did mention, they were all previously
15 noticed, properly noticed with respect to the original cases
16 and, and we did attempt to serve them by mail in these two
17 cases.

18 So, Madam Examiner, I will leave it to you to let
19 me know what alternative you think is best here.

20 HEARING EXAMINER ORTH: All right. Thank you,
21 Ms. Shaheen. Let's see first if Ms. Bennett has any
22 questions of you.

23 MS. BENNETT: (Inaudible.)

24 HEARING EXAMINER ORTH: Ms. Bennett?

25 MS. BENNETT: Thanks. Sorry. No questions.

1 HEARING EXAMINER ORTH: All right. Thank you.

2 Mr. Lamkin, any questions of Ms. Shaheen?

3 TECHNICAL EXAMINER LAMKIN: No questions, thank
4 you.

5 HEARING EXAMINER ORTH: All right. Ms. Shaheen,
6 I think --

7 MS. BENNETT: I'm sorry, Madam Examiner, can I
8 ask one clarifying question of Ms. Shaheen that just dawned
9 on me?

10 Ms. Shaheen, did you say that you had published
11 19 -- that you were just shy of 19 days of publication,
12 because I think the rule may require publication ten days
13 before the hearing, so maybe your publication notice was
14 timely.

15 MS. SHAHEEN: Oh, right. No, I think my math is
16 wrong. I think publication was not timely, but my math was
17 wrong. Thank you for that clarification.

18 HEARING EXAMINER ORTH: All right. So, Ms.
19 Shaheen, I think if the matter needs to be continued, that's
20 fine. I will ask you to go to the fee portal, we can
21 continue it to the docket you requested the Division to
22 continue it to and wrap it up, and you won't have to repeat
23 everything that you said this morning.

24 MS. SHAHEEN: Great, I appreciate that.

25 HEARING EXAMINER ORTH: All right. Thank you.

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 REPORTER'S CERTIFICATE

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

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

14 I FURTHER CERTIFY that the Virtual Proceeding was
15 of poor to good quality.

16 Dated this 3rd day of December 2020.

17

/s/ Irene Delgado

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

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