

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

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

Application of OXY USA, Inc. to Re-Open  
Case No. 15616 to Reinstate, Modify,  
and Make Permanent the Injection  
Authority Granted by Order R-14322,  
Eddy County, New Mexico  
Case No. 21996  
(Formerly Case No. 15616)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

STATUS CONFERENCE

JULY 1, 2021

This matter came on for hearing before the  
New Mexico Oil Conservation Division, William  
Brancard, Esq. Hearing Examiner, and John  
Garcia and Phillip Goetze, Technical Examiners, on  
July 1, 2021, via the Webex Virtual Conferencing  
Platform hosted by the New Mexico Department of  
Energy, Minerals and Natural Resources.

Reported by: Mary Therese Macfarlane  
New Mexico CCR #122  
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A P P E A R A N C E S

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1 (Time noted 9:20 a.m.)

2 EXAMINER BRANCARD: With that I will call Case  
3 No. 15, 21996. And I believe we have a special guest  
4 hearing examiner for this case.

5 Mr. Goetze, are you with us?

6 EXAMINER GOETZE Yes, Mr. Brancard.

7 EXAMINER BRANCARD: Thank you.

8 And this I believe is OXY USA Inc, Holland  
9 & Hart.

10 MR. FELDEWERT: If it please the examiner,  
11 Michael Feldewert with the Santa Fe office of Holland and  
12 Hart appearing on behalf of the applicant.

13 EXAMINER BRANCARD: Thank you. And I have an  
14 entry from Spur Energy Partners, Hinkle, Shanor.

15 MS. HARDY: Mr. Examiner, I believe that Hinkle,  
16 Shanor entered an appearance in this matter on behalf of  
17 XTO.

18 EXAMINER BRANCARD: That could be correct. And  
19 is that you?

20 MS. HARDY: I believe Mr. Blanco with my office  
21 had entered an appearance, and notified the Division that  
22 he wasn't able to attend the hearing, so I will enter my  
23 appearance on behalf of XTO. Thank you.

24 EXAMINER BRANCARD: All right.

25 Well, are there any other parties

1 interested in Case 21996?

2 MR. BRUCE: Mr. Examiner, yes. Jim Bruce. Can  
3 you hear me?

4 EXAMINER BRANCARD: I can.

5 MS. BRUCE: I would like to -- two things:  
6 Enter my appearance on behalf form MRC Permian Company;  
7 and No. 2, I would like you to spell the name of the  
8 special guest hearing examiner, because I haven't heard  
9 that name in a long time.

10 EXAMINER BRANCARD: Well, he's a guest, Mr.  
11 Goetze. G-o-e-t-z-e. Many people leave off the last e.

12 MR. FELDEWERT: Mr. Bruce, I can confirm that he  
13 looks the same. Things have not changed much.

14 EXAMINER GOETZE: Tell the truth.

15 MR. BRUCE: I've gone downhill since the last  
16 time Mr. Goetze was on.

17 EXAMINER BRANCARD: We are looking forward to  
18 seeing your face one of these days, Mr. Bruce.

19 MS. BRUCE: Well, just so you know, I am  
20 actually right now sitting in a full beach house on Lake  
21 Michigan, so your earlier comment about beach houses hit  
22 home.

23 EXAMINER BRANCARD: Glad some of us are having  
24 fun.

25 Okay. So start us off, Mr. Feldewert.

1 This case has a little bit of a history here. Perhaps you  
2 could briefly summarize it for the record.

3 MR. FELDEWERT: Yes, certainly. I mean, I'll  
4 point out first that there's a couple of things that OXY  
5 is seeking under this application. One is to reinstate  
6 the injection authority that they had for this pilot  
7 project that was granted under R-14322.

8 That, as our application notes and  
9 Mr. Janacek's resume notes was inadvertently lost due to a  
10 one-year period of time of noninjection, basically  
11 resulting from a series of events: OXY's acquisition of  
12 Anadarko, and then Covid hit, and then we had the economic  
13 downturn the other thing that the company seeks is to --  
14 uh, for an Order, I would say modifying the injection  
15 authority to some extent based on the application heard by  
16 the Division and the substantial evidence that was  
17 presented by the company back in January of 2019.

