

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 SPECIAL ENERGY CASE NO. 15712
CORPORATION FOR A NONSTANDARD OIL
SPACING AND PRORATION UNIT AND
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

Consolidated with

APPLICATION OF SPECIAL ENERGY CASE NO. 15713
CORPORATION FOR A NONSTANDARD OIL
SPACING AND PRORATION UNIT AND
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

June 8, 2017

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
WILLIAM V. JONES, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, Michael McMillan,
Chief Examiner, William V. Jones, Technical Examiner,
and David K. Brooks, Legal Examiner, on Thursday,
June 8, 2017, 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: Mary C. Hankins, CCR, RPR
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24	(Exhibits 1 through 9 for Case Number 15713 were not	
	provided to the court reporter and do not accompany	
25	this record.)	

1 (8:41 a.m.)

2 EXAMINER McMILLAN: Okay. At this time I
3 would like to call Case Number 15712, application of
4 Special Energy Corporation for a nonstandard oil spacing
5 and proration unit and compulsory pooling, Lea County,
6 New Mexico.

7 Call for appearances.

8 MR. LARSON: Good morning, Mr. Examiner.
9 Gary Larson, of the Santa Fe office of Hinkle Shanor,
10 for the Applicant, Special Energy.

11 EXAMINER McMILLAN: Any other appearances?

12 MR. HALL: Mr. Examiner, Scott Hall,
13 Montgomery & Andrews of Santa Fe, on behalf of Betty and
14 James Kringel.

15 EXAMINER McMILLAN: Thank you.

16 Please proceed.

17 MR. LARSON: I have two witnesses.

18 Mr. Examiner, I had requested in my
19 pre-hearing statement that this case be consolidated
20 with Case 15713.

21 EXAMINER McMILLAN: Okay. At this time
22 Case Number 15712 shall be combined with Case 15713,
23 application of Special Energy Corporation for a
24 nonstandard oil spacing and proration unit and
25 compulsory pooling, Lea County, New Mexico.

1 And I'm assuming the same appearances in
2 both cases?

3 MR. HALL: Just the first.

4 EXAMINER McMILLAN: Okay.

5 GARY BOND,
6 after having been first duly sworn under oath, was
7 questioned and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. LARSON:

10 Q. Good morning, Mr. Bond.

11 A. Good morning.

12 Q. State your full name for the record.

13 A. Gary Bond, B-O-N-D.

14 Q. Where do you reside?

15 A. Stillwater, Oklahoma.

16 Q. And by whom are you employed and in what
17 capacity?

18 A. Special Energy, vice president and land
19 manager.

20 Q. And do your responsibilities as vice president
21 of land include Special Energy's acreage in southeast
22 New Mexico?

23 A. Yes, sir.

24 Q. And are you familiar with the land matters
25 pertaining to Special Energy's applications in Case

1 **Numbers 15712 and 15713?**

2 A. Yes, sir.

3 **Q. Have you previously testified at a Division**
4 **hearing?**

5 A. No, sir.

6 **Q. Have you ever testified at any hearings held by**
7 **an administrative agency that regulates the oil and gas**
8 **industry?**

9 A. Yes, sir.

10 **Q. What hearings are those?**

11 A. In Oklahoma.

12 **Q. Would you briefly summarize your educational**
13 **background and professional experience in the oil and**
14 **gas industry?**

15 A. I have a bachelor's of business administration
16 from the University of Oklahoma with a major in
17 petroleum land management. I've been in the oil and gas
18 industry for almost 40 years now.

19 **Q. And how long have you been with Special Energy?**

20 A. September 1st will be 19 years.

21 MR. LARSON: Mr. Examiner, I tender
22 Mr. Bond as an expert in petroleum land matters for
23 purposes of Case Numbers 15712 and 15713.

24 EXAMINER McMILLAN: Any objections?

25 MR. HALL: No objection.

1 EXAMINER McMILLAN: So qualified.

2 Q. (BY MR. LARSON) I'll start with 15712, which
3 involves the proposed Decker #1H well. Would you
4 identify the document marked as Exhibit 1?

5 A. Form C-102, well location and acreage
6 dedication plat.

7 Q. And is Exhibit 1 a true and correct copy of the
8 C-102 for the Decker #1H?

9 A. Yes, sir.

10 Q. And what formation is Special Energy seeking to
11 pool?

12 A. San Andres.

13 Q. Are there any depth exceptions in the San
14 Andres?

15 A. No, sir.

16 Q. And is the pool name the Gladiola; San Andres?

17 A. Yes, sir.

18 Q. And the pool code is 27810?

19 A. Yes, sir.

20 Q. And is all the acreage in the proposed project
21 area fee land?

22 A. Yes, sir, it is.

23 Q. And what percentage of that acreage does
24 Special Energy have under lease?

25 A. Right at 75 percent.

1 Q. And does Special Energy hold interest in each
2 40-acre unit within the project area?

3 A. Yes, sir, they do.

4 Q. Would you identify the document marked as
5 Exhibit Number 2?

6 A. That is a copy of the well-proposal letter sent
7 out by our lease broker, R.K. Pinson, on Special
8 Energy's behalf.

9 Q. And does it also contain a list of the
10 uncommitted interests in the project area?

11 A. Yes, sir, it does.

12 Q. As well as return green cards?

13 A. Yes, sir.

14 Q. And was this letter prepared under your
15 direction and supervision --

16 A. Yes.

17 Q. -- by Special Energy's broker?

18 A. Yes, sir, it was.

19 Q. And is this a true and correct copy of the
20 well-proposal letters that the broker sent?

21 A. Yes, sir, it is.

22 Q. And after the broker sent out the proposal
23 letters, did you communicate with any of the interest
24 owners?

25 A. We continue to communicate with many of the

1 interest owners. We've since leased some, and we are
2 still negotiating with others.

3 Q. And in your opinion, has Special Energy made a
4 good-faith effort to lease uncommitted interests or
5 obtain voluntary joinder with the well?

