

STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

ORIGINAL

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING

CASES 15397

APPLICATION OF DEVON ENERGY PRODUCTION  
COMPANY, L P , TO REVOKE THE INJECTION  
AUTHORITY GRANTED BY ADMINISTRATIVE ORDER  
SWD-640, LEA COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER PRETRIAL CONFERENCE

December 3, 2015

Santa Fe, New Mexico

BEFORE MICHAEL McMILLAN, CHIEF EXAMINER  
PHILLIP GOETZE, EXAMINER  
GABRIEL WADE, LEGAL EXAMINER

2015 DEC 16 P 2 02  
RECEIVED (C)

This matter came on for hearing before the  
New Mexico Oil Conservation Division, Michael McMillan,  
Chief Examiner, William V Jones, Examiner, and Gabriel  
Wade, Legal Examiner, on December 3, 2015, at the New  
Mexico Energy, Minerals, and Natural Resources  
Department, Wendell Chino Building, 1220 South St  
Francis Drive, Porter Hall, Room 102, Santa Fe, New  
Mexico

REPORTED BY ELLEN H ALLANIC  
NEW MEXICO CCR 100  
CALIFORNIA CSR 8670  
PAUL BACA COURT REPORTERS  
500 Fourth Street, NW  
Suite 105  
Albuquerque, New Mexico 87102

A P P E A R A N C E S

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

For Devon Energy Production Company, L P

James G Bruce, Esq  
P O Box 1056  
Santa Fe, New Mexico 87504  
(505)982-2043  
jamesbruc@aol com

For OXY U S A , Inc

Michael H Feldewert, Esq  
Holland & Hart  
110 North Guadalupe  
Suite 1  
Santa Fe, New Mexico 87501  
(505)988-4421  
mfeldewert@hollandhart com

I N D E X

Pretrial Conference

Reporter's Certificate

PAGE  
17

E X H I B I T I N D E X

Exhibits Offered and Admitted

Devon Exhibit D-1

Devon Exhibit D-2

PAGE  
14  
14

1 (Time noted 8 18 a m )

2 EXAMINER McMILLAN What we're going to do  
3 that is a little bit different is we are going to hear,  
4 essentially, a pretrial conference for case No 15397  
5 which was supposed to be on the docket for today, but I  
6 believe it's going to be off docket and we need to hear  
7 some evidence for it

8 EXAMINER GOETZE May I, Examiner?

9 EXAMINER McMILLAN Please proceed

10 EXAMINER GOETZE In case No 15397,  
11 Application of Devon Energy Production Company, LP, to  
12 revoke the injection authority granted by administrative  
13 orders SWD 640, Lea County, New Mexico

14 I believe we have attorneys representing  
15 both parties in this case

16 Would you please come forward

17 MR BRUCE Mr Examiner, Jim Bruce of  
18 Santa Fe representing Devon Energy

19 MR FELDEWERT Mr Examiner, Michael  
20 Feldewert with the Santa Fe Office of Holland and Hart  
21 appearing on behalf of OXY U S A , Inc

22 MR BRUCE Okay At this point, we have  
23 had a motion to dismiss application and quash subpoena  
24 submitted, an alternative for continuance submitted by  
25 OXY We have also had a response by Devon to that

1 motion

2 We were going to have an off docket hearing  
3 scheduled for December 7th That has since been  
4 canceled

5 At this point, let's take the motion to  
6 dismiss application and look at what has been provided  
7 by OXY

8 Mr Feldewert

9 MR FELDEWERT May I approach?

10 MR BRUCE Yes, sir

11 MR FELDEWERT Mr Examiner, I've handed  
12 you, first off, the order that permitted this injection  
13 well which was entered back in 1996

14 And as you will see, it's permitted the  
15 injection at approximately, it says at the bottom of the  
16 page, approximately 5,100 feet -- that's 6,516 feet --  
17 in the Bell Canyon and Upper Cherry Canyon, members of  
18 the Delaware Formation

19 Pogo Producing Company, OXY's predecessor,  
20 and then OXY itself have been injecting under this order  
21 since 1997 So that's the background

22 Devon's response to our motion to dismiss I  
23 think is important And I gave that to you, because if  
24 you take a look at paragraph 3 it provides the sole  
25 basis for application to now revoke this injection

1 authority

2 It says in paragraph 3, the second sentence,  
3 "While drilling this well, Devon experienced an  
4 abnormally high water pressure at an approximate depth  
5 of 18, 20 feet subsurface, a distance substantially  
6 above the approved injection zone "

