

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:

**COPY**

Case No. 14770

Case No. 14771

TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Technical Examiner  
DAVID K. BROOKS, Legal Examiner

June 25, 2012

Santa Fe, New Mexico

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This matter came on for hearing before the New  
Mexico Oil Conservation Division, RICHARD EZEANYIM,  
Technical Examiner, and DAVID K. BROOKS, Legal  
Examiner, on Monday, June 25, 2012, at the New  
Mexico Energy, Minerals, and Natural Resources  
Department, 1220 South St. Francis Drive, Room 102,  
Santa Fe, New Mexico.

REPORTED BY: PAUL BACA, CCR #112  
PAUL BACA COURT REPORTERS  
500 4th Street, NW, Suite 105

A P P E A R A N C E S

For COG:

Adam G. Rankin  
agrarkin@hollandhart.com  
Holland & Hart  
110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 875012  
505-988-4421

For Cimarex:

James Garrett Bruce  
P.O. Box 1056  
Santa Fe, New Mexico 87504  
505-982-2043

1                   CHAIRMAN BROOKS: And before you leave,  
2 Mr. Rankin, although the cases are not on the  
3 docket, I had asked Mr. Bruce to report to me with  
4 regard to -- today with regard to two cases that  
5 were heard on May 10, which were applications of  
6 Cimarex, I believe for compulsory pooling in which  
7 Mr. Feldewort, your esteemed partner, who is basking  
8 in the sunny isles of Greece as we speak, appeared  
9 on behalf of COG Operating, LLC, and exhibited a  
10 totally -- not totally cooperative -- attitude with  
11 regard to what Mr. Bruce wanted.

12                   And there are third parties involved, and  
13 Mr. Bruce presented his evidence, and we could take  
14 it under -- we already have taken them under  
15 advisement. But we could go ahead and write an  
16 order if COG and Cimarex had settled their issues as  
17 was represented to us at one point, that that was  
18 likely to happen at some point in time. So I need  
19 my status report.

20                   MR. BRUCE: Yes. And Mr. Rankin can  
21 correct me.

22                   But we have been in discussions. A couple  
23 of things.

24                   First of all, in those cases, COG has  
25 informed us that they have a lease expiration

1 problem coming up December 1 of this year. And so  
2 they would like those wells, as opposed to the usual  
3 OCD order that gives you a year, now, to commence  
4 the wells. They would like something before that.

5 So COG indicated to me that they would  
6 withdraw the objection so that orders -- pooling  
7 orders could be issued. And what we talked about  
8 was to have a commence date for those wells by  
9 November 1, so there's a little cushion there.

10 And then they had also mentioned that it  
11 would be no cash call. In other words, the parties  
12 would just be paying the well as per a normal JOA.

13 And then, Adam, there was one final point.

14 MR. RANKIN: The final version would be  
15 that there could be no extension to the pooling  
16 order without notice and hearing first.

17 MR. BRUCE: And that is acceptable.

18 And my only comment is, since -- with  
19 this, COG would withdraw their objection.

20 We would like -- and I know you always  
21 hate this term -- expedited orders. But that way it  
22 would -- my client has said that they're scheduling  
23 their rigs for drilling, as is COG.

24 CHAIRMAN BROOKS: Well --

25 MR. BRUCE: And the sooner we get orders

1 out on these they will be able to commence the wells  
2 in a timely fashion, which would satisfy COG.

3 CHAIRMAN BROOKS: Okay.

4 Mr. Rankin, do you have anything to add to  
5 this?

6 MR. RANKIN: No. I think that that is an  
7 accurate representation of the agreement that was  
8 reached in regards to Case 1477- --

9 CHAIRMAN BROOKS: So an agreement has been  
10 reached, and COG is withdrawing its objection to the  
11 entry of an order in these cases?

12 MR. RANKIN: That's correct, under these  
13 conditions.

14 CHAIRMAN BROOKS: Very good.

15 Now, let me clarify this -- the procedural  
16 situation. I do not have the case numbers here.  
17 But before you leave I will supply you, Mr. Baca,  
18 with the case numbers.

19 MR. BRUCE: I believe Mr. Rankin has them.

20 CHAIRMAN BROOKS: Okay. Would you please  
21 supply them?

22 MR. RANKIN: Yeah. So these are Cases  
23 14770 and 14771.

24 CHAIRMAN BROOKS: Very good. A transcript  
25 will -- then I will request that a transcript be

1 provided in those cases of this discussion.

2 Now, I recognize that this was not on the  
3 docket nor was it continued to this case; therefore,  
4 nothing that occurs here would bind the third  
5 parties. But I believe that nothing affects them.  
6 Nothing that occurred here would in any way affect  
7 them.

8 MR. BRUCE: That's correct. The only  
9 objection was by COG.

10 CHAIRMAN BROOKS: And therefore, I believe  
11 that no error would be -- would exist in this case  
12 with regard to the third parties. And of course  
13 they cannot appeal, since they have never entered  
14 appearances in this case.

15 It would also -- if we were a public body,  
16 this would be a violation of the Open Meetings Act,  
17 to consider a matter that is not on the docket.

18 However, I believe the Attorney General  
19 has given -- the Attorney General of New Mexico has  
20 definitely opined that hearing examiners who are  
21 conducting a hearing in which a decision will not be  
22 made by the Examiner, but will be made by a person  
23 who is advised by the Examiner, or is not an open  
24 meeting, and is not subject to the Open Meetings  
25 Act; and, therefore, I -- on that basis -- that is

1 the basis on which I conducted this inquiry.

2 MR. BRUCE: And if it would help, I would  
3 be glad to draft an order and pass it by Mr. Rankin  
4 so he could approve it and get it to you.

5 CHAIRMAN BROOKS: Well, that would be  
6 fine. You know, I don't have an objection to --  
7 contrary to my normal protest about expedited  
8 orders, I don't have a problem with this one,  
9 because this is the -- this is the oldest thing on  
10 my docket anyway. So as soon as you get me that  
11 order it will be the first order of business for me  
12 to get out orders in those cases.

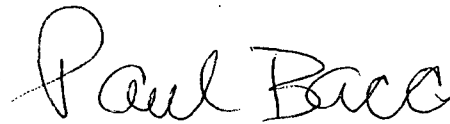
13 Thank you very much.

14 (Proceedings concluded.)  
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22 I hereby certify that the foregoing is  
23 a complete record of the proceedings in  
24 the Examiner hearing of Case No. 14770-71  
25 heard by me on June 25, 2012  
David K. Berr Examiner  
Conservation Division

## CERTIFICATE

I, Paul Baca, RPR, CCR in and for the State of New Mexico, do hereby certify that the above and foregoing contains a true and correct record, produced to the best of my ability via machine shorthand and computer-aided transcription, of the proceedings had in this matter.



PAUL BACA, RPR, CCR  
Certified Court Reporter #112  
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