6 A. Yes, sir.

7 Q. Would you next identify the document marked as
8 Exhibit Number 3?

9 A. That is the notice letter for the compulsory
10 pooling.

11 Q. And were the hearing notice letters sent at
12 your direction?

13 A. Yes, sir, it was.

14 Q. And is Exhibit 3 a true and correct copy of one
15 of those letters?

16 A. Yes, sir, it is.

17 Q. And if you flip over the first page, we see
18 another list of parties that notice was sent to; is that
19 correct?

20 A. Yes, sir.

21 Q. And this list is larger than the list in
22 Exhibit 2. Why is that?

23 A. Some of the older oil and gas leases that we
24 have acquired have old language in them that limits the
25 oil spacing to 40 acres, so we took a conservative

1 approach and decided to add those leasehold mineral
2 owners, lessors to this list of notice because we're
3 asking for a 160-acre nonstandard. And it's a
4 conservative approach of the reading of the oil and gas
5 lease, those older leases.

6 Q. Would you next identify the document marked as
7 Exhibit 4?

8 A. If I can get to Exhibit 4.

9 That is the notice letter to the offset
10 owners.

11 Q. Does that also include a list of those offsets?

12 A. Yes, sir, it does.

13 Q. And were the notice letters to the offset
14 interests prepared and sent at your direction?

15 A. Yes, sir, it was.

16 Q. And is Exhibit 4 a true and correct copy of one
17 of those notice letters?

18 A. Yes, sir, it is.

19 Q. And does Special Energy have good addresses for
20 all of the uncommitted and offset interests identified
21 in Exhibits 3 and 4?

22 A. No, sir, we do not.

23 Q. What efforts has Special Energy undertaken to
24 ascertain good addresses?

25 A. We started in an abstractor's office, from

1 there to the county records, from there to our
2 subscriptions and services that we subscribed to to look
3 up people, find people, track people down, such as
4 LexisNexis. There is a Social Security look-up service
5 that we use.

6 Also, during the leasing process, as we're
7 going through some of these heirs or purported heirs of
8 unprobated estates, we're constantly asking names,
9 connections. You know, through the general leasing
10 process, we're looking for people as we talk to people
11 that own minerals in the same unit.

12 **Q. In your opinion, has Special Energy made a**
13 **good-faith effort to find good addresses for the**
14 **uncommitted in the San Andres?**

15 A. Yes, sir.

16 **Q. And given the fact that you were unable to**
17 **locate good addresses for everybody, has Special Energy**
18 **published a notice that identifies each of the**
19 **uncommitted and offset interests listed in Exhibits 3**
20 **and 4?**

21 A. Yes, sir, we did.

22 **Q. Would you identify the document marked as**
23 **Exhibit 5?**

24 A. Exhibit 5 is a copy of that Publication of
25 Notice published in the "Hobbs News-Sun" on May 19th,

1 2017.

2 Q. And is Exhibit 5 a true and correct copy of the
3 Affidavit of Publication?

4 A. Yes, sir, it is.

5 Q. Would you next identify the document marked as
6 Exhibit 6?

7 A. It is the Special Energy-prepared Authorization
8 for Expenditure estimated cost to drill and complete the
9 proposed Decker #1H.

10 Q. And is Exhibit 6 a true and correct copy of the
11 AFE that was sent with the well-proposal letters?

12 A. Yes, sir, it is.

13 Q. And what are the estimated well costs indicated
14 on the AFE?

15 A. The estimated drilling cost is \$715,454.
16 Estimated completion costs are \$1,633,750. Completed
17 well costs are \$2,601,845.

18 Q. And do you have a recommendation for the amount
19 Special Energy should be paid for supervision and
20 administrative expenses?

21 A. Yes, sir, I do.

22 Q. What are those costs?

23 A. \$800 a month for operator's administrative
24 overhead, 8,000 for the drilling and completion of the
25 well.

1 Q. And are those amounts consistent with and
2 similar to those charged by Special Energy for similar
3 horizontal wells?

4 A. Yes, sir, they are.

5 Q. And do you also recommend the rates for
6 supervision and administrative expenses be adjusted
7 periodically pursuant to the COPAS accounting
8 procedures?

9 A. Yes, sir, I do.

10 Q. And is Special Energy also requesting a 200
11 percent charge for the risk of drilling and completing
12 the Decker 1H?

13 A. Yes, sir, we are.

14 Q. In your opinion, will the granting of Special
15 Energy's application avoid the drilling of unnecessary
16 wells, protect correlative rights and serve the
17 interests of conversation and the prevention of waste?

18 A. Yes, sir.

19 MR. LARSON: Mr. Examiner, I move the
20 admission of Exhibits 1 through 6.

21 MR. HALL: I have no objection.

22 EXAMINER McMILLAN: Okay. Exhibits 1
23 through 6 may now be accepted as part of the record.

24 Please proceed.

25 (In Case Number 15712, Special Energy Corp.

1 Exhibit Numbers 1 through 6 are offered and
2 admitted into evidence.)

3 CROSS-EXAMINATION

4 BY MR. HALL:

5 Q. Mr. Bond, so we can establish for the record,
6 you do not seek to force pool the interests of Betty and
7 James Kringel; is that correct?

8 A. Correct.

9 Q. In fact, their interests have been under lease
10 to you since '16?

11 A. Yes, sir.

12 Q. Mr. and Mrs. Kringel were sent proposals -- a
13 well proposal by R.K. Pinson & Associates, your lease
14 broker, on April 10th, 2017; is that correct?

15 A. Yes, sir.

16 Q. And there was an amended well proposal and AFE
17 sent April 17th, 2017; is that correct?

18 A. Yes, sir.

19 Q. And then the Kringels were sent a copy of the
20 pooling application under cover of letter from counsel,
21 Mr. Larson, on May 16th, 2017; is that correct?