7 It was substantially above It's over 3,000  
8 feet Yet they filed this motion to now revoke the  
9 injection authority They don't tell us what the normal  
10 injection pressure or the normal pressure is Is it 18,  
11 20 feet? They just say it's abnormally high And they  
12 lead to the conclusion that it's the result of these  
13 injection operations that have been going on since 1997

14 Now, as this paragraph 4 reflects in this  
15 motion, the parties did meet and Devon presented nothing  
16 to suggest a connection between the injection zone at  
17 3,000 feet below where they experienced their, quote,  
18 unquote, "Abnormally high water pressure "

19 And they also indicate at that meeting, as  
20 they did in this paragraph in the last sentence, that  
21 they were actually examining other possible sources for  
22 this what they call "abnormally high water pressure "

23 Nonetheless, OXY went ahead and shut in  
24 their well voluntarily They examined that well And  
25 the only issue that they found was that there was a

1 injection above pressure for a short period of time and  
2 the indications are that there is water at 5,100 feet,  
3 5,100 feet There is no other issues with this well and  
4 no indication of any connection between 1,800 feet and  
5 5,100 feet

6 They met with the District Office They  
7 shared what they found The District Office has no  
8 concerns with the injection in this well

9 They simply wanted OXY to confirm with the  
10 Division's geologist, Mr Goetze, that 5,100 feet is  
11 still within their permitted zone, because I guess  
12 there's some question as to where the formation top is  
13 for the Bell Canyon Okay They couldn't do it down  
14 there

15 OXY contacts Mr Goetze and Mr Goetze  
16 rightfully says, I think, "I can't talk to you because  
17 this application is pending " So because of this  
18 application, OXY can't commence reinjection They can't  
19 even confirm what the Division is asking them to do, the  
20 5,100 feet, which is where the water is, remains within  
21 the Bell Canyon interval

22 So it's difficult for OXY to understand  
23 without any evidence how Devon can file an application  
24 and just make a suggestion that there is a connection  
25 between the water that they found at 1,800 feet and

1 OXY's injection zone at 5,100 feet and then, suddenly,  
2 stop and now halt any additional injection that's been  
3 going on since 1997

4 So we filed our motion to dismiss this  
5 application quash the subpoena, because it seems to me  
6 that an operator cannot be allowed to file an  
7 application that seeks to halt injection operations and  
8 then goes on some fishing expedition with a subpoena  
9 when they have absolutely no evidence of any connection

10 This is a pure fishing expedition, and they  
11 presented nothing And it seems to me there ought to be  
12 at least some kind of a prima facie showing of a  
13 connection They should be required to explain why they  
14 think there is a connection before they go through this  
15 process And that's why we filed our motion

16 EXAMINER GOETZE Okay Mr Bruce

17 MR BRUCE Mr Examiner, I've handed you an  
18 affidavit, Verified Statement of Kyle Johnson, drilling  
19 engineer for Devon And I'll just summarize it You  
20 can read it later But in paragraph 4, while they were  
21 drilling, they encountered high pressure at  
22 approximately 1,820 feet subsurface OXY subsequently,  
23 upon contact by Devon, agreed to shut in their injection  
24 well and virtually immediately that pressure decreased

25 There's the prima facie evidence

1 I see no reason -- if Mr Feldewert was so  
2 sure that this case had no merit, why didn't we just go  
3 to hearing next Tuesday, rather than asking for a  
4 continuance or a dismissal?

5 The fact of the matter is there is an issue  
6 Also attached to my response as Exhibit A is some data  
7 from mud logs in the area, mud records, showing that  
8 other than Devon's well -- which offsets the injection  
9 well -- there have been no abnormal pressures And, of  
10 course, Devon's well is the closest one to the injection  
11 well More evidence

12 If the case has merit, and, if not, why has  
13 OXY shut in the well and is going to be conducting more  
14 tests? Let's conduct those tests and find out what's  
15 going on And we need data to determine, and maybe the  
16 tests will show that it's just some abnormality not  
17 caused by the OXY well or just naturally, but at least  
18 we will have the data

19 It doesn't hurt at this point to continue  
20 the case And Devon would like its subpoena complied  
21 with

22 And I hand you one more item -- if OXY  
23 doesn't want to provide everything, I'm handing you a  
24 statement of what Devon Energy thinks is essential to  
25 get from OXY so that it either can prepare its case or

1 determine that there is no issue with the well, with the  
2 injection well

3 So we'd ask that the case be continued to a  
4 specific date Devon is open late January, sometime in  
5 February And we would like the data requested in the  
6 subpoena to be provided, say, by year-end -- 2015 that  
7 is

8 EXAMINER GOETZE Okay Having heard both  
9 parties, a few questions upfront Let's see The well  
10 that's being drilled, what is the status of that at this  
11 point?

