

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:

Application of Cimarex Energy Company
to reopen Case Nos. 22452 and 22453
for horizontal spacing units and for
compulsory pooling, Eddy County,
New Mexico

Case Nos. 22752
22753

TRANSCRIPT OF PROCEEDINGS

May 5, 2022

EXAMINER HEARING

This matter came on for hearing before the New Mexico Oil Conservation Division, William Brancard, Esq., Hearing Examiner, Dean McClure, Technical Examiner, on May 5th, 2022, via Webex Virtual Conferencing Platform hosted by the New Mexico Energy, Minerals and Natural Resources Department

REPORTED BY: SHANON R. MYERS, CCR, RPR, CRR, RMR, CRC
CCR No. 275
PAUL BACA COURT REPORTERS
500 Fourth Street, NW, Suite 105
Albuquerque, NM 87102
(505) 843-9241

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A P P E A R A N C E S

For Cimarex Energy Company:

ABADIE & SCHILL, PC
555 Rivergate Lane, Suite B4-180
Durango, CO 81301-7485
(970) 385-4401
darin@abadieschill.com
luke@abadieschill.com

BY: DARIN C. SAVAGE
LUKE KITTINGER

I N D E X

Cases called	3:1
Summary of cases and exhibits	3:20
Taken under advisement	8:22
Court Reporter's Certificate	10:1

1 (Time noted as 10:42 a.m.)

2 EXAMINER BRANCARD: Then we have Cases 57 and 58,
3 Cases 22752, 22753, Cimarex Energy.

4 MR. SAVAGE: Good morning, Mr. Examiner. In these
5 cases -- Darin Savage and Luke Kittinger, with the Abadie &
6 Schill Santa Fe office, on behalf of Cimarex Energy Company.
7 Mr. Kittinger -- I'd like to introduce him. He is with our
8 office in Santa Fe. He is a 2021 graduate of the University
9 of Tulsa College of Law, and he will be giving the
10 presentation in these cases.

11 EXAMINER BRANCARD: Thank you. Mr. Kittinger.

12 MR. KITTINGER: Good morning, Mr. Examiner.
13 Sorry.

14 EXAMINER BRANCARD: Mr. Kittinger, are you on?

15 MR. KITTINGER: Yes. Can you hear me?

16 EXAMINER BRANCARD: I can hear you, okay. Hang on
17 a second. Let's find out if there are any other interested
18 persons for Case 22752 or Case 22753?

19 Hearing none, Mr. Kittinger, you may proceed.

20 MR. KITTINGER: Thank you, Mr. Examiner. May it
21 please the Division. If there's no objection, we'll present
22 in consolidated form Cases 22752 and 22573. These cases
23 cover lands in the S/2 of Sections 15 and 14, Township 19
24 South, Range 29 East, in Eddy County, New Mexico. They
25 reopen Cases 22453 and 22452 in order to pool two additional

1 working interest owners recently discovered. The landman
2 for these cases, Mr. Riley Morris, has testified before the
3 Division as an expert witness, and his credentials have been
4 accepted as a matter of record.

5 In Case Number 22752, Cimarex seeks an order pooling
6 the owners in the standard 320-acre spacing unit comprised
7 of the S/2 S/2 of Sections 15 and 14 in the Bone Spring
8 formation underlying said unit, as established by Division
9 Order R-22003. As the current working interest owners have
10 entered into a voluntary agreement, Order Number 22003
11 pooled only overriding royalty interest owners and therefore
12 not subject to the 200-percent risk penalty or overhead
13 rates.

14 Cimarex seeks an order that would properly impose the
15 risk penalty and overhead rates of 7,000 a month for
16 drilling and \$700 a month for production on the additional
17 working interest owners. The unit will be dedicated, as
18 before, to the Parkway 15-14 South State Com 2H well.
19 Orientation of the unit is lay down west to east and all
20 setback requirements under Statewide rules are met.

21 Mr. Morris' Exhibit A for Case 22752 includes his
22 landman affidavit, the C-102, and ownership breakdown, the
23 well proposal letter with an AFE, or with AFE and a portion
24 of the proposed operating agreement that gave the overhead
25 rates and, lastly, a chronology of contacts. Exhibit B

1 provides the affidavit for notice for mailings and
2 publication notice. Notice to both parties was served. It
3 was timely and we published as a precaution. Mr. Morris
4 affirms that the approval of this application is in the best
5 interests of conservation, protection of correlative rights
6 and the prevention of waste and will prevent the drilling of
7 unnecessary wells.

8 And then in Case Number 22753, Cimarex seeks an order
9 pooling the owners in a standard 320-acre spacing unit
10 comprised of the N/2 S/2 of Sections 15 and 14, in the Bone
11 Spring formation underlying said unit, as established by
12 Order 22002. Because the current working interest owners
13 had entered into a voluntary agreement, 22002 also pooled
14 only overriding royalty interest owners that were not
15 subject to the 200-percent risk penalty or to overhead
16 rates.