22 A. Yes, sir.

23 Q. And those were sent on the basis of the
24 mistake?

25 A. Yes, sir.

1 MR. HALL: That's all I have.

2 EXAMINER McMILLAN: Okay.

3 CROSS-EXAMINATION

4 BY EXAMINER McMILLAN:

5 Q. I need to clarify something. First of all, is
6 the pool code 27810?

7 MR. LARSON: Yes.

8 Q. (BY EXAMINER McMILLAN) So, basically, a portion
9 of the pooling has all clauses -- are without a pooling
10 clause? That's what you're saying, right?

11 A. No. We are -- we are pooling those parties
12 that we do not currently have a lease with.

13 Q. I realize that. But then part of what you're
14 asking for are the old leases that don't have pooling
15 clauses?

16 A. Some of the old leases do have pooling clauses
17 but state, specifically, 40-acre spacing for oil. So
18 it's mostly for the size and pooling of this interest
19 together as a conservative approach because it doesn't
20 have the language that a lot of the new lease forms do,
21 that add whatever the governmental authority recommends.

22 Q. And the next question I've got is you said you
23 drilled and completed for 2.6 million?

24 A. Yes, sir.

25 Q. But your AFE says "2.5."

1 A. Excuse me. I couldn't read this morning
2 \$2,501,845. I stand corrected.

3 Q. And the gladiola is statewide?

4 A. No, sir, not to my knowledge.

5 Q. Okay. This is statewide rules?

6 MR. LARSON: As far as I know.

7 Q. (BY EXAMINER McMILLAN) And the proposed project
8 area is orthodox?

9 A. Yes, sir.

10 EXAMINER McMILLAN: Go ahead.

11 EXAMINER BROOKS: Me?

12 EXAMINER McMILLAN: Uh-huh.

13 CROSS-EXAMINATION

14 BY EXAMINER BROOKS:

15 Q. Let's talk about the Kringels first, and then
16 I'll ask you some overall questions.

17 A. Yes, sir.

18 Q. They are royalty owners under a lease that
19 Special Energy holds the working interest in, correct?

20 A. Yes, sir, via R.K. Pinson leasing for us, which
21 is now assigned to us.

22 Q. Yeah. Okay.

23 And the pooling clause in that lease does
24 not permit dedicating that there are -- including their
25 royalty interest in a unit larger than 40 acres?

1 A. No, sir. It has the current contemporary
2 language in it. Theirs is mostly a mistake on our
3 broker's part sending them a proposal letter.

4 **Q. Sending a proposal letter, yes --**

5 A. Right.

6 **Q. -- but you misspoke, though, did you not, when**
7 **you said you don't intend to pool their interest,**
8 **because you do want their royalty interest to be**
9 **contributed to the unit?**

10 A. Mr. Larson and I have had this conversation. I
11 did misspeak. Under the true meaning of pooling, yes,
12 we do want to pool, or consolidate, their interest into
13 the 160 acres.

14 **Q. But since they're not a working interest owner,**
15 **they would in no event be liable for risk penalty?**

16 A. They would not be liable for any --

17 **Q. Or any costs?**

18 A. Or any costs.

19 **Q. Because they're royalty owners?**

20 A. Yes, sir.

21 **Q. And royalty owners don't pay costs.**

22 A. Yes, sir. Correct.

23 **Q. Now, the general question here -- let's go back**
24 **over again what the significance of these various lists**
25 **are, first Exhibit 2. These people were leased**

1 **interests?**

2 A. These people are interests that we do not have
3 an agreement to either lease their interests or to
4 participate.

5 **Q. So they may be leased or unleased?**

6 A. In this particular case, the majority of them
7 are unleased.

8 **Q. Okay. What about Exhibit 3? What is that?**

9 A. Exhibit 3 is the compulsory pooling notice
10 letter.

11 **Q. And that is sent to whom? What category --**

12 A. It was sent to the same people we sent the
13 well-proposal letter to. It did include what we thought
14 would be a conservative approach to the older oil and
15 gas leases in here. There are some old HBP leases in
16 here that have simple pooling language that limits the
17 pooling size to 40 acres.

18 **Q. So the list attached to Exhibit 3 includes both**
19 **unleased mineral owners and owners of leased interests**
20 **where the leases do not permit 160-acre pooling?**

21 A. Correct.

22 **Q. Okay. And what about Exhibit 4? What is that?**

23 A. Exhibit 4 is the offset owner list.

24 **Q. Oh, okay. So we don't need to be concerned**
25 **about that.**

1 Okay. I think that's all I have -- well, a
2 catchall question: Do the list of people to whom these
3 letters were sent include all persons who, to your
4 knowledge, own interests in this unit who were not
5 committed -- interests which were not committed to the
6 well and which are reflected by interests of record or
7 whose identity you have actual notice of?

8 A. Yes, sir.

9 Q. That's all I have, except to say that I agree
10 with your conservative approach. In fact, I think the
11 OCD rules require it.

12 CROSS-EXAMINATION

13 BY EXAMINER JONES:

14 Q. So how did Special Energy obtain an interest in
15 this area?

16 A. We engaged R.K. Pinson, the lease broker, to
17 buy oil and gas leases for us. Prior to this hearing,
18 there is an assignment of record from all of the leases
19 R.K. Pinson took on our behalf to where Special Energy
20 today holds record title to these leases.

21 Q. Okay. And where is this located? Is this --
22 Lea County, but it's -- is this close to Milnesand or --

23 A. It's about eight miles east of Tatum.

24 Q. Oh. It's right on the state line then.

25 A. Yes, sir.

1 Q. Where those Devonian wells are, bunch of
2 Devonian wells?

3 A. We bought the northern end of the Devonian in
4 Roosevelt. That's why some of these are HBP.

5 Q. The Gladiola Field?

6 A. The Gladiola, yes, sir.

7 Q. Okay. So the Williamsons -- they're kind of a
8 common name out there -- they're mainly to the north. I
9 notice you have some in this, Williamson names. What is
10 the most common landowners that you had here?