12 MR BRUCE It has been -- I think it was  
13 just recently completed

14 EXAMINER GOETZE So there is no issue that  
15 we are not in the state where it has not -- we are not  
16 holding on rigs or anything like that?

17 MR BRUCE Correct

18 EXAMINER GOETZE So we've completed the  
19 well All right Having looked at this and having  
20 looked at information in the area, the Division has  
21 concerns with this well, and I think it is of merit to  
22 pursue at least an investigation of the accusations to  
23 either confirm or to get rid of any kind of suspicion  
24 that OXY's well may have issues

25 The motion to dismiss is being denied We

1 are not going to quash the subpoena because what is  
2 being requested by Devon is something that the Division  
3 is very interested in seeing also And we understand  
4 that OXY does have a big riding interest because this  
5 well does support production

6 We are not going to talk with people in the  
7 District as far as its current status If there are no  
8 issues, we will move forward with getting it back on  
9 line if OXY needs it for their production

10 At the same time, I want to see a date for  
11 us to get together, an off-docket, whatever We will  
12 accommodate anybody's schedule And let's do it as soon  
13 as possible

14 MR FELDEWERT I have one request here, and  
15 that is can OXY recommence injection? And the reason I  
16 say that is because I'm looking at this affidavit and I  
17 didn't realize it was summarized But what I see here  
18 is, "A shut-in pressure was not taken, but,  
19 approximately, 200 psi reduction of required back  
20 pressure was noted," et cetera, et cetera

21 And I am not sure exactly what that means,  
22 but it sounds like they don't have a whole lot of data  
23 to support this reduction in pressure that they say they  
24 solved

25 And it's surprising to me that you would

1 have, as they say, an instant reduction in pressure when  
2 you've got 3,000 feet between where they're injecting,  
3 where they had been injecting for some time in this  
4 1,800 feet

5 But if that's their case, so be it But it  
6 seems to me there is no immediate problem that would  
7 justify not allowing OXY to recommence injection,  
8 particularly since they've done the tests, they've  
9 showed it to the Division with water at 5,100 feet  
10 That's it There is nothing else for this well

11 EXAMINER GOETZE Well, I haven't seen what  
12 has been offered We are working in a void And my  
13 concern is we are in the salt interval here And once  
14 we breach into the salt, it goes anywhere it wants to

15 And that is a big, big issue, because we are  
16 going to end up with other wells having concern with  
17 completion Your production wells may have impact on  
18 casing issues So we need to take this and nip it in  
19 the bud If nothing else comes out of it, at least we  
20 know we had an issue at this location

21 As far as putting the well back on line --  
22 and we'll talk to District -- at this point, I see no  
23 reason, the well has been completed, no one else has  
24 offered any other situation or problems as a result of  
25 it

1 Mr Bruce

2 MR BRUCE The only issue may be this --  
3 and I think OXY and Devon could work this out On  
4 Exhibit A to my response, this plat shows the North  
5 Thistle 34 State 1H That was the well that was  
6 affected by this pressure They had planned to use that  
7 same pad to drill another well in the east half, west  
8 half of that section They haven't commenced it  
9 There's no issue at this point

10 But if they did drill, they might call OXY,  
11 if you allow injection to recommence, for while they are  
12 drilling through that section to stop injection

13 EXAMINER GOETZE Let's go ahead I will  
14 talk with District We will go back to having the well  
15 on line And we will go ahead and make sure that Devon  
16 and OXY communicate

17 Their well will not be interfered with and  
18 you folks will work without us in the middle of it to  
19 resolve that issue

20 MR FELDEWERT I also think we can respond  
21 rather quickly to this modified document request Is  
22 there any chance we can get this on the docket for the  
23 7th?

24 EXAMINER GOETZE January 7th?

25 MR WADE I'd ask the parties how long are

1 we looking time-wise? Can you get witnesses here?

