

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: 21240-21247

APPLICATION OF CHEVRON USA INC.,
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS

EXAMINER HEARING

May 28, 2020

SANTA FE, NEW MEXICO

This matter came on for virtual hearing before the New Mexico Oil Conservation Division, EXAMINERS FELICIA ORTH, KATHLEEN MURPHY, DYLAN COSS, SCOTT COX and BAYLEN LAMKIN on Thursday, May 28, 2020, through 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.

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A P P E A R A N C E S

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I N D E X

CASE CALLED	
STATUS CONFERENCE	03
REPORTER CERTIFICATE	16

1 HEARING EXAMINER ORTH: All right. Then we have
2 a batch of Chevron cases. These are Number 23 through 30,
3 and the case numbers are 21240, 21241, 21242, 21243, 21244,
4 21245, 21246 and 21247. Chevron is the applicant in each
5 case. They are primarily compulsory pooling applications.

6 There is, well, let's see, apparently a
7 non-standard spacing there in 21244. The wells have a
8 variety of names, Morag, Ogapogo, Kraken, Narwhal. We had
9 some recent filings and e-mails around this, which I will
10 acknowledge in just a moment.

11 Beatty & Wozniak is the applicant's counsel, and
12 I did see a request from Ms. Fulcher to appear from out of
13 state. Is that you, Ms. Fulcher?

14 MS. FULCHER: It is. Good morning, Madam
15 Examiner. Jill Fulcher, from Beatty & Wozniak, and I did
16 circulate several e-mails yesterday to the parties and to
17 the Division about my intent to appear pro hac vice in these
18 matters. I will be submitting a motion to that effect to
19 the Division and filing my registration with the state
20 today. My understanding is that no party objects to my
21 participation in today's status conference.

22 HEARING EXAMINER ORTH: That was my understanding
23 as well. Let me pause for a moment just to make sure.

24 (No audible response.)

25 HEARING EXAMINER ORTH: Okay. And, Ms. Shaheen,

1 do I understand that Tap Rock has withdrawn its appearance
2 here?

3 MS. SHAHEEN: That is correct, Madam Examiner.
4 Tap Rock no longer has an interest in this acreage.

5 HEARING EXAMINER ORTH: Thank you very much for
6 that.

7 And, Mr. Bruce, did I see an entry of appearance
8 on behalf of Antelope?

9 MR. BRUCE: Yes, that is correct.

10 HEARING EXAMINER ORTH: Okay, thank you. And Mr.
11 Padilla, did I see an entry of appearance on behalf of EOG?

12 MR. PADILLA: Yes, you did.

13 HEARING EXAMINER ORTH: All right. Thank you.
14 Let me pause for a moment in the event there are other
15 appearances?

16 (No audible response.)

17 HEARING EXAMINER ORTH: Nope, all right. Thank
18 you.

19 MR. GALLEGOS: Madam Examiner?

20 HEARING EXAMINER ORTH: Yes, who is this?

21 MR. GALLEGOS: This is Gene Gallegos, and I'm
22 appearing for Helms Oil & Gas, Michael Stewart and Worrell,
23 and we are in Cases 21242, 21243, 21246 and 21247.

24 HEARING EXAMINER ORTH: All right. Thank you,
25 Mr. Gallegos.

1 Okay. So this appears to be a status conference
2 rather than a presentation. Let me go to you, Ms. Fulcher
3 (unclear audio) around the status conference, status
4 conference for the matter which focuses on the presentation
5 of the prehearing order which is (unclear audio) counsel.
6 You may have heard that discussion with Mr. Feldewert and
7 Ms. Shaheen.

8 MS. FULCHER: Yes. And thank you very much,
9 Madam Examiner. I do have a few comments leading into
10 today's status conference in light of some recent
11 developments over the last day, and my colleague, Ms.
12 Callahan, is also on the call, and she may also chime in as
13 well.

14 As you are probably aware, Chevron filed a motion
15 for special hearing on May 6, together with Tap Rock
16 Resources. At the time the parties were requesting a
17 special hearing date for June 12 recognizing that there were
18 overlapping and competing cases. As Ms. Shaheen indicated,
19 Tap Rock has withdrawn their matters, but Chevron's motion
20 still stands.