11 A. Mineral owner?

12 Q. Yeah.

13 A. In my project area -- in this spacing unit, I
14 don't know that I could answer that question without
15 reviewing it specifically, but, in general, there is a
16 family by the name of Field out of Lubbock, Texas, who
17 is the single largest mineral owner under lease.

18 Q. And your notice to the surrounding people -- I
19 just see a list of names and a proof of notice, but I
20 don't see the -- I could be missing it -- the outline of
21 the different tracts around them. You just picked all
22 40 acres tracts surrounding you --

23 A. Yes, sir, all 40 acres, 120 acres to the north,
24 150 acres to the south, 160 acres on each side.

25 Q. Okay. Thank you.

1 One more question. How long will it take
2 the well to drill?

3 A. What we're seeing -- this will be our first San
4 Andres well in New Mexico. We're seeing an average of
5 12 to 14 days to drill.

6 Q. Okay. So your \$8,000 a month for drilling will
7 be rounded up to one month for drilling probably?

8 A. Probably not. It would probably,
9 mathematically, work out more like 4,000 for drilling
10 and 4,000 for completion. It'll be prorated back to the
11 two weeks out of the month. So if you did it on a
12 monthly basis, it would prorate.

13 Q. Okay. I thought everybody rounded it up to at
14 least one month, but -- and so because of all of the
15 owners out here, you feel it necessary to have 800 a
16 month overhead costs?

17 A. Yes, sir.

18 Q. Okay. Thank you.

19 EXAMINER McMILLAN: Thank you.

20 MR. LARSON: Mr. Examiner, a couple of
21 follow-up questions.

22 EXAMINER McMILLAN: Okay.

23 REDIRECT EXAMINATION

24 BY MR. LARSON:

25 Q. Mr. Bond, after we received the pro se entry of

1 appearance on behalf of the Kringels, did Special Energy
2 and Pinson -- and/or Pinson communicate with the
3 Kringels?

4 A. Several times, yes, sir.

5 Q. And did they make the Kringels aware that they
6 were already under lease in the project area?

7 A. We reminded them, yes.

8 Q. Were they also made aware that you might be
9 seeking a risk factor of cost from them?

10 A. They were made aware that we would not be
11 seeking any money or costs from them.

12 MR. LARSON: That's all I have,
13 Mr. Examiner.

14 EXAMINER McMILLAN: Okay. Thank you.

15 MR. LARSON: If I could, could I go ahead
16 and move into the next case while I have Mr. Bond up
17 there?

18 Q. (BY MR. LARSON) Mr. Bond, let's move to Case
19 Number 15713, which involves the proposed Jenna #1H
20 horizontal well. And would you identify the document
21 marked as Exhibit 1?

22 A. It's a copy of the C-102, the well location and
23 acreage location plat.

24 Q. And is it a true and correct copy of the C-102?

25 A. Yes, sir, it is.

1 Q. And what formation is Special Energy seeking to
2 pool?

3 A. San Andres.

4 Q. And within the San Andres, are there any depth
5 exceptions?

6 A. No, sir, there are not.

7 Q. And is the pool for the proposed well the
8 wildcat San Andres?

9 A. Yes, sir.

10 Q. And is there a pool code for this --

11 A. Not to my knowledge.

12 Q. Have you had communication with Mr. Kautz about
13 that?

14 A. Yes, sir. I spoke to him, personally.

15 Q. So there is no number assigned yet?

16 A. Not yet.

17 Q. And is all the acreage in the proposed project
18 area fee?

19 A. Yes, sir, it is.

20 Q. And does Special Energy have a leasehold
21 interest in each of the 40-acre units within the project
22 area?

23 A. Yes, sir, we do.

24 Q. Would you next identify the document marked as
25 Exhibit 2?

1 A. It, again, is a copy of the well-proposal
2 letter sent out to those parties that we have not leased
3 yet or not made arrangements to participate with us yet.

4 **Q. Are those interests listed on Exhibit 2?**

5 A. Yes, sir.

6 **Q. And who prepared the list and the proposal**
7 **letters?**

8 A. They were prepared by R.K. Pinson & Associates
9 at my request and recommendation.

10 **Q. And is Exhibit 2 a true and correct copy of one**
11 **of the well-proposal letters sent out by --**

12 A. Yes.

13 **Q. -- Special Energy's behalf?**

14 A. Yes, sir, it is.

15 **Q. And after R.K. Pinson sent out the**
16 **well-proposal letters, did you communicate with any of**
17 **the interest owners?**

18 A. We continue with the process of trying to
19 negotiate a lease or participation arrangement.

20 **Q. In fact, you came to an agreement on a lease**
21 **yesterday afternoon?**

22 A. Yes, sir, we did.

23 **Q. And in your opinion, has Special Energy made a**
24 **good-faith effort to lease all of the uncommitted**
25 **interests or obtain their voluntary joinder in the well?**

1 A. Yes, sir, we have.

2 Q. Would you next identify the document marked as
3 Exhibit 3?

4 A. Exhibit 3 is the notice letter for the
5 compulsory pooling.

6 Q. And was the hearing notice letter sent and
7 prepared at your direction?

8 A. Yes, sir, it was.

9 Q. And is Exhibit 3 a true and correct copy of one
10 of the those notice letters?

11 A. Yes, sir, it is.

12 Q. And does Exhibit 3 also have a list of parties
13 who received notice?

14 A. Yes, sir, it does.

15 Q. And as in the previous case, this list is
16 longer than the list in Exhibit 2; is that correct?

17 A. Yes, sir.

18 Q. And what is the reason for that?

19 A. Again, there are some leases out there that we
20 conservatively look at that limits the pooling of oil
21 units to 40 acres.