2 MR BRUCE I don't mind if it's temporarily  
3 moved to the 7th with the recognition that I don't know  
4 witness availability at this point

5 MR WADE Do you have an idea of time?  
6 Would it be more appropriate for an off-docket?

7 MR BRUCE I think this would be a lengthy  
8 case and an off-docket would be better When I get back  
9 to the office, I will check with my clients

10 MR FELDEWERT That may or may not be the  
11 case I mean I'm hopeful that, once they see the data  
12 that we got, that their concerns will be taken care of

13 So I would like to at least get on the  
14 docket If they still have concerns, they can  
15 communicate to us what their concerns are so at least we  
16 know what they think is going on and why they think  
17 there's this communication And then if we need to have  
18 an off-docket, at that point we can At least, I would  
19 like to be able to get it on the docket

20 MR BRUCE I don't have a problem with  
21 that

22 EXAMINER GOETZE Let's tentatively put it  
23 on the January 7th docket And we will go forward from  
24 there for an off-docket date

25 In the meanwhile, we would ask that all the

1 information be provided that was requested by end of  
2 year in the subpoena, to the best of OXY's ability, and  
3 at that time, we'll go ahead and look for a date So,  
4 folks, talk to your witnesses and figure out a date  
5 somewhere in January as soon as possible

6 MR WADE May I ask a couple of follow-up  
7 questions just for housekeeping?

8 EXAMINER GOETZE Go ahead

9 MR WADE The documents you provided,  
10 Mr Bruce, do you want to enter those into the record as  
11 exhibits?

12 MR BRUCE If there's no objection, sure

13 MR WADE Any objection?

14 (No response )

15 MR WADE I see you have them marked as D-1  
16 and D-2

17 MR BRUCE Just for differentiation

18 EXAMINER GOETZE Thank you very much The  
19 alphabetical approach you take is very unique

20 MR FELDEWERT I have no problem

21 MR WADE So no objection

22 (Devon Energy Production Company, LP,  
23 Exhibits D-1 and D-2 were offered and admitted )

24 MR WADE And regarding D-2, which is that  
25 list, how much does it modify the subpoena or is

1 everything in the subpoena?

2 MR BRUCE The subpoena was a little  
3 broader, I believe

4 MR FELDEWERT I would say it was a lot  
5 broader, and I think it modifies the subpoena  
6 sufficiently

7 MR WADE Okay At this point are we  
8 saying, Mr Bruce, that if everything is complied with  
9 on this D-2, that the subpoena is not needed, the  
10 information required on the subpoena is --

11 MR BRUCE Or the subpoena is modified

12 MR WADE That the subpoena is effectively  
13 modified?

14 MR BRUCE Correct

15 MR WADE Okay And the documents that  
16 Mr Feldewert supplied are OCD records?

17 MR FELDEWERT Correct

18 EXAMINER GOETZE I'll just make one point  
19 I mean, basically, it is the same information that's in  
20 the subpoena

21 MR WADE Without having the subpoena in  
22 front of me, I didn't know if there's a date Does the  
23 subpoena have a date --

24 MR BRUCE I think the original production  
25 date was like the 20th of November

1 MR WADE So by end of year this  
2 information is being required

3 EXAMINER GOETZE So by end of year, get  
4 your information together

5 MR FELDEWERT Thank you, sir

6 EXAMINER GOETZE Thank you, sir

7

8

9

(Time noted 8 35 a m )

10

11

12

13

14

15

16

17

I do hereby certify that the foregoing is  
a correct and true record of the proceedings in  
the Examiners hearing of Case No. \_\_\_\_\_,  
heard by me on December 3, 2015

18

Paul Amador, examiner  
Oil Conservation Division

19

20

21

22

23

24

25

1 STATE OF NEW MEXICO )  
2 ) ss  
3 COUNTY OF BERNALILLO )  
4  
5  
6

7 REPORTER'S CERTIFICATE

8  
9 I, ELLEN H ALLANIC, New Mexico Reporter CCR  
10 No 100, DO HEREBY CERTIFY that on Thursday, December 3,  
11 2015, the proceedings in the above-captioned matter were  
12 taken before me, that I did report in stenographic  
13 shorthand the proceedings set forth herein, and the  
14 foregoing pages are a true and correct transcription to  
15 the best of my ability and control

16  
17 I FURTHER CERTIFY that I am neither employed by  
18 nor related to nor contracted with (unless excepted by  
19 the rules) any of the parties or attorneys in this case,  
20 and that I have no interest whatsoever in the final  
21 disposition of this case in any court

22  
23  
24  
25  


ELLEN H ALLANIC, CSR  
NM Certified Court Reporter No 100  
License Expires 12/31/15