21 I want to address a few things regarding that
22 motion and then reiterate Chevron's request for a hearing
23 date in June.

24 That motion asked for a special hearing date of
25 June 12, or, alternatively, a hearing date sometime the last

1 two weeks of June based on Chevron's drilling plans and
2 their time line. Chevron, of course, conferred in good
3 faith with all parties that had entered an appearance at
4 that time, and all parties had indicated that they were --
5 did not object rather to that motion for special hearing and
6 also were available on the June 12 hearing date.

7 Following that submittal motion to the Division,
8 Chevron circulated the proposed joint or proposed prehearing
9 dates as indicated in the Division's April 22 notice via
10 joint stipulation. So we did work on that with the parties
11 over the last few weeks, and it was our understanding that
12 the parties were generally supportive of those prehearing
13 dates and deadlines.

14 Yesterday in advance of today's status
15 conference, counsel for Chevron circulated a final joint
16 proposed stipulation in regards to a June 12 hearing date.
17 Subsequent to that, Mr. Bruce entered his appearance for
18 Antelope, so we circulated that joint stipulation to him.
19 And we have not heard at this point whether Antelope opposes
20 or supports a June 12 hearing date or those joint deadlines
21 in the hearing stipulation.

22 Subsequent to that we learned from Mr. Padilla
23 that EOG no longer supports a June 12 special hearing date.
24 Our understanding is that EOG -- the primary concern is that
25 that June 12 hearing date may not give the parties

1 sufficient time to potentially reach settlement on these, on
2 these cases.

3 Notwithstanding EOG's position, Chevron
4 respectfully would ask that the Division schedule these
5 cases for a June 12 hearing, or any alternative for a
6 hearing by the end of June. And there is a few reasons I
7 want to highlight for you we feel that that's necessary.

8 From Chevron's perspective, nothing has changed
9 that warrants denial of the motion or continuances of these
10 cases past June. Chevron has and will continue to work in
11 good faith effort with all the parties to negotiate
12 potential settlement in hopes that some or all of these
13 disputes will be resolved prior to a hearing. But from our
14 perspective, that doesn't mean that these cases can or
15 should be continued while the negotiations are pending.
16 Negotiations often follow a dual track system, and that's
17 what we need here, we need some certainty as to when these
18 hearing dates can be scheduled.

19 The final thing I will point out as part of
20 Chevron's request, and this was highlighted in that motion
21 for special hearing, is that it is imperative to Chevron's
22 development plan that these cases are timely heard in June.
23 There are two federal leases that are set to expire in the
24 courses of these applications in 2021.

25 In light of that, Chevron intends to drill,

1 commence drilling by the first quarter of 2021 to save their
2 federal leases. And in order to execute that drilling and
3 development plan, we need assurances that these cases will
4 be timely considered by the Division so that we can get
5 resolution one way or another on these matters to move
6 forward.

7 So with that in mind, that is the reason that
8 drives Chevron to request the -- request the Division to
9 schedule these cases no later than the end of June.

10 So we would renew our request for the June 12
11 hearing. I recognize that that may be difficult at this
12 point for the Division to grant that request, so, in the
13 alternative, we would ask the Division to schedule the cases
14 for hearing sometime the last two weeks of June, including
15 potentially this June 25 hearing for these cases to go to
16 hearing on the merits.

17 From our perspective that's an amicable solution
18 for all the parties because it gives EOG and Chevron
19 additional time to potentially negotiate resolution. It
20 also gives Chevron the opportunity to discuss potential
21 resolution with Antelope and continue to discuss those
22 issues with the (unclear audio) group, while at the same
23 time providing us with a little bit of certainty that these
24 matters are going to be timely moved forward.

25 And with that, just as the parties in the

1 previous case had indicated, we would be happy to circulate
2 a prehearing order to you following the hearing today or
3 status conference today, and then, if necessary, schedule
4 potentially more of an off-line prehearing conference
5 leading up to a hearing date.

