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A P P E A R A N C E S

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C O N T E N T S

CASE NOS. 21621, DE NOVO 21744	PAGE
CASE CALLED:	3
ORDER APPROVED ON CASE 21629:	9

1 (Time noted 9:21 a.m.)

2 COMMISSION CHAIR SANDOVAL: Do we have Mr.  
3 Savage and Mr. Padilla?

4 MR. PADILLA: Yes. Ernest Padilla for Colgate  
5 Energy -- or Colgate Operating. I'm sorry.

6 MR. SAVAGE: Yes.

7 COMMISSION CHAIR SANDOVAL: All right. We will  
8 move on to Agenda Item No. 5, which is the Status  
9 Conference and Adoption of Final Order in Case No. 21629  
10 and de novo case No. 21744.

11 Let's go ahead and do the status conference  
12 piece first and then we can move into voting on the Final  
13 Order from last hearing.

14 Mr. Padilla and Mr. Savage, can you just  
15 briefly provide, starting with Mr. Savage, basically an  
16 update for the Commission on the next case. I believe,  
17 the next case. I can't even remember when it's set for  
18 now. But when we are set for, and then, you know, what  
19 the next steps are. I believe this is a competing  
20 compulsory pooling case.

21 So can you just provide a brief update, Mr.  
22 Savage, on behalf of your clients.

23 MR. SAVAGE: Yes. Thank you. Good morning,  
24 Madam Chair, members of the Commission, counsel. Darin  
25 Savage appearing on behalf of Cimarex Energy Company.

1           As I understand it in regards to this case,  
2   Cimarex thus far has been granted -- has been recognized  
3   as a party of record, it's application for de novo hearing  
4   has been granted.

5           I believe that there were some issues  
6   regarding the evidentiary hearing, that Mr. Moander said  
7   the possibility of doing some motion pleadings to clarify,  
8   but as I understand it in the last evidentiary hearing the  
9   Commission ruled that the email exchange between Cimarex  
10   and Colgate satisfied negotiations, and therefore the  
11   existing Order stays in place as an Order subject to de  
12   novo review.

13           Cimarex as a part of record has submitted  
14   its completing applications for the Crest wells in Case  
15   Nos. 22018 and 22019 whose submissions have been approved  
16   by the OCD. They are currently waiting to be reviewed for  
17   the proper forum, and I believe that is one of remaining  
18   questions to be addressed possibly by a motion pleadings.

19           I apologize, I don't know the exact date  
20   set for the hearing on the merits but I believe it was in  
21   June, if I'm not mistaken, but I could be corrected on  
22   that.

23           COMMISSION CHAIR SANDOVAL: Ms. Davidson, can  
24   you confirm that it's still on the June docket? I think  
25   you're muted.

1 MS. DAVIDSON: Yes, it's still on the June  
2 docket.

3 COMMISSION CHAIR SANDOVAL: It is?

4 MS. DAVIDSON: Yes.

5 MR. SAVAGE: Yes. Thank you, Madam Chair.  
6 That's all I have at this point.

7 COMMISSION CHAIR SANDOVAL: Mr. Padilla.

8 MR. PADILLA: I'm a little confused because I  
9 didn't realize that -- I don't think that we have  
10 competing applications. We certainly haven't been noticed  
11 on that.

12 The competing application that was filed by  
13 Cimarex was withdrawn for lack of Notice. Our contention  
14 is going to be that the de novo hearing was simply based  
15 on the record before the Oil Division, therefore competing  
16 applications are not applicable, simply because they were  
17 inappropriately filed, uh, without Notice.

18 I think EOG filed a Motion to Dismiss and  
19 Cimarex withdrew their application, so I don't think they  
20 are there.

21 And another thing is that based on the  
22 Commission's ruling on the good faith issue, I don't know  
23 what there is to review before the Commission. I mean, it  
24 seems to me that this whole issue was whether or not  
25 Colgate Operating made a good faith effort to join

1 Cimarex.

2 As to Prosperity Bank, I don't know where  
3 they are, and I think -- well, I think those issues were  
4 pretty clearly resolved by the Commission's ruling on good  
5 faith.