22 Q. Would you identify the document marked as
23 Exhibit 4?

24 A. That is the notice letter to the offset
25 ownership to this unit.

1 Q. And does Exhibit 4 also contain a list of those
2 offsets and the green cards that have been received?

3 A. Yes, sir, it does.

4 Q. And were the notice letters to offsets prepared
5 and sent at your direction?

6 A. Yes, sir, they were.

7 Q. And is Exhibit 4 a true and correct copy of one
8 of those letters?

9 A. Yes, sir, it is.

10 Q. And does Special Energy have good addresses for
11 all of the uncommitted -- the offset interests
12 identified in Exhibits 3 and 4?

13 A. No, sir, we do not.

14 Q. And what efforts did you undertake to obtain
15 good addresses?

16 A. Utilizing the records of an abstract office,
17 the county records, communications with various mineral
18 owners, after contacting them to lease, that have
19 similar names, trying to find heirs, along with the
20 normal subscription services that we employ like
21 LexisNexis. We are continually making an effort to try
22 to find good addresses.

23 Q. And in your opinion, did Special Energy make a
24 good-faith effort to locate these people?

25 A. Yes, sir.

1 Q. And has Special Energy published notice that
2 individually identifies all of the uncommitted offset
3 interests identified in Exhibits 3 and 4?

4 A. Yes, sir, we did.

5 Q. And would you identify the document marked as
6 Exhibit 5?

7 A. Exhibit 5 is a copy of the publication notice
8 filed and published with the "Hobbs News-Sun" on May the
9 23rd, 2017.

10 Q. And is Exhibit 6 a true and correct copy of the
11 Affidavit of Publication?

12 A. Exhibit 5?

13 Q. I'm sorry. You're right, Exhibit 5.

14 A. Exhibit 5 is a representation of the true and
15 correct copy.

16 Q. And would you identify the document marked as
17 Exhibit 6?

18 A. It is an Authorization for Expenditure prepared
19 by Special Energy for the estimated cost to drill and
20 complete the San Andres well in here.

21 Q. That's the Jenna #1H?

22 A. There's the Jenna.

23 Q. Is Exhibit 6 a true and correct copy of the AFE
24 that was sent with the well-proposal letters?

25 A. Yes, sir, it is.

1 Q. And what are the estimated costs indicated on
2 the AFE?

3 A. They're the same as the previous, but I'll read
4 them again into the record. The drilling cost is
5 \$715,450; the completion, \$1,833,750. The completed
6 well costs are \$2,501,845.

7 Q. And do you have a recommendation whether or not
8 Special Energy should be paid for supervision and
9 administrative expenses?

10 A. Yes, sir. For the monthly operator's overhead,
11 it's \$800 per well per month. For the drilling and
12 completion, \$8,000, to be prorated for the time the
13 rig's on location.

14 Q. And are those amounts consistent and similar to
15 those charged by Special Energy for similar horizontal
16 wells?

17 A. Yes, sir, they are.

18 Q. And do you also recommend that the rates for
19 supervision and administrative expenses be adjusted
20 periodically pursuant to the COPAS accounting procedure?

21 A. Yes, sir.

22 Q. And is Special Energy also requesting a 200
23 percent charge for the risk of drilling and completing
24 the Jenna #1?

25 A. Yes, sir, we are.

1 Q. In your opinion, will the granting of Special
2 Energy's application avoid the drilling of unnecessary
3 wells, protect correlative rights and serve the
4 interests of conservation and the prevention of waste?

5 A. Yes, sir.

6 MR. LARSON: Mr. Examiner, I move the
7 admission of Exhibits 1 through 6.

8 EXAMINER JONES: Exhibits 1 through 6 may
9 now be accepted as part of the record.

10 (In Case Number 15713, Special Energy Corp.
11 Exhibit Numbers 1 through 6 are offered and
12 admitted into evidence.)

13 MR. LARSON: I will pass the witness.

14 EXAMINER McMILLAN: The first thing is we
15 have to have a pool code. And you will contact Hobbs,
16 and you will provide me with an email that states the
17 pool code.

18 The second point that needs to be made is
19 that there was a hearing order in the San Andres. And
20 that Applicant requested 800 and \$8,000, and the OCD
21 deemed that excessive. So you -- I believe, based on
22 that case, your charges are excessive, and the OCD will
23 permit the costs that were used in that case for your
24 overhead and supervision charges. And if you can get an
25 engineer up here and explain why you have those costs,

1 we will hear your reasoning.

2 RECROSS EXAMINATION

3 BY EXAMINER JONES:

4 Q. Mr. Bond, are you an oilfield accountant?

5 A. No, sir, I'm not.

6 EXAMINER JONES: So Mr. Bond is a landman.

7 EXAMINER McMILLAN: The engineer will have
8 to explain that.

9 EXAMINER JONES: Maybe a statement, after
10 the hearing, from your accountant.

11 THE WITNESS: What I do know is we have
12 researched current rates in the area and know that those
13 are pretty much average.

14 EXAMINER McMILLAN: Like I said, there was
15 a hearing about a month ago where the OCD deemed your
16 charge as excessive.

17 THE WITNESS: Okay.

18 MR. LARSON: Do you know the Case Number,
19 Mr. Examiner?

20 EXAMINER McMILLAN: No, but I can -- I'll
21 send you an email of it.

22 MR. LARSON: Would you like to hear from
23 Special Energy's accountant?

24 EXAMINER McMILLAN: Yeah. And if you have
25 an engineer, an engineer's statement, too.

1 THE WITNESS: We can provide those.

2 EXAMINER McMILLAN: Okay.

3 Go ahead.

4 RECROSS EXAMINATION

5 BY EXAMINER BROOKS:

6 Q. You've got a lot -- this is another one where
7 you've got a lot of interest owners, right?

8 A. Our average mineral owner in this area is 17
9 acres.

10 Q. Okay. And in other words, is this a divided
11 ownership, or do you have a lot of tracts or just a lot
12 of leases in there?

13 A. In both of these, these are single tracts.

14 Q. Okay. Do you happen to know how many tracts
15 there are? I'm just curious.

16 A. In the Jenna, the one we're talking about now,
17 there is one tract. That tract is actually bigger than
18 this 160.

