

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: 21337, 21338

APPLICATION OF COG OPERATING LLC
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS
EXAMINER HEARING
JULY 23, 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 JOHN GARCIA on Thursday,
July 23, 2020 through the Webex Platform.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 EOG:

LANCE HOUGH
MODRALL SPERLING ROEHL HARRIS & SISK PA
500 4th Street, NW, Suite 1000
Albuquerque, NM 87102
505-848-9710

I N D E X

CASE CALLED	
STATUS CONFERENCE	03
REPORTER CERTIFICATE	09

1 HEARING EXAMINER ORTH: We will move to matters
2 21337 and 21338. COG Operating, compulsory pooling
3 application, well name Tenderloin. Mr. Feldewert, will you
4 be presenting again from Holland & Hart?

5 MR. FELDEWERT: Yes, Madam Examiner.

6 HEARING EXAMINER ORTH: And Mr. Hough, are you
7 here again on behalf of EOG?

8 MR. HOUGH: Yes, on behalf of EOG, as well as
9 Colgate Operating Company. I submitted that entry of
10 appearance a while back and then the last round of
11 appearance I also (inaudible), so I apologize.

12 HEARING EXAMINER ORTH: Thank you. Do I
13 understand that this will be a status conference, or have
14 you resolved the matter and will be proceeding by affidavit?

15 MR. HOUGH: Madam Examiner, this is Lance Hough,
16 we have not reached any resolution, so it's my understanding
17 we'll be proceeding to a status.

18 MR. FELDEWERT: Madam Examiner, this is Michael
19 Feldewert. And as you will gather from what we filed this
20 past Tuesday, the second affidavit, we do object to another
21 delay because these filed affidavits, notice of these
22 pooling applications provided for the (inaudible) company of
23 record at the same address that was successfully used at the
24 well proposals in February.

25 Colgate came in the day before the July 9

1 hearing, indicated that they -- the notices on July 7,
2 because apparently they had knowingly changed the address.
3 They requested a late motion for a continuance, and we
4 agreed only because they, and I quote, that a continue to
5 the next docket on 7-23 gives sufficient time to evaluate
6 and prepare to the extent necessary.

7 Now they come in and -- they have said that --
8 now they say, "Well, we object, we object to this matter
9 proceeding," and they want a contested hearing when there is
10 nothing to contest because we shipped (inaudible) received
11 the proposal at, the same addressed used for the hearing
12 notice.

13 Our affidavit that we filed this past Tuesday
14 shows that the parties had discussions about the pooling --
15 about what the (inaudible) and about trades in April three
16 months ago. And they had been unable to reach an agreement
17 CM Resources, now Colgate, I guess, states that they
18 received notice of the July 9 hearing on July 7. So there
19 is no notice associated with proceeding today on the July
20 23, there are no competing development plans. There is no
21 reason for us not to proceed by affidavit because contest
22 (inaudible) at a hearing.

23 So we object to being delayed here. I mean, I
24 feel like I have been a little tricked. You know, they tell
25 us that (inaudible) July 23, and July 23 shows up and they

1 just say, well, we object to proceeding and without
2 providing any reason.

3 HEARING EXAMINER ORTH: All right. Thank you,
4 Mr. Feldewert. Mr. Hough, what would we be doing at a
5 contested hearing if I set one?

6 MR. HOUGH: Madam Examiner, I think right now as
7 is evidenced, one, that there is an issue of -- there is
8 obviously an obligation for COG to negotiate in good faith
9 and attempt to pool the parties in good faith.

10 And I think if we are going to go down that
11 discussion, I think that takes us to a contested issue, one,
12 on that issue, and there are subsequent issues that would be
13 addressed at a contested hearing.

14 I'm not prepared to discuss those because this a
15 status conference. The reason it's a status conference is
16 because we are attached to all of these issues Mr. Feldewert
17 already addressed right now, we (inaudible) the fact there
18 is no language in any correspondence (inaudible) only to the
19 23, but rather to continue to the 23rd which leaves open the
20 opportunity for (inaudible) which is common for a lot of
21 these cases. So we can go through, attach through the
22 policy, the adequacy or lack thereof, notice and measures
23 taken to negotiate in good faith by COG, as well as prior
24 correspondence about a continuance to this date or a later
25 date.

1 But the reality is Colgate's concern here is an
2 opportunity to negotiate in good faith. That's been
3 something that we believe they have not received, at least
4 to this date. We requested a continuance to August 20, and
5 that got denied. So here we are with the Division's
6 policies for a contested case.

7 And the fact that we are arguing over it right
8 now (inaudible) the original bases for that, and there is no
9 policy that says you have to have a competing development in
10 order to continue a case. So there are several points to
11 address a contested hearing, so at this point I think all we
12 need to do is set it for a status conference -- or a
13 contested hearing.

14 HEARING EXAMINER ORTH: All right. Thank you,
15 Mr. Hough. Mr. Feldewert, I do understand that you would
16 seek a contested in connection with the August 20 hearing
17 event?

18 MR. FELDEWERT: I'm not sure what is contested.
19 I mean, there is no notice hearing because their own e-mail
20 says they received -- colgate even with each (inaudible)
21 they received notice on July 7. There is no -- there is no
22 notice issue here now that we continued it. And in terms of
23 this statement, we attached an e-mail noting that the
24 parties started talking about this way back in April 2020,
25 three months ago, where their landman says, "Thanks for

1 reaching out to us. We stepped out of the matter. We
2 turned it over to Mark Hadjit. Please contact Mark Hadjit."
3 And Mark Hadjit starts having subsequent discussions about a
4 trade, so I don't see what is the issue that would be
5 (inaudible).

6 HEARING EXAMINER ORTH: All right. So you
7 understand my dilemma here, which is that we do have this
8 notice that came out yesterday, on July 22 saying that
9 requested hearings can be set even over every other party's
10 objection after August 6.

11 I have 21240 set on August 6. Those are the
12 southern units in the Chevron cases, which is why I was
13 going to suggest something in connection with the August 20
14 hearing event.

15 MR. FELDEWERT: Thank you. I understand your
16 (inaudible). I'm obviously (inaudible). We all learn. And
17 I also still do not understand what we are going to address
18 at a contested hearing. I understand your dilemma with
19 accommodation to have a hearing on August 20, but I don't
20 think this is going to work.

21 HEARING EXAMINER ORTH: All right. If you would
22 please submit a prehearing order for hearing on August 20.

23 MR. FELDEWERT: I will certainly do that.

24 HEARING EXAMINER ORTH: Thank you.

25 MR. FELDEWERT: Seven days in advance; right?

1 HEARING EXAMINER ORTH: Right. That would be
2 August 13, and the rest of that template.

3 MR. FELDEWERT: Thank you very much.

4 HEARING EXAMINER ORTH: Thank you, and thank you
5 Mr. Hough.

6 MR. HOUGH: Thank you, Madam Examiner.

7 (Concluded.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW MEXICO
COUNTY OF BERNALILLO

REPORTER'S CERTIFICATE

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

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 case.

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

Dated this 23rd day of July 2020.

/s/ Irene Delgado

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