6 So maybe motions would be appropriate at  
7 this time. And I think Mr. Moander had tried to avoid a  
8 motions battle here, but I don't see how we can not have  
9 motions to either limit or have what really is before the  
10 Commission.

11 COMMISSION CHAIR SANDOVAL: Mr. Savage, do you  
12 have any response to that?

13 MR. SAVAGE: Yeah, I believe this is a very  
14 complicated case. Cimarex is a party of record in the  
15 underlying case. It's Cimarex's understanding that the  
16 Commission has established precedent and policy in some  
17 prior cases, in particular Case Nos. 21277, 21278, that a  
18 Pooling Order can be challenged in a de novo proceedings  
19 by new pooling applications submitted by a party of record  
20 after the Division has heard the original applicant's case  
21 and has issued a Pooling Order in the applicant's favor.

22 The applications that we submitted, EOG --  
23 we did dismiss the first set of applications based on  
24 EOG's motion, but then we applied for new applications and  
25 we provided Notice for those.

1                   So those applications are in the wings in a  
2 holding pattern.

3                   Cimarex respectfully asks the Commission to  
4 exercise the same grant of authority to allow a hearing of  
5 these competing applications as it did for the competing  
6 applications in its prior cases. It is clear from  
7 established precedent and policy that the prevention of  
8 waste and protection of correlative rights is paramount in  
9 the proceedings before the Commission and take priority  
10 over any risk to the security or potential finality of an  
11 Order issued by the Division until the Division and  
12 Commission have had the opportunity to complete their  
13 two-tier review process of all applications submitted by  
14 the parties of record and until the Commission makes its  
15 final decision regarding waste and correlative rights.

16                   Cimarex is really asking its opportunity  
17 and the opportunity for the Commission to prevent waste  
18 not be denied at this point.

19                   COMMISSION CHAIR SANDOVAL: Okay. Mr. Padilla,  
20 any response from you, and then I think we can move  
21 forward.

22                   MR. PADILLA: I think I've said my -- made my  
23 points.

24                   COMMISSION CHAIR SANDOVAL: So it looks like at  
25 this point we are still on for June. I'm expecting there

1 might be some motions out of both of you prior to that  
2 date that can be decided on at the June hearings.

3 Is there any -- is June still the expected  
4 date or are we looking at having to continue this again?  
5 I think we've continued it multiple times and would like  
6 to sort of get a set schedule.

7 MR. PADILLA: Madam Chairman, this is Ernie  
8 Padilla. I think if we filed motions there would be a  
9 period of at least maybe a month and a half. We may have  
10 to continue these cases, but I think as we hone in on the  
11 issues raised by the motions then at that time we may  
12 decide, or jointly decide that we need to move the cases  
13 down the line.

14 COMMISSION CHAIR SANDOVAL: Okay. All right.  
15 Well, that's helpful, I think.

16 Commissioners do you have any questions for  
17 either Mr. Savage or Mr. Padilla as to where we are on the  
18 next piece of this case?

19 COMMISSIONER BLOOM: Madam Chair, I do not. I  
20 think the motions will be helpful. We have June meetings  
21 June 9th, so that's about seven weeks. I think that  
22 should give us plenty of time to have motions prepared and  
23 for us to go over them. Thanks.

24 COMMISSION CHAIR SANDOVAL: Dr. Ampomah?

25 COMMISSIONER AMPOMAH: No, I do support the same

1 talk from Commissioner Bloom.