19 Q. Oh, okay.

20 A. I mean, some of this area is HBP by older
21 leases. It is very -- there is a lot of history to the
22 area and a lot of activity in the area.

23 My second largest -- the average mineral
24 owner is 17 acres through two townships.

25 Q. And so it's undivided interest. It's not --

1 A. It is. Both of these are undivided. Yes, sir.

2 Q. Well, it's not really necessary for me to know
3 that. I'm just curious.

4 Did you -- you have, in this one, both
5 unleased mineral owners and royalty owners who do not
6 have adequate pooling clauses; is that correct?

7 A. Most so in this one than the previous.

8 Q. Okay. And in this one, as in the previous one,
9 have you noticed and included in this proceeding all
10 those royalty owners whose pooling clauses were not
11 adequate to -- to authorize the inclusion of this
12 160-acre unit?

13 A. Yes, sir.

14 Q. And, generally speaking, have you notified all
15 interest owners in this unit who are not committed to
16 the well and whose ownership is reflected of record or
17 whose identity you have actual knowledge?

18 A. Yes, sir.

19 EXAMINER JONES: I'll talk to Mr. Brooks
20 later about this. I don't have any more questions.

21 MR. LARSON: That's all I have for,
22 Mr. Bond.

23 EXAMINER McMILLAN: Thank you very much.

24 THE WITNESS: Thank you.

25 MR. LARSON: Mr. Examiner, I'm going to

1 start with Mr. Burke on Case 15712.

2 DAVID MICHAEL BURKE,

3 after having been previously sworn under oath, was

4 questioned and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. LARSON:

7 Q. Good morning, Mr. Burke. Would you state your
8 full name for the record?

9 A. David Michael Burke.

10 Q. And where do you reside?

11 A. In Midland, Texas.

12 Q. And are you self-employed?

13 A. Yes. I'm a self-employed petroleum geologist
14 testifying on behalf of special interests.

15 Q. And were you previously employed by COG
16 Operating?

17 A. Yes.

18 Q. And were you retained by Special Energy to
19 provide geological analysis and testify on its behalf
20 today?

21 A. Yes, I was.

22 Q. And do you have experience with the drilling of
23 horizontal wells in southeast New Mexico?

24 A. Yes, sir, I have.

25 Q. And are you familiar with the geologic aspects

1 of the proposed Decker #1H well in the matters addressed
2 in Special Energy's application?

3 A. Yes, sir.

4 Q. And have you previously testified in a Division
5 hearing?

6 A. Yes, I have.

7 Q. At each of those hearings, did the Examiner
8 accept your qualifications as an expert in petroleum
9 geology?

10 A. Yes, they did.

11 MR. LARSON: Mr. Examiner, I tender
12 Mr. Burke as an expert in petroleum geology for purposes
13 of Cases 15712 and 15713.

14 EXAMINER McMILLAN: Any objection?

15 MR. HALL: No objection.

16 EXAMINER McMILLAN: So qualified.

17 Q. (BY MR. LARSON) Focusing first on the exhibits
18 in Case 15712, I'll ask you to identify the document
19 marked as Exhibit 7.

20 A. Exhibit 7 is just a locator map of the area
21 where the project is planned. This area is kind of in
22 the central -- very eastern part of Lea County, as the
23 crow flies, pretty close to the state line. Yoakum
24 County is right across the line. This also shows that a
25 cross section, A to B, as an example -- I'll use an

1 example on the geological section that we're targeting
2 for this well.

3 Q. And was this exhibit prepared by Special
4 Energy's geology department?

5 A. It was.

6 Q. And is the exhibit a true and correct copy of
7 the locations?

8 A. Yes, sir.

9 Q. And will the completed interval of the Decker
10 #1H comply with the Division setback requirements?

11 A. It will.

12 Q. And what is the status of the offset wells that
13 are identified on Exhibit 7?

14 A. Most of those wells that you see to the
15 northwest there are older Devonian wells, drilled in the
16 late '50s and early '60s. They're nearly, all of them,
17 plugged and abandoned now. There is -- actually, for
18 our target zone, there's no production on this map area.

19 Q. Would you identify the document marked as
20 Exhibit 8?

21 A. Sure. This is a structure map. And this
22 structure map is mapped upon an interval within the --
23 within the San Andres Formation at the top of the
24 porosity that we're going to target, which is -- and
25 you'll see on the next document, on the cross section.

1 It's a porous dolomite embedded with other carbonates,
2 with a tight capping carbonate above and below it.

3 Q. And was this document also prepared by Special
4 Energy's geology department?

5 A. It was.

6 Q. And is it a true and correct copy of that
7 structure?

8 A. Yes, it is.

9 Q. And what does the structure map tell you about
10 the prospects for the Decker 1H?

11 A. What it shows that we have, in this area, a
12 deep-seated structural feature to our northwest where
13 the Devonian production is. It carries on up through
14 the shallower formations and dipping to the southeast
15 off of that feature.

16 Q. And would you next identify the exhibit marked
17 as Exhibit 9?

18 A. Exhibit 9 is a cross section depicted on both
19 of the last two exhibits, A to B. The datum that you
20 see there in red or orange is that marker that they
21 mapped the structure on in this particular area of the
22 San Andres Formation. It's a very consistent marker. I
23 call it P1. It's approximately 400 feet below the top
24 of the San Andres Formation. And for purposes of this
25 well, they'll be targeting down into that zone 100 to

1 200 feet, as the target in this area.

2 Q. And is Exhibit 9 a true and correct copy of the
3 cross section prepared by Special Energy's geology
4 department?

5 A. Yes, it is.

6 Q. And what does the cross section tell you about
7 the target interval?

8 A. The cross section shows that there are really
9 no structural or geologic impediments in the area. I
10 see no faults. There seems to be a consistent thickness
11 in porosity across the area and spread throughout [sic]
12 reservoir.