6 So I appreciate your indulging me on these
7 additional facts. A lot of things have changed in the last
8 24 hours from our perspective, but we want to make sure it's
9 put on the record how important it is for these cases to be
10 heard in June.

11 So thank you very much.

12 HEARING EXAMINER ORTH: Thank you, Ms. Fulcher.
13 Mr. Padilla, would you like to address a June hearing date,
14 whether it's June 12 or June 26?

15 MR. PADILLA: Well, first of all, we don't
16 want -- we think, let me start off. First, the parties are
17 involved in a major trade here, they involve lands in New
18 Mexico and in Texas.

19 EOG desires to get out of Chevron's way, but they
20 need absolutely more time to negotiate a complete
21 settlement. EOG, as in the other cases that were before the
22 Division this morning, has made trades and has settled, but
23 they are not -- those settlements were not as big as this
24 one between Chevron and EOG.

25 We propose that these cases be continued to

1 sometime in August. In the alternative, we would agree and
2 recognize that Chevron has these problems, and they have
3 expiring leases in May of 2021, which is a year from now,
4 essentially. So I think there is plenty of time for Chevron
5 to get its act together.

6 It's a large company, they know what they are
7 doing, and they can get that rigged up without -- they
8 should be able to get rigged up with an August hearing. If
9 you force EOG into an early hearing date, we are likely
10 going to wind up in a case before the Commission. Also
11 trying to -- we can't double track this thing as counsel
12 intends, yeah, it can be done, but as of this morning we
13 were negotiating -- or at least EOG and Chevron were
14 negotiating deadlines for -- for hearing -- for hearing this
15 case.

16 Some of the proposals were to go into July on the
17 northern cases. Those would be cases 21240, 41, 44 and 45,
18 because those do have early hearing or expiration problems.
19 And to continue negotiating in good faith, EOG has asked
20 Chevron not to pool EOG in those cases, but continue on with
21 the other parties that are being pooled by Chevron.

22 As to other wells, which would be cases 21242,
23 243, 246, those don't have the lease problems, and we could
24 continue those beyond August until a trade is resolved. But
25 primarily it doesn't make sense to sever these cases and --

1 and the parties should continue negotiating, and essentially
2 at some point Chevron can proceed with -- with its case and
3 with all the cases it wants, but to piecemeal it doesn't
4 make any sense.

5 Nonetheless, as an accommodation where you do
6 have, where Chevron has lease problems, then those could be
7 heard earlier. The others could be heard later, and there
8 are no problems there, but these are significant trades
9 going on here, and to compel us to a June 12 date is not
10 realistic.

11 Originally EOG had thought that when the proposal
12 was floated around with deadlines by Ms. Callahan, we didn't
13 have a problem with that, but as negotiations continued and
14 other settlements and trades were being made by EOG, that
15 also became unrealistic, and, just as it is now, to try to
16 compel us to a June 12 deadline, which is basically two
17 weeks away in light of the, of the current negotiations.

18 So with that, I think that this case -- we will
19 be happy to file a motion to continue to August and then
20 argue about that, but I think the parties are even
21 negotiating today on, on a continuance and into July and
22 August. So that is the nature of this case, and there's --
23 it's in the forefront for -- for negotiation.

24 HEARING EXAMINER ORTH: All right. Thank you,
25 Mr. Padilla. Mr. Bruce, do you have a position on behalf of

1 Antelope?

2 MR. BRUCE: We're open on a hearing date. We
3 don't have any particular date in mind. Antelope is a small
4 working interest owner. They were waiting to see what
5 played out between Chevron and Tap Rock, and now Tap Rock is
6 out of the picture. We will go with whatever hearing the
7 Division and the other parties decide.

8 HEARING EXAMINER ORTH: Thank you, Mr. Bruce.
9 Mr. Gallegos, do you have a position on behalf of Helms and
10 Stewart around a hearing date?

11 MR. GALLEGOS: Helms would not object to a new
12 hearing date or a later hearing date. Whatever the schedule
13 is the Division sets --

14 HEARING EXAMINER ORTH: Okay. Thank you. So
15 what I would like -- what I would like you to do, Ms.
16 Fulcher, unless you would like to make a reply to
17 Mr. Padilla's points about the significance of this trade,
18 do you have a reply?