2 COMMISSION CHAIR SANDOVAL: Okay. Thank you,  
3 Mr. Savage and Mr. Padilla.

4 With that let's move on to the second half  
5 of No. 5, which was adoption of a Final Order in Case No.  
6 21629.

7 Commissioners, have you reviewed the Final  
8 Order and is there a motion to adopt it?

9 COMMISSIONER BLOOM: Yes, Madam Chair, I was  
10 able to review the Final Order and I would move to adopt  
11 it.

12 COMMISSION CHAIR SANDOVAL: Is there a second?

13 COMMISSIONER AMPOMAH: Madam Chair, I do second.

14 COMMISSION CHAIR SANDOVAL: Thank you.

15 Mr. Kreienkamp, would you please do a roll  
16 call vote on the Order.

17 MR. KREIENKAMP: Yes, Madam Chair.

18 On the motion, Chair Sandoval.

19 COMMISSION CHAIR SANDOVAL: Approved.

20 MR. KREIENKAMP: Commissioner Bloom.

21 COMMISSIONER BLOOM: Approve.

22 MR. KREIENKAMP: And Dr. Ampomah.

23 COMMISSIONER AMPOMAH: Approved.

24 MR. KREIENKAMP: Madam Chair, the motion is  
25 unanimous.

1 COMMISSION CHAIR SANDOVAL: Thank you.

2 Ms. Davidson, would you please circulate  
3 the Final Order with the Commissioners so we can get that  
4 signed and finalized today.

5 MS. DAVIDSON: Right. I will do that.

6 COMMISSION CHAIR SANDOVAL: Thank you.

7 COMMISSIONER BLOOM: Madam Chair, permit me. Do  
8 we need to establish dates by which motions would be due?  
9 I know in some cases we've limited the length of those,  
10 and I don't know if we will allow replies to motions  
11 either.

12 COMMISSION CHAIR SANDOVAL: For the June case?

13 COMMISSIONER BLOOM: Yes.

14 COMMISSION CHAIR SANDOVAL: I would be fine with  
15 that if we want to put some structure around it.

16 Let me look at the calendar again.

17 So if we're looking, you know, at least  
18 four weeks out, that would put motions due by at least the  
19 12th of May, or we could push it off to the 5th.

20 We could do motions by the 5th, Replies by  
21 the 19th, and then that gives us three weeks, I guess, to  
22 review everything.

23 Mr. Savage and Mr. Padilla, do you have any  
24 concerns with that?

25 MR. PADILLA: No. No. Madam Chairman, I am

1 trying to figure out -- May 5th would be the deadline for  
2 filing motions?

3 COMMISSION CHAIR SANDOVAL: Yes.

4 Mr. PADILLA: And then response would be due on  
5 the 12th?

6 COMMISSION CHAIR SANDOVAL: Yes. No, 19th.

7 MR. PADILLA: Oh, 19th.

8 And then will there be an opportunity to  
9 file Replies, or as Commissioner Bloom said, you may limit  
10 that just to simply a motion and a response?

11 COMMISSION CHAIR SANDOVAL: I think we do have  
12 time for Replies. Let's see. So if we do the Response on  
13 the 19th, uhm, we could do Replies by the 30th. Or  
14 actually maybe the 27th.

15 COMMISSIONER BLOOM: Madam Chair, I feel that  
16 just motions and an initial response would be sufficient,  
17 and we limit them to 10 pages. I'm sorry.

18 COMMISSION CHAIR SANDOVAL: I was about to say  
19 I'm okay with doing like motion responses and then  
20 allowing a Reply if we limit the page numbers on them. We  
21 don't need a thesis, I think.

22 COMMISSIONER BLOOM: Madam Chair, I'm fine with  
23 that if this is how you would like to proceed.

24 COMMISSION CHAIR SANDOVAL: Five pages, eight  
25 pages, ten, I think, of the core documents. If you have

1 any sort of exhibits, that will be extra.

2 We can split the middle and say seven.

3 Seven? Okay. All righty.

4 Ms. Davidson, do you happen to know the  
5 case number for this in June so I can motion it with a  
6 case number? Or if Mr. Savage or Padilla has it on hand.

7 COMMISSIONER BLOOM: Is it still de novo Case  
8 21744?

9 COMMISSION CHAIR SANDOVAL: I don't -- I'm not  
10 sure.

11 COMMISSIONER BLOOM: That's where we're headed?

12 COMMISSION CHAIR SANDOVAL: I think so, but I'm  
13 just --

14 MR. SAVAGE: Madam Chair, This is Darin Savage.  
15 Looking at the agenda, it looks like it is -- the de novo  
16 case is 21744.