13 Q. Are there any geologic impediments in the
14 target area?

15 A. No, sir.

16 Q. And in your opinion, will the proposed well be
17 productive across the entire length of the completed
18 lateral?

19 A. It will.

20 Q. And in your opinion, will the granting of
21 Special Energy's application avoid the drilling of
22 unnecessary wells --

23 A. Yes, sir.

24 Q. -- protect correlative rights and serve the
25 interest of conservation and prevention of waste?

1 A. Yes, sir.

2 MR. LARSON: Mr. Examiner, I move the
3 admission of Exhibits 7, 8 and 9.

4 MR. HALL: No objection.

5 EXAMINER McMILLAN: Exhibits 7, 8 and 9
6 will now be accepted as part of the record.

7 (In Case Number 15712, Special Energy Corp.
8 Exhibit Numbers 7 through 9 are offered and
9 admitted into evidence.)

10 MR. LARSON: And I'll pass the witness.

11 CROSS-EXAMINATION

12 BY EXAMINER McMILLAN:

13 Q. Where is the P2 and P3 marker?

14 A. The P3 is just slightly below the P1, and the
15 P3, I believe, in the documents they sent me, will be
16 that lower black marker.

17 Q. Okay. So I'm just curious for my own
18 edification. Is it about 5,008, looking the Elk Oil?
19 Is that crudely right?

20 A. Yes, sir. I think that would be very close.

21 Q. Okay. Everyone's, more or less, hitting the
22 P1.

23 Do you think the P2 -- or, actually, your
24 objective is the P2.

25 Do you think there's anything in the P3?

1 **Do you see that down the road?**

2 A. You know, I'm not sure what Special Energy's
3 plans are for the area. You know, they're planning to
4 frac this interval I think along the lines of a couple
5 million pounds-plus. And I'm sure they'll do the
6 necessary testing to see if there -- you know, if
7 they're getting contribution hopefully from that area,
8 for whatever they're going to do, microseismic or
9 whatever, and make the determination. But I can't
10 testify to their future plans on that.

11 **Q. So the target interval is going to be at 5,100**
12 **of the Elk Oil?**

13 A. Yes. In that vicinity, yes.

14 EXAMINER BROOKS: I have no questions.

15 EXAMINER JONES: Mr. Hall, do you have any
16 questions?

17 MR. HALL: No questions.

18 CROSS-EXAMINATION

19 BY EXAMINER JONES:

20 **Q. Are you a carbonate geologist from way back?**
21 **You're out of Midland, aren't you?**

22 A. Yes.

23 **Q. Okay. What kind of water saturation are you**
24 **looking at out here?**

25 A. You know, in this particular area, I have not

1 calculated the water saturation, but I spoke with the
2 geologist with Special Energy. And, you know, our
3 analog field is about a dozen miles to the southeast,
4 over in Yoakum County, where they're drilling wells in
5 this interval with pretty good success right now, and he
6 says that those wells produce at a cut, after they've
7 cleaned up and everything, of about 20 percent oil.

8 **Q. That's what we've heard from other hearings**
9 **here, about 20 percent oil cut, just not as good as some**
10 **of the Bone Spring. But it's still -- I guess that's**
11 **part of the play. You've got to deal with the water.**

12 A. You know, and it's shallower, a little less to
13 drill and complete and smaller fracs.

14 **Q. Okay. Did you have any knowledge of any kind**
15 **of coring that would --**

16 A. Only in conversations with them. Actually, the
17 well that I'm going to testify to next, the Jenna, they
18 have it planned first, if possible, because they have
19 better offsetting mud-log shows and things like that, a
20 little greater control compared to the analog fields.
21 But I have not looked at any cores or anything like
22 that.

23 **Q. Well, is it true you're targeting an interval**
24 **in the San Andres that is the lowest possible water**
25 **saturation you can get, or are you just going for**

1 **porosity?**

2 A. I do not know that. I believe the porosity is
3 a primary objective in here. I think.

4 **Q. So this is an area -- correct me if I'm**
5 **wrong -- that the San Andres is not -- has shows**
6 **vertically, but it doesn't really produce vertically?**

7 A. No, sir. On this map, none of those wells have
8 produced oil from the San Andres, as well as a pretty
9 significant area and circumference and several miles
10 around that. This is a legitimate Lea County wildcat.

11 **Q. Okay. So a risky well?**

12 A. Yes, sir.

13 RE CROSS EXAMINATION

14 BY EXAMINER McMILLAN:

15 **Q. Does the water cut -- do the water cuts**
16 **decrease with time and production?**

17 A. There is some of that. To my understanding,
18 speaking with the geologist, the oil cut does come up --

19 **Q. You're essentially dewatering it?**

20 A. Right.

21 RE CROSS EXAMINATION

22 BY EXAMINER JONES:

23 **Q. And you're going to drill a Devonian disposal**
24 **well; is that right?**

25 A. I believe they actually purchased the Devonian

1 well that they're -- that they're planning to dispose of
2 initially, and I guess Mr. Bond can testify more about
3 that than I do. You might have to get him back up here.

4 **Q. Well, good luck with your wells.**

5 THE WITNESS: Thank you.

6 EXAMINER BROOKS: No questions.

7 EXAMINER JONES: No need to continue these
8 two cases further down the road?

9 MR. LARSON: Well, I still have some
10 testimony on 15713.

11 EXAMINER JONES: Okay. Sorry.

12 DIRECT EXAMINATION

13 BY MR. LARSON:

14 **Q. Moving on to Case Number 713, I'll ask you to**
15 **identify Exhibit Number 7.**

16 A. Exhibit Number 7, like the previous exhibit, is
17 a locator map of the area, those Devonian wells that you
18 see there, all of the dots. Awhile ago, we were on the
19 southeast part of this field. Now we've moved up a few
20 miles away to the northwest -- to the northwest part of
21 the field, same wells, same general area, same
22 geologically as far as our target zone.