18 And as a matter of procedure, Mr. Brancard,  
19 our Prehearing Statement requests that the Division  
20 incorporate the record from that presentation, which was  
21 under Case 15616, into this matter.

22 The history of this project is -- you know,  
23 we lay it out in our application which has been marked as  
24 OXY Exhibit A. Mr. Janacek, whose affidavit you will see  
25 as OXY Exhibit B, he's an engineer, also touches on that.

1 You know, I can answer questions about that and discuss as  
2 needed, given that I'm fairly familiar with the regulatory  
3 history of this matter, but I think it's self-explanatory.

4           We had -- this was a pilot project. It was  
5 approved some time ago. We had to come back two years  
6 later to report on the results, which the company did in  
7 January of 2019. You will see from Mr. Janacek's  
8 affidavit that what happened after that hearing, and which  
9 is marked as Exhibit B-2 is there was a letter that was  
10 issued by the Division following that presentation,  
11 essentially confirming that OXY could continue with the  
12 pilot project while we waited the issuance of the Order.

13           And I believe that what's very important  
14 here not only is the existence of this letter, but if you  
15 look at the second page you will see at that time the  
16 Division concluded that, and I'm quoting here, "The  
17 operator presented testimony and evidence that the pilot  
18 project has successfully increased hydrocarbon production  
19 of adjacent horizontal wells in the same formation. The  
20 operator also demonstrated that injected fluid entered  
21 only the injection interval, did not escape to other  
22 formations and did not impair correlative rights."

23           This letter anticipated that the Order  
24 would be issued. I'm sure for a lot of good reasons that  
25 that Order has been delayed. Then we had the Covid and

1 the downturn, and so now we're back to the point of trying  
2 to get this injection project reinstated because, as  
3 Mr. Janacek notes in his affidavit, OXY desires to  
4 recommence injection in this project area as soon as  
5 possible.

6 So in addition to the evidence that OXY  
7 presented back in January, 2019, Mr. Janacek offers his  
8 affidavit, which we've marked as Exhibit B, as in boy.

9 I'll first note this is his first time  
10 testifying before the Division. He provides his  
11 credentials under Exhibit B-1, and we ask that he be  
12 qualified to testify through this affidavit as an expert  
13 witness in petroleum engineering.

14 EXAMINER BRANCARD: Let me interrupt you for a  
15 minute, Mr. Feldewert.

16 MR. FELDEWERT: Sure.

17 EXAMINER BRANCARD: Ms. Hardy, do you have any  
18 objection to this case going forward by affidavit?

19 MS. HARDY: No. No objection from XTO,  
20 Mr. Hearing Examiner. Thank you.

21 EXAMINER BRANCARD: Mr. Bruce?

22 MR. BRUCE: No objection.

23 EXAMINER BRANCARD: Thank you. Please continue,  
24 Mr. Feldewert.

25 MR. FELDEWERT: So I'll call this, and what Mr.

1 Janacek calls this in his affidavit, he calls it the Cedar  
2 Canyon 16 injection project, because it involves Section  
3 16.

4 I believe the first thing of importance, in  
5 addition to the letter from the Division that he provided  
6 on Exhibit B-3, is kind of a timeline of events that has  
7 occurred since this project was initially brought before  
8 the Division back in 2017. And it basically reflects what  
9 we've already discussed.

10 He offers then as Exhibit B-4 an updated  
11 Area of Review Map. And what the company did in  
12 preparation for this hearing is you will see from his  
13 testimony that they identify the two approved, previously  
14 approved injection wells in the middle of that big blue  
15 bubble. It's the 7H and the 12H there in Section 16, the  
16 horizontal wells.

17 And they created -- as they did the first  
18 times around, they created an Area of Review based on the  
19 completed interval of those horizontal wells. That's why  
20 you see the area of blue expand out, as they did.

21 And what they identified on here is wells  
22 where the circumstance had changed, since this was first  
23 done and presented to the Division back in 2017 and then  
24 again reiterated in 2019, and what they found in doing  
25 that examination is that there were 26 wells that were of

1 the status had changed. Either they were new wells or the  
2 wells, for example, had gone from being productive wells  
3 to P&A wells.