19 MS. FULCHER: Very briefly, Madam Examiner.
20 Thank you. I fully acknowledge that the scope of the trade
21 between Chevron and EOG that's being contemplated is quite
22 large, that's certainly my understanding. But it was my
23 understanding that that was always the case, and, yet, EOG
24 did agree to that June 12 date.

25 Notwithstanding that, we are saying June 12 or

1 any time in June. So from my perspective, certainly from
2 Chevron's perspective, a June 25, June 26 hearing date, that
3 is a month away, and as Mr. Padilla pointed out, the parties
4 are discussing even now, EOG and Chevron, ways in which we
5 can resolve it so that at least EOG is not compelled to go
6 to hearing, and that would certainly be Chevron's
7 preference. And I think that that can continue for the
8 month of June while Chevron has the certainty of going to
9 hearing June 25.

10 I heard EOG's request in the alternative is to
11 continue, not just to July, but all the way to some date in
12 August, and that's the exact risk that Chevron is worried
13 about with respect to its time line. Mr. Padilla noted that
14 the federal leases are set to expire May 20, 2021, but
15 drilling is set to commence in January-February 2021.

16 In order for that to occur, we need certainty
17 from the Division, and that includes a final order which
18 doesn't happen the day of the hearing, recognizing I'm new
19 to your Division. But so we want to pull in that time
20 frame, and by pushing this out to July, August, essentially
21 further, we put Chevron's drilling plans at risk.

22 So I think one month, pushing this out one month
23 from today, which is roughly June 25, still provides the
24 parties with ample time to negotiate a way that EOG does not
25 have to participate in this hearing formally. And I

1 appreciate the other parties are willing to, to go along
2 with whatever is set, we really appreciate that as well.
3 And I certainly don't want to give the impression that
4 Chevron is not going to continue negotiating with EOG. They
5 are now negotiating, but we do need some certainty with that
6 hearing date. So thank you very much.

7 HEARING EXAMINER ORTH: All right. Thank you,
8 Ms. Fulcher. The June 12 date is right there on the, on the
9 horizon. A month out, as you say, would be preferable. But
10 what I would like you to do, if you would, please, I'm in
11 the New Mexico Bar Directory, you will find my e-mail,
12 please send the prehearing order in Word in as final a
13 version as you can manage as part of your negotiations --
14 excuse me -- negotiations with the other counsel.

15 And Mr. Padilla, to the extent that you object to
16 any portion of the draft prehearing order being submitted by
17 Ms. Fulcher, if you would please submit alternate language
18 or dates for those portions of the prehearing order in which
19 you object, and if you would again e-mail that to me, along,
20 obviously, with all the other counsel as well, then e-mail
21 that after discussions with staff with a prehearing
22 conference among just those of us in these cases in order to
23 finalize the prehearing order. It will be more in the
24 nature of a second prehearing conference.

25 And if you would, please -- it's tough setting up

1 that prehearing conference without having your prehearing
2 orders in hand, so if you could do that soon, please. Are
3 there any questions?

4 MS. FULCHER: Thank you, Madam Examiner.

5 MR. PADILLA: No.

6 HEARING EXAMINER ORTH: No? Thank you very much,
7 Ms. Fulcher, Mr. Padilla, Mr. Bruce and Mr. Gallegos.

8 (Status conference concluded.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3 REPORTER'S CERTIFICATE

4 I, IRENE DELGADO, New Mexico Certified Court
5 Reporter, CCR 253, do hereby certify that I reported the
6 foregoing virtual proceedings in stenographic shorthand and
7 that the foregoing pages are a true and correct transcript
8 of those proceedings and were reduced to printed form by me
9 to the best of my ability.

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

14 I FURTHER CERTIFY that the virtual proceeding was
15 of varying quality.

16 Dated this 28th day of May 2020.

17
18 /s/ Irene Delgado
19 _____
Irene Delgado, NMCCR 253
License Expires: 12-31-20
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