

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: 21872

APPLICATION OF TITUS OIL & GAS PRODUCTION LLC  
FOR APPROVAL OF PRODUCTION ALLOCATION,  
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
EXAMINER HEARING  
JULY 15, 2021  
SANTA FE, NEW MEXICO

This matter came on for virtual hearing before  
the New Mexico Oil Conservation Division, HEARING OFFICER  
WILLIAM BRANCARD and TECHNICAL EXAMINER DEAN McCLURE on  
Thursday, July 15, 2021, 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  
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Santa Fe, NM 87501

For EOG:

ADAM RANKIN  
HOLLAND & HART  
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Santa Fe, NM 87501  
505-954-7286

For the Division:

ERIC AMES  
1220 S. St. Francis Drive  
Santa Fe, NM 87501

I N D E X

CASE CALLED	
STATUS CONFERENCE	04
REPORTER CERTIFICATE	10

1 HEARING EXAMINER BRANCARD: Now case 21872, Titus  
2 Oil & Gas. We had scheduled this for a status conference  
3 and for an update on any progress in this case. Entry for  
4 Titus?

5 MS. SHAHEEN: Sharon Shaheen, Montgomery &  
6 Andrews on behalf Titus Oil & Gas Production.

7 HEARING EXAMINER BRANCARD: Is the Division also  
8 present for this case?

9 MR. AMES: Yes, Mr. Hearing Examiner, Eric Ames  
10 for OCD.

11 HEARING EXAMINER BRANCARD: All right. Are there  
12 any other interested persons in Case 21872?

13 MR. RANKIN: Good morning, Mr. Hearing Examiner,  
14 Adam Rankin of the law firm of Holland & Hart, Santa Fe,  
15 appearing on behalf of EOG Resources.

16 HEARING EXAMINER BRANCARD: Do you have an entry  
17 in this case?

18 MR. RANKIN: We do.

19 HEARING EXAMINER BRANCARD: Any other persons  
20 interested in this case?

21 (No response.)

22 HEARING EXAMINER BRANCARD: All right. We  
23 understand this is a difficult case to move forward with,  
24 possibly setting some precedent here, so we scheduled this  
25 for a status conference to see how progress is being made on

1 this or not.

2 And I believe you filed a joint operating  
3 agreement or a draft joint operating agreement, Ms. Shaheen?  
4 Any other news to report?

5 MS. SHAHEEN: Well, we can talk about what I  
6 believe the next steps are, but there that is an executed  
7 joint operating agreement. I realize it has some red in it,  
8 but if you scroll down to the signature pages, you will see  
9 it's been executed by both Titus and Oxy.

10 So I think that was our first stumbling block,  
11 and we are pleased to have moved that out of the way. It  
12 has also been submitted to the Texas Railroad Commission,  
13 and I understand that they will now proceed -- the hearing  
14 examiners there will report to the Railroad Commission, and  
15 I understand that report -- and this is based on my review  
16 of the previous transcript -- that report will address the  
17 policy options with respect to allocation of production, and  
18 that with respect to operational issues, Railroad Commission  
19 staff perceive working those out in the MOUs that they  
20 anticipate to enter into with the Division.

21 HEARING EXAMINER BRANCARD: Is there any date for  
22 an MRC -- I'm sorry -- RRC proceeding?

23 MS. SHAHEEN: I believe that this completes the  
24 record for the RRC proceeding. There was a hearing held, I  
25 want to say, in April, and the record was just held open

1 specifically for the purpose of getting the agreement in  
2 place. And so now they will just proceed to prepare a  
3 report, send that up to the Railroad Commission.

4 HEARING EXAMINER BRANCARD: Okay. So a report  
5 will be prepared and then the full commission will discuss  
6 it?

7 MS. SHAHEEN: That's my understanding. And I  
8 haven't gotten an update as to timing on that, but as soon  
9 as I do, I'm happy to share that information with you and  
10 the Division.

11 HEARING EXAMINER BRANCARD: Okay. Mr. Ames, do  
12 you have any further information regarding Texas?

13 MR. AMES: No, I do not.

14 MS. SHAHEEN: If I may, we are in the process of  
15 putting together a draft MOU, and we would hope to be able  
16 to share that both with the Division and with the Railroad  
17 Commission and perhaps have another phone call with the  
18 Division counsel, as well as Railroad Commission counsel.  
19 That's what we would propose to do as the next step, if  
20 Mr. Ames is amenable to that? Don't want to put you on the  
21 spot.

22 MR. AMES: I don't feel on the spot, thank you.

23 HEARING EXAMINER BRANCARD: I assume, Mr. Ames,  
24 you're working with the parties on this matter.

25 MR. AMES: I will take what Ms. Shaheen has said

1 and take it back to the Division and talk with my client and  
2 we'll decide how to proceed. Thank you.