4 So that's the 26 circles that you see on  
5 this Area of Review Map.

6 As Mr. Janacek notes, there are a few of  
7 those circles that appear outside that blue Area of  
8 Review, and those reflect horizontal wells where the  
9 surface location is outside the Area of Review but a  
10 portion of the horizontal wellbore actually extends into  
11 the Area of Review, and as a result they are included in  
12 the tabulation that follows for each of those 26 wells  
13 that is shown here in Exhibit B-4.

14 Mr. Janacek notes in his affidavit in  
15 paragraph 12 in his review of the information shown on  
16 this spreadsheet for these 26 wells indicate that any of  
17 the new active wells within this Area of Review, and these  
18 are his words, "are sufficiently cased and cemented to  
19 prevent fluid migration out of the injection zone."

20 Exhibit B-5 then provides the wellbore  
21 diagrams for that 26 subset of wells within the Area of  
22 Review that were plugged and abandoned since 2016, which  
23 is when this was first presented to the Division.

24 Mr. Janacek not only provides schematics  
25 and wellbore diagrams but likewise opines in his affidavit

1 that they are sufficiently plugged and cemented to prevent  
2 fluid migration out of the injection zone.

3 He then in his affidavit further provides  
4 his opinion that a reinstatement of this injection  
5 authority as contemplated by the Division -- I would say  
6 as contemplated in the Division's February, 2019, letter,  
7 does not pose a threat to public health or the  
8 environment, will promote the efficient recovery of  
9 hydrocarbons underlying these state lands, and prevent  
10 waste.

11 Exhibit B-6 contains the names and  
12 addresses of each leasehold operator and other affected  
13 persons within any tract wholly or partially contained  
14 within a half mile of the injection wells, and includes  
15 the State Land Office, which is the surface owner of the  
16 state land involved in this project.

17 This list was provided to us, Mr. Brancard  
18 and Examiner Goetze, and you will see my Notice of  
19 Affidavit, which is marked as Exhibit C, along with the  
20 Notice of this hearing and the status of the delivery of  
21 the package. That status shows that for a vast majority  
22 these items was delivered. There is a few for some of  
23 these companies where they say the package will arrive  
24 later than expected, et cetera, including XTO, which I  
25 find very interesting.

1                   But, in any event, out of an abundance of  
2   caution, because of that we have as Exhibit D the  
3   Affidavit of Publication in the newspaper, directed by  
4   name to these affected parties, providing Notice of this  
5   hearing today.

6                   So in addition to the evidence that was  
7   presented in January of 2019, which we ask be incorporated  
8   into the hearing, we ask for the admission of OXY exhibits  
9   A, B, C and D, and that this application be taken under  
10  advisement and granted.

11                  EXAMINER BRANCARD: Thank you.

12                  Let me first propose to the parties that  
13  the Division consolidate this case with Case 15616 so that  
14  we have the record in both cases before us. Is there any  
15  objection?

16                  Mr. Feldewert.

17                  MR. FELDEWERT: Certainly not. Thank you.  
18  That's what we were requesting.

19                  EXAMINER BRANCARD: Ms. Hardy.

20                  MS. HARDY: No objection.

21                  EXAMINER BRANCARD: Mr. Bruce.

22                  MR. BRUCE: No objection.

23                  EXAMINER BRANCARD: Thank you. Okay. I will  
24  then turn to Ms. Hardy.

25                  What is the position of XTO on this, or do

1 you have questions, comments, concerns?

2 MS. HARDY: I have no objection and no questions  
3 or comments. Thank you.

4 EXAMINER BRANCARD: Thank you.

5 Mr. Bruce, MRC Permian.

6 MR. BRUCE: I have no questions. MRC is just  
7 very interested in the project, that's all.

8 EXAMINER BRANCARD: Thank you.

9 Okay. And now, Mr. Goetze, questions,  
10 comments, concerns?

11 EXAMINER GOETZE: Yes, sir. I do have a few  
12 questions for Mr. Feldewert.

13 Good morning, Mr. Feldewert.

14 MR. FELDEWERT: Good morning. Good to see you,  
15 Mr. Goetze.

16 EXAMINER GOETZE: Covid and all.

17 Thank you very much for going back and  
18 looking at the AOR and revisiting that. We do that as a  
19 standard protocol, and I'm glad that OXY did that.

20 I do have three questions which can be  
21 provided in a supplemental document to the record.

22 First question is, is currently these two  
23 wells, do they have the same configuration as when they  
24 were originally injecting? In other words, same packer  
25 location, same set-up? We just want to affirm that we've

1 had no significant change in well design.

