

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:

ORIGINAL

APPLICATION OF CHISHOLM ENERGY
OPERATING, LCC FOR A NONSTANDARD
SPACING AND PRORATION UNIT AND
COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO.

CASE NOS. 16396,
16397

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

September 6, 2018

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, Michael McMillan,
Chief Examiner, and David K. Brooks, Legal Examiner, on
Thursday, September 6, 2018, 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
New Mexico CCR #20
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APPEARANCES

FOR APPLICANT CHISHOLM ENERGY OPERATING, LCC:

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1 (2:05 p.m.)

2 EXAMINER McMILLAN: The next case we're
3 going to hear is 16396, application of Chisholm Energy
4 Operating, LLC for a nonstandard spacing and proration
5 unit and compulsory pooling, Eddy County, New Mexico.

6 This will be combined with Case 16397,
7 application of Chisholm Energy Operating, LLC for a
8 nonstandard spacing and proration unit and compulsory
9 pooling, Eddy County, New Mexico.

10 Call for appearances.

11 MR. FELDEWERT: May it please the examiner,
12 Michael Feldewert, from the Santa Fe office of Holland &
13 Hart, appearing on behalf of the Applicant in both
14 cases, and I am presenting these cases by affidavit, as
15 they are unopposed.

16 EXAMINER McMILLAN: Okay.

17 There are no other appearances?

18 Please proceed.

19 MR. FELDEWERT: Mr. Examiner, in the
20 package that I gave to you, which combines the exhibits
21 for Cases 16396 and 16397, you'll see under Tab Number 1
22 the affidavit of the Beau Sullivan, who is a landman for
23 Chisholm and who has previously testified before this
24 Division. And in his affidavit, he first points out
25 that the company seeks to pool WPX Energy Permian, LLC,

1 and that's the sole party that is subject to the pooling
2 application here today. And as he notes in his
3 affidavit and as is reflected in the pre-hearing
4 statement, since the amendments to the horizontal well
5 rules are in effect, Chisholm has dismissed the portion
6 of the application seeking to create a nonstandard
7 spacing and proration unit, since this will now -- both
8 of these spacing units are standard spacing units.

9 In the first case, 16396, they seek an
10 order for pooling in the Bone Spring Formation a
11 320-acre standard spacing unit comprised of the east
12 half-east half of Section 32 and the east half-east half
13 equivalent of Section 5.

14 And if you turn to what's been marked as
15 Exhibit 1A, you'll see the draft C-102, the well that is
16 to be dedicated to this east half-east half spacing
17 unit, and that is the Bodacious 4H well. This will be
18 in a wildcat Bone Spring pool. The draft C-102 provides
19 the pool code. This has not yet been filed, so we do
20 not have the API number.

21 In the second case, Case 16397, the company
22 seeks to pool the WPX interest in the Wolfcamp Formation
23 underlying a 640-acre standard gas spacing and proration
24 unit comprising the east half of Section 32 and the east
25 half equivalent of Section 5. And that C-102 reflecting

1 that spacing unit is under Exhibit 1B. And you'll see
2 that that spacing unit is to be dedicated to the
3 Bodacious 6H well, which will be completed in the Purple
4 Sage; Wolfcamp Pool, and we provide the pool code on
5 that C-102. And, again, this is a draft C-102. It's
6 not yet been filed, so there is no API number.

7 If you go then to Exhibit 1C to his
8 affidavit, he testifies that there are essentially four
9 tracts of land involved in both of these cases, the same
10 tracts. He lists under 1C the tracts that are involved
11 for the spacing unit, and then the second page of
12 Exhibit C identifies the portions of those tracts that
13 are involved with the Bone Spring spacing unit. The
14 third page provides an interest breakdown by tract,
15 culminating in the last page, which provides the
16 interest by particular spacing units.

17 If we then move on, he testifies in Exhibit
18 1D that contains the well-proposal letter that was sent
19 out for the 4H well, which is the Bone Spring well. And
20 then in that particular exhibit, he points out that they
21 have requested drilling and overhead costs of 7,500 a
22 month while drilling and 750 per month while producing.
23 He also attaches to that well-proposal letter, the --
24 included an AFE, which contains the estimated costs,
25 which the landman testifies are consistent with what

1 operators have incurred for drilling similar Bone Spring
2 wells in the area.

3 Then under Exhibit 1E, is the same
4 well-proposal package for the Wolfcamp well, the 6H
5 well. And, again, we see the same overhead rates
6 requested and also then the AFE, which again the landman
7 testifies that the estimated costs are consistent with
8 what operators have incurred for drilling similar wells.

9 What will interest you, Mr. McMillan, is in
10 paragraph 13 of the affidavit, he points out that there
11 is no ownership depth severances.