17 Cimarex seeks an order that would properly impose the
18 risk penalty in overhead rates of \$7,000 a month for
19 drilling, and \$700 a month for production on the additional
20 two working interest owners. The unit will be dedicated, as
21 before, to the Parkway 15-14 South State Com 1H well.
22 Orientation of the unit is lay down west to east, and all
23 set back requirements under Statewide rules are met.

24 Mr. Morris' Exhibit A for Case 22753, same as 22752,
25 includes his landman affidavit, C-102, an ownership

1 breakdown, the well proposal letter with AFE, and a portion
2 of the proposed operating agreement giving the overhead
3 rates, as well as a chronology of contacts. Exhibit B
4 provides the affidavit of notice for mailings and
5 publication notice. Notice was both timely sent and
6 published. Again, publication here being an extra
7 precaution, and all owners were locateable and served.
8 Mr. Morris affirms that the approval of this application in
9 Case 22753 is in the best interests of conservation,
10 protection of correlative rights, and the prevention of
11 waste and will prevent the drilling of unnecessary wells.

12 At this time, I'd like to move that Exhibits A and B
13 and all subexhibits be accepted into the record for the two
14 cases, Cases 22752 and 22753, and that the cases be taken
15 under advisement. I'm available for any questions. Thank
16 you.

17 EXAMINER BRANCARD: Thank you.

18 Mr. McClure, questions?

19 TECHNICAL EXAMINER McCLURE: Yes. Mr. Brancard, I
20 don't have any questions for either of these amendments.

21 EXAMINER BRANCARD: Thank you. Well,
22 Mr. Kittinger, it's your first time so we have to rake you
23 over the coals here. So the first order did -- only pooled
24 overriding royalty interests. I'm repeating what you just
25 said, am I --

1 MR. KITTINGER: That's correct, yeah. All the
2 working interests signed on to the operating agreement.

3 EXAMINER BRANCARD: I'm speaking aloud here, but
4 just to let you know, I'm not sure how we're going to do
5 this. There's a numb- -- I mean, there's a number of
6 paragraphs that are in our normal compulsory pooling order
7 which are not included in this compulsory pooling order,
8 such as sending out the AFE again and -- to the uncommitted
9 interest owners and sending out actual well costs,
10 et cetera, so I don't know whether we will put those all in
11 an amendment or perhaps replace the existing order with a
12 new order. I'm not sure. We'll try to figure out what the
13 best way is. I would normally say replace the existing
14 order, but we have already pooled the overrides so we're not
15 pooling them again.

16 MR. KITTINGER: That's right.

17 EXAMINER BRANCARD: We just -- we need to figure
18 out how to draft this order, will be a challenge for us.
19 And I was a little confused by one of the exhibits, if I can
20 find it now. Okay. I'm looking -- I think their both cases
21 A2 of our little chart there if you have it.

22 MR. KITTINGER: The ownership exhibit?

23 EXAMINER BRANCARD: Yes. I'm just curious why it
24 says here "previous compulsory pool interest" as if we had
25 previously pooled working interest, but we didn't.

1 MR. KITTINGER: You're right. You're right. That
2 language there would be a mistake because they were not
3 pooled. They signed on to the operating agreement. But
4 that should represent those parties that had signed on.

5 EXAMINER BRANCARD: All right. If you can, then,
6 work with your client to get us a more accurate version of
7 Exhibit A2 for both of these cases, that would be helpful.

8 MR. KITTINGER: Will do, Mr. Examiner.

9 EXAMINER BRANCARD: Anything else, Mr. McClure? I
10 know you're not having to write the order, so you're not
11 worried about that part.

12 TECHNICAL EXAMINER McCLURE: I don't -- I don't
13 have any other questions. I never had questions, so I don't
14 have any new questions either.

15 EXAMINER BRANCARD: Okay. So with a revised
16 Exhibit A2, to the extent necessary, just to clarify that
17 language on there. Other than that, I think the onus is on
18 us to come up with an order to figure out how to do this
19 right.

20 Are there any other interested persons, then, in Cases
21 22752 and 22753?

22 Hearing none, the exhibits will be admitted into the
23 record and Cases 22752 and 22753 will be taken under
24 advisement.

25 MR. KITTINGER: Thank you, Mr. Examiner.

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(Proceedings concluded at 10:53 a.m.)

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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REPORTER'S CERTIFICATE

I, SHANON R. MYERS, New Mexico Certified Court Reporter, CCR #275, 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 extremely poor to good quality.

Dated this 2nd day of June 2022.

/s/ Shanon R. Myers

SHANON R. MYERS, CCR, RPR, CRR, RMR, CRC
License Expires: 12/31/22