17 COMMISSION CHAIR SANDOVAL: Okay. All right.

18 So in de novo Case No. 21744 we will set a  
19 motions deadline of the 5th, Responses are due by the  
20 19th, Replies are due - -I'm sorry. Why don't I give you  
21 months for these days.

22 Motions are due by May 5th, Responses are  
23 due by May 19th, and Replies are due by May 27th, at the  
24 end of day for all of those. And for all of the Motions,  
25 Responses and Replies a maximum of seven pages, not

1 including any attachments or exhibits.

2 COMMISSIONER AMPOMAH: Madam Chair, a quick  
3 question.

4 So in the Final Order I think we made a  
5 decision on the Cimarex application for hearing de novo,  
6 so is that the same thing that we are going to talk about,  
7 or the same number?

8 COMMISSION CHAIR SANDOVAL: We did. Hold on.  
9 Let me pull up the Final Order.

10 COMMISSIONER AMPOMAH: Okay. (Note: Pause.)

11 COMMISSION CHAIR SANDOVAL: So I believe that  
12 the -- we --

13 I've got an old copy up. (Note: Pause.)

14 COMMISSIONER BLOOM: Madam Chair, if you will  
15 permit me.

16 COMMISSION CHAIR SANDOVAL: The -- oh, go ahead.

17 COMMISSIONER BLOOM: Yeah. My understanding, in  
18 paragraph 111 we say that Cimarex's application in this  
19 matter for a hearing de novo before OCC is denied.

20 COMMISSIONER AMPOMAH: Is denied.

21 COMMISSIONER BLOOM: Related back to the  
22 question of whether proper Notice was given, but that this  
23 was a bifurcation of the case, and that there is still a  
24 de novo hearing potentially pending on the other side.

25 COMMISSION CHAIR SANDOVAL: Yes. So there's two

1 pieces to this case. We bifurcated it, back six, eight  
2 months ago. So there was the case for the good faith  
3 Notice effort that we decided on, which is this Order, and  
4 then there's this additional de novo case. So there are  
5 two separate issues.

6 COMMISSIONER AMPOMAH: Thank you, Madam Chair.

7 COMMISSION CHAIR SANDOVAL: Just for clarity's  
8 sake I'll remake the motion.

9 Okay. For de novo Case No. 21744 -- I  
10 actually don't know if that is the right case number.

11 COMMISSIONER BLOOM: The prior case was 21629.

12 COMMISSION CHAIR SANDOVAL: Okay. We'll get  
13 there.

14 De novo Case No. 21744, motions are due May  
15 5th, Responses are due by the 19th of May, Replies are due  
16 by the 27th. All of these are limited to seven pages of  
17 the core Response or Reply or Motion, and that does not  
18 include attachments and/or exhibits.

19 Is there a second to that motion?

20 COMMISSIONER BLOOM: Madam Chair, I second.

21 COMMISSION CHAIR SANDOVAL: Mr. Kreienkamp,  
22 would you do a roll call vote, please.

23 MR. KREIENKAMP: Yes, Madam Chair.

24 On the motion. Chair Sandoval?

25 COMMISSION CHAIR SANDOVAL: Approve.

1 MR. KREIENKAMP: Commissioner Bloom?

2 COMMISSIONER BLOOM: Approve.

3 MR. KREIENKAMP: And Dr. Ampomah.

4 COMMISSIONER AMPOMAH: Approved.

5 MR. KREIENKAMP: Madam Chair, the vote was  
6 unanimous.

7 COMMISSION CHAIR SANDOVAL: All right. Thank  
8 you. We will hear from you soon, then, Mr. Savage and  
9 Mr. Padilla.

10 MR. SAVAGE: Thank you, Madam Chair. Thank you  
11 Commissioners.

12 MR. PADILLA: Thank you very much.

13 (Time noted 9:54 a.m.)

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1 STATE OF NEW MEXICO )

2 : ss

3 COUNTY OF TAOS )

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5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter

7 CCR No. 122, DO HEREBY CERTIFY that on Thursday, April 14,

8 2022, the proceedings in the above-captioned matter were

9 taken before me; that I did report in stenographic

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