2 MR. FELDEWERT: Are you talking about the 7H and  
3 the 12H, Mr. Goetze?

4 EXAMINER GOETZE: Right.

5 MR. FELDEWERT: Okay.

6 EXAMINER GOETZE: Second, affirmation that they  
7 will continue to use the unlined tubing. Just want to  
8 make sure we are still on the same page.

9 MR. FELDEWERT: Okay.

10 EXAMINER GOETZE: And then the last thing is as  
11 a result of having Dr. Engler as a commissioner. The  
12 testimony in January, a maximum surface injection pressure  
13 for produced gas was given at 4,350 psi, and the Co2 at  
14 2300 psi. Could you provide the calculations as to how  
15 that was derived so it can be in the record?

16 MR. FELDEWERT: So that would be surface  
17 injection pressure --

18 EXAMINER GOETZE: For produced gas was at 4350,  
19 and then the Co2 was proposed at 2300 psi.

20 I believe page 52 and page 61 of the  
21 testimony at the hearing in January 19 -- January 11th,  
22 excuse me, it was brought up.

23 But having gone through the record and  
24 looked at it, we don't have any derivation of how you got  
25 those numbers.

1 MR. FELDEWERT: I'm looking real quick here.

2 EXAMINER GOETZE: I'm sure you are.

3 MR. FELDEWERT: We will certainly provide that.

4 EXAMINER GOETZE: It's not that we are objecting  
5 to the numbers, but having gone through a history of some  
6 acid gas wells and looking at derivation of gas pressures  
7 used for monitoring at surface, Dr. Engler cited that we  
8 have several interpretations of what people's densities  
9 and ideal gas log interpretation is, and so we want to  
10 have it in the record so that if we have to go back and  
11 take a look at how they got this, it's there.

12 MR. FELDEWERT: You said 4350 or 4250?

13 EXAMINER GOETZE: I'll go back and look.

14 MR. FELDEWERT: Because I'm looking at the  
15 Order, and the Order initially approved in this project  
16 back in 2017, the Division approved 4250 psi for produced  
17 gas.

18 I don't think we sought a change, and if we  
19 did, I believe that -- you know, for some reason if that  
20 was in exhibits or something, I'm sure that was an error.  
21 I don't recall.

22 EXAMINER GOETZE: So page sixty- I think it's 63  
23 of the testimony we have that we are going with the same  
24 numbers, 4350 for produced gas and 2300 for Co2 and the  
25 other project well. So in that collective discussion.

1                   So let's go ahead and clarify it.

2                   MR. FELDEWERT: I will. It sounds like there  
3 may have been a confusion in the record. I would  
4 certainly do that.

5                   EXAMINER GOETZE: And other than that, just one  
6 more item.

7                   OXY has several of these projects going,  
8 and under our rules we do have that ability if they reach  
9 that 12 month and they haven't decided to put it back  
10 online, they submit to us a written request for the  
11 extension of the injection authority.

12                   Could you reaffirm with them -- I mean,  
13 these projects are big, and certainly move in and out.  
14 Just as a benefit to them, reiterate that option is there,  
15 and it would save both of us a lot of time if they did  
16 that.

17                   MR. FELDEWERT: I agree with that, and I think,  
18 like I said, this was totally inadvertent. It was the  
19 product of the series of events that I laid out, and I  
20 know that they are taking steps to make sure it doesn't  
21 happen again.

22                   EXAMINER GOETZE: I'm sure they appreciate the  
23 economics.

24                   MR. FELDEWERT: Yes.

25                   EXAMINER GOETZE: Other than that, I have no

1 more questions.

2 EXAMINER BRANCARD: Thank you.

3 Mr. Garcia, did you have any questions?

4 EXAMINER GARCIA: I have no questions.

5 EXAMINER BRANCARD: Okay. Mr. Feldewert, it  
6 sounded like, at least to my ears, that these questions  
7 were fairly clear and should be able to be answered in  
8 short order. Can we get answers back within a week?

9 MR. FELDEWERT: I would hope -- let's see. I  
10 recognize we are running up against the July 4th holiday  
11 here, but yes, we will certainly get those answers to you  
12 within a week, if not sooner.