3 HEARING EXAMINER BRANCARD: Well, Ms. Shaheen,  
4 that may not be a bad idea. To the extent, I think, that  
5 the two state agencies can try to come to some informal  
6 understanding of what an acceptable MOU would be, it would  
7 be easier, I think, than to present that to the full  
8 Railroad Commission rather than having the Railroad  
9 Commissioners themselves trying to come up with something.

10 So I think if you all can work on language, that  
11 might be a good start moving this forward. I don't want to  
12 get this bogged down in the OCC versus RRC, you know, who's  
13 got the better idea thing.

14 I think it's staff can work together and come up  
15 with a proposal. That might be the way to do it, rather  
16 than having people pontificate in public hearings.

17 MS. SHAHEEN: Well taken. One question I did  
18 want to ask is, this is about -- you mentioned in the last  
19 hearing the possibility of referring the decision up to the  
20 Commission, and just wanted to talk about how that would  
21 working, what the timing would be.

22 We do have these wells on a drilling schedule, so  
23 if, if the Division does determine that it would refer it to  
24 the Commission ultimately, we would like to get on a  
25 Commission docket sooner rather than later. So I just throw

1 that out there for your consideration.

2 HEARING EXAMINER BRANCARD: Okay. I guess my  
3 suggestion to the Commissioners, the Commission chair  
4 specifically, would be that to sort of work in alignment  
5 with the Railroad Commission. So once this gets referred up  
6 to the full Railroad Commission for their discussion, that  
7 would be the timing then to refer it to the OCC. So it  
8 would seem like we would want those two bodies to sort of be  
9 agreeing around the same time or looking at the same piece  
10 of paper at the same time.

11 MR. AMES: (Unclear.) I'm sorry, Ms. Shaheen.

12 MS. SHAHEEN: I was just commenting. Please go  
13 ahead.

14 MR. AMES: Yes, Mr. Brancard. OCD believes that  
15 before this goes to the Commission in any form, there should  
16 be at least some agreement as to the contours of a  
17 memorandum of agreement with Texas, and we don't believe  
18 that will happen for some time. We've not yet seen the  
19 draft proposal that Ms. Shaheen referred to earlier, and we  
20 are realistic about how much time it will take to work out  
21 the various issues that we have described previously to --  
22 to yourself.

23 So we would strongly recommend that this matter  
24 be resolved as soon as possible before it's brought to the  
25 Commission so that the Commission can make a reasoned

1 decision.

2 HEARING EXAMINER BRANCARD: Well, and likewise, I  
3 would hope on the Texas side similarly, that staff can work  
4 things out before they take to to the full Railroad  
5 Commission.

6 Yeah, so I guess my only suggestion to the  
7 parties is, move ahead with the draft, Ms. Shaheen, and get  
8 the ball rolling, get the parties -- have something concrete  
9 in front of them to discuss, then they can sort of see where  
10 the issues are, identify issues that you haven't addressed,  
11 and bring whatever necessary parties there are to the table,  
12 if that includes each state's revenue folks, whatever.

13 You know, this is a simple well, you know, not  
14 terribly longer than we normally approve, but the issue here  
15 is that we could be setting some serious precedent for  
16 relations between the two states, so, you know, I think it  
17 will take a little bit of work as Mr. Ames puts in to get  
18 this done. So the sooner we get started, the better.

19 MS. SHAHEEN: I hear you. I will get something  
20 to Mr. Ames in the next week.

21 HEARING EXAMINER BRANCARD: Great, thank you.  
22 Anything else on this matter?

23 MS. SHAHEEN: I think that covers my notes.

24 HEARING EXAMINER BRANCARD: Excellent. Well,  
25 thank you for moving the ball forward here.

1 MS. SHAHEEN: Thank you for your help.

2 HEARING EXAMINER BRANCARD: And I will just, you  
3 know, I will wait to hear from you all when you want to get  
4 on to a docket. Would that be better, or do you want to  
5 schedule another appearance here?

6 MS. SHAHEEN: A status conference in a month or  
7 so might be helpful if Mr. Ames is amenable.

8 MR. AMES: A status conferences causes no harm,  
9 Mr. Hearing Examiner, if that's your preference.

10 HEARING EXAMINER BRANCARD: We can set this up  
11 for a status conference I believe September 23 is our next.

12 MS. SHAHEEN: August -- well, the next --

13 HEARING EXAMINER BRANCARD: I'm sorry, August.

14 MS. SHAHEEN: -- 19, I believe.

15 HEARING EXAMINER BRANCARD: August 19?

16 MS. SHAHEEN: I think. I don't have it handy,  
17 but I believe that's the next hearing date.

18 HEARING EXAMINER BRANCARD: We will set it up for  
19 a status conference on August 19.

20 MS. SHAHEEN: Thank you very much.

21 (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 virtual proceedings in stenographic shorthand and  
9 that the foregoing pages are a true and correct transcript  
10 of those proceedings to the best of my ability.

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

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

17 Dated this 15th day of July 2021.

18

/s/ Irene Delgado

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Irene Delgado, NMCCR 253  
License Expires: 12-31-21

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