23 **Q. And was Exhibit 7 prepared by Special Energy's**
24 **geology department?**

25 A. It was.

1 Q. And is it a true and correct copy of the
2 location map?

3 A. Yes, sir, it is.

4 Q. And will the completed interval of the Jenna 1H
5 comply with the Division's setback requirements?

6 A. It will.

7 Q. And what is the status of the offset wells
8 identified on Exhibit 7?

9 A. Again, these are -- these are primarily old
10 Devonian wells that were drilled in the late '50s, early
11 '60s, cumulative production in the half-million-plus
12 range. Almost all of them are plugged and abandoned at
13 the present time.

14 Q. Would you identify the exhibit marked as
15 Exhibit -- the document marked as Exhibit 8?

16 A. Oh, that's the structure, again, on the P1
17 marker within the San Andres. And, again, it shows --
18 at this particular location, we're closer to the top of
19 the anticline, again, primarily dipping off to the
20 southeast.

21 Q. And was this document prepared by Special
22 Energy's geology department?

23 A. It was.

24 Q. And is it a true and correct copy of the
25 structure map?

1 A. Yes, sir, it is.

2 **Q. And what does the structure map tell you about**
3 **the prospects for the company?**

4 A. Well, from a geologic standpoint, it's updip to
5 the previously discussed Decker. It could very well
6 have a chance to a better water cut, you know -- better
7 oil cut. Excuse me.

8 **Q. And would you identify the last document, which**
9 **is marked as Exhibit 9?**

10 A. This exhibit, again marked on those previous
11 two exhibits, is A to B. It's a north-to-south cross
12 section hung on a datum, which is the P1 marker, down
13 into the San Andres Formation 3- to 400 feet. Again,
14 the target interval will be a couple hundred feet down
15 into the formation -- or below the target datum. And it
16 appears that the uniform [sic] across the area is
17 geologically uniform.

18 **Q. And is Exhibit 9 a true and correct copy of the**
19 **cross section prepared by Special Energy's geology**
20 **department?**

21 A. It is.

22 **Q. And do you consider it to be representative of**
23 **the geology in the proposed project area?**

24 A. I do. It runs across the project area.

25 **Q. And what does it tell you about the target**

1 interval?

2 A. The target area seems to be a consistent
3 lithology with similar porosities and similar
4 thicknesses, with no fault impediments or anything like
5 that, any other geological features like that.

6 Q. And in your opinion, will the proposed well be
7 productive along the entire length of the completed
8 lateral?

9 A. It will.

10 Q. And in your opinion, will the granting of
11 Special Energy's application avoid the drilling of
12 unnecessary wells, protect correlative rights and serve
13 the interest of conservation and the prevention of
14 waste?

15 A. Yes, sir, it will.

16 MR. LARSON: Mr. Examiner, I move the
17 admission of Exhibits 7 through 9 in Case 15713.

18 EXAMINER McMILLAN: Exhibits 7 through 9
19 may now be accepted as part of the record.

20 (In Case Number 15713, Special Energy Corp.
21 Exhibit Numbers 7 through 9 are offered and
22 admitted into evidence.)

23 MR. LARSON: And I will pass the witness.

24

25

1 CROSS-EXAMINATION

2 BY EXAMINER McMILLAN:

3 Q. Essentially, looking at Exhibit Number 9 --

4 A. Yes, sir.

5 Q. -- where is the target interval?

6 A. Again, it'll be -- it'll be somewhere between
7 100 and 200 feet from the top of the orange-colored
8 sided [sic] stratigraphic datum.

9 Q. Okay. So let's just look at the Special Energy
10 Corporation logs. It's going to be at about --

11 A. 5,000.

12 Q. -- 2- to 5,000?

13 A. Yes, sir.

14 Q. By the way, where is the P2?

15 A. P2 would be at about 4,870.

16 Q. The P2 marker?

17 A. Yes, sir. The datum is on P1.

18 Q. Right. But then you said what?

19 A. About -- approximately -- the top of the P1
20 would be at just below 48, and I would put the P2, based
21 on the documents they sent me, approximately 75 feet
22 below that, so in the range of 4,870.

23 EXAMINER McMILLAN: Go ahead if you have
24 any questions, Will.

25

1 CROSS-EXAMINATION

2 BY EXAMINER JONES:

3 Q. Do you run any TDT logs out there and look
4 behind the pipe for water saturation?

5 A. Not that I'm aware of. They're pretty old logs
6 from the '50s and '60s.

7 Q. Oh, boy.

8 Is it typical San Andres, where you've got
9 like a long degradational zone, and you've got to go
10 from your lower water saturation to higher water
11 saturation?

12 A. That's yet undetermined because of the
13 inability to capture water saturation -- or accurate
14 water saturations, with not a lot of resistivity tools
15 and -- the sonic -- I mean, for the porosity. So it's
16 hard to do a detailed petrophysical on the water
17 saturation on this area.

18 EXAMINER JONES: Thank you very much. Mike
19 did his master's on the San Andres.

20 THE WITNESS: You could probably tell me
21 more about it than I know.

22 EXAMINER McMILLAN: I wouldn't say that.

23 With that in mind, Case Numbers 15712 and
24 15713 shall be taken under advisement.

25 Be sure to get me the pool information, and

1 if I don't get you the case number, email me and I'll
2 provide that to you.

3 MR. LARSON: I will do that.

4 And could I communicate about the
5 supervision and administrative costs via email, too, if
6 that's acceptable to Mr. Hall?

7 MR. HALL: (Indicating.)

8 EXAMINER McMILLAN: And include him in the
9 email. That's the best way to do it.

10 MR. LARSON: Of course.

11 EXAMINER McMILLAN: Great.

12 Case Numbers 15712 and 15713 will be taken
13 under advisement.

14 We're taking a ten-minute break.

15 (Case Numbers 15712 and 15713 conclude,
16 9:36 a.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20

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22

23

24

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MARY C. HANKINS, CCR, RPR
Certified Court Reporter
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