13 Like I said, OXY, you know, is in a  
14 position now and has been for a while where they would  
15 like to recommence injection, so we have every incentive  
16 to get this to you as quickly as possible. We hope the  
17 Division, likewise, is able to issue an Order -- I know  
18 you're all busy, but as soon as possible.

19 EXAMINER GOETZE: I will say that we did say  
20 what you said, so we do have the best of Mr. Feldewert on  
21 the record.

22 EXAMINER BRANCARD: Finally I'll just check back  
23 with Ms. Hardy. Any other concerns on this matter?

24 MS. HARDY: No, Mr. Examiner. Thank you.

25 EXAMINER BRANCARD: Mr. Bruce, MRC Permian?

1 MR. BRUCE: No, sir.

2 EXAMINER BRANCARD: Thank you. All right.

3 So with this case, as I mentioned, we are  
4 combining this with Case 15616, and with the same request,  
5 I assume, for making this pilot project a permanent  
6 project. Is that correct, Mr. Feldewert?

7 MR. FELDEWERT: Yes. Yeah, I mean I -- yes.  
8 It's an interesting term, because I know the Division  
9 always has the ability to go back and review it.

10 But, yeah, as you use the term, correct.  
11 We would like to move from temporary, a two-year pilot  
12 project, to a more permanent injection project.

13 EXAMINER BRANCARD: Permanent is a long time.

14 So okay. We will move ahead with this. I  
15 know you mentioned the word reinstate. I don't know what  
16 that means. You know it sounds like a Mike Lyndell  
17 (phonetic) term to me.

18 But we will issue a new Order in this  
19 matter. Okay? And that will hopefully get us both to  
20 where we want to be in this situation. Hopefully we can  
21 do that in not a very long time.

22 So unless there are any other comments, we  
23 will take this case under advisement but we will leave the  
24 record open for a week for OXY to provide answers to the  
25 questions, provide the information that Examiner Goetze

1 requested.

2 Any other concerns, Mr. Feldewert?

3 MR. FELDEWERT: No. Actually, let me -- I see  
4 that Mr. Janacek is actually a panelist. Would it be  
5 helpful if Mr. Janacek could answer any of the questions  
6 now, Mr. Goetze, having -- recognizing I have not been  
7 able to check with him to see if he can. But would that  
8 be helpful?

9 EXAMINER GOETZE: I mean, I don't know the  
10 current procedures, I would defer to the chief examiner,  
11 but if you just put it into an email so that we can turn  
12 it into a record of the testimony.

13 MR. FELDEWERT: That's fine. Okay. We will  
14 do -- we will accomplish that.

15 EXAMINER BRANCARD: I think that would work  
16 better.

17 EXAMINER GOETZE: It also prevents him from  
18 saying something wrong.

19 EXAMINER BRANCARD: I guess I would ask Mr.  
20 Janacek whether he understands the requests for  
21 information that have been asked.

22 MR. JANACEK: Yes, I do, Mr. Examiner.

23 EXAMINER BRANCARD: I didn't catch that.

24 MR. JANACEK: Yes, I do. Can you hear me?

25 EXAMINER BRANCARD: We can. Thank you. Okay,

1 great, that's perfect.

2                   So with that, Case 21996 is taken under  
3 advisement. The record is left open for a week to provide  
4 the additional information requested by the hearing  
5 examiner, and hopefully we can move forward on this  
6 matter. Thank you all.

7                   MR. FELDEWERT: Thank you, Mr. Examiner.

8                   (Time noted 9:47 a.m.)

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1 STATE OF NEW MEXICO )  
2 : SS  
3 COUNTY OF TAOS )

4  
5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter  
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday, July 1,  
8 2021, the proceedings in the above-captioned matter were  
9 taken before me; that I did report in stenographic  
10 shorthand the proceedings set forth herein, and the  
11 foregoing pages are a true and correct transcription to  
12 the best of my ability and control.

13 I FURTHER CERTIFY that I am neither employed by  
14 nor related to nor contracted with (unless excepted by the  
15 rules) any of the parties or attorneys in this case, and  
16 that I have no interest whatsoever in the final  
17 disposition of this case in any court.

18 /s/ Mary Macfarlane  
19 \_\_\_\_\_

20 MARY THERESE MACFARLANE, CCR  
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