12 And what will interest Mr. Brooks, in that
13 same paragraph, he points out that there are no
14 overriding royalty interests, and there are no unleased
15 mineral interests that are subject to pooling.

16 In his affidavit, he points out that the
17 overhead rates are consistent with what other operators
18 are charging for similar wells, and our application
19 requests a 200 percent risk penalty.

20 Exhibit 2 is the affidavit filed by
21 Chisholm's geologist, Mr. George Roth. And Mr. Roth
22 has, likewise, previously testified before this Division
23 as an expert in petroleum geology. He notes that in his
24 affidavit.

25 He points out that the 4H well that is the

1 Bone Spring well is targeting, in particular, the 3rd
2 Bone Spring interval. And so he includes with his
3 affidavit, under Exhibit 2A, a structure map of the 3rd
4 Bone Spring target interval.

5 You'll note, Mr. Examiner, to your liking,
6 his contours are down to 25 feet, and he testifies that
7 the structure dips generally to the east, and he does
8 not observe any faulting or pinch-outs or any other
9 geologic impediments to developing this target interval
10 with horizontal wells.

11 Exhibit 2A also reflects four wells that he
12 utilized in a cross section, A to A prime, that runs
13 from north to south.

14 And Exhibit 2B contains that cross section.
15 You'll note that the targeted interval, he has depicted
16 that for you in yellow. He testifies in his affidavit,
17 in paragraph seven, that it extends across the proposed
18 spacing and proration unit. And he testifies, likewise
19 in his affidavit, that he expects the acreage comprising
20 the proposed spacing unit to be more or less equally
21 productive from the wellbore.

22 Then Exhibit 2C contains the similar
23 exhibits -- geologic exhibits for now the Wolfcamp well,
24 the 6H well. And so you'll see that Exhibit 2C is again
25 a structure map that he's prepared for the top of the

1 Wolfcamp Formation. Again, he testifies that he sees no
2 faulting, pinch-outs or geologic impediments to
3 developing horizontal wells.

4 He again shows some cross section wells --
5 the wells that were utilized for his previous cross
6 section in the Wolfcamp, which you will find under
7 Attachment 2D.

8 And, Mr. Examiner, he has identified that
9 targeted interval in yellow. He testifies in his
10 affidavit it extends across the proposed area and that
11 he expects the acreage for the Wolfcamp to be -- to
12 contribute more or less equally to the production from
13 the wellbore.

14 In paragraph 12, he notes that the
15 south-to-north orientation of these wells is appropriate
16 and explains why.

17 And then in paragraph 13, he offers his
18 opinion that both of these proposed spacing units
19 represent an area that is suitable for development by
20 horizontal wells, and that in his opinion, it is in the
21 best interest of conservation, the prevention of waste
22 and the protection of correlative rights to approve the
23 requests sought in both of these applications.

24 Finally then, under Exhibit C, is my Notice
25 of Affidavit confirming that notice by certified mail

1 was provided to the party that they seek to pool, WPX
2 Energy Permian, LLC, for both cases, 16396 and 16397.

3 So with that, we ask that Exhibits 1, 2 and
4 3, along with all of their attachments, be admitted into
5 the record in this case.

6 EXAMINER McMILLAN: Exhibits 1, 2 and 3 and
7 the attachments may now be accepted as part of the
8 record.

9 (Chisholm Energy Operating, LLC Exhibit
10 Numbers 1, 2 and 3 are offered and
11 admitted into evidence.)

12 MR. FELDEWERT: And we ask that these
13 consolidated cases be taken under advisement.

14 EXAMINER McMILLAN: For clarity purposes,
15 were there any unlocatable interests?

16 MR. FELDEWERT: No, sir. And they're only
17 pooling WPX.

18 EXAMINER McMILLAN: I want to make sure
19 they got proper notice.

20 And then the question -- that's an awful
21 thick interval in the Wolfcamp. Are they expecting
22 multiple -- are they expecting infill wells off this?

23 MR. FELDEWERT: I do not have that
24 information.

25 EXAMINER McMILLAN: Okay. Well, you can

1 ask.

2 MR. FELDEWERT: I surely can ask.

3 EXAMINER McMILLAN: Go ahead.

4 EXAMINER BROOKS: No depth severances. I
5 believe that was covered, right?

6 MR. FELDEWERT: Yes, sir.

7 EXAMINER BROOKS: And just for me, you
8 covered overriding royalties.

9 MR. FELDEWERT: Just for you.

10 EXAMINER BROOKS: I still have not gotten
11 around to doing the research. In all these months that
12 I've been obsessed with overriding royalties, I have
13 never gotten the time to do the research. If there is
14 any New Mexico authority on that subject, I'm not aware
15 of any. But I did, of course, very quickly find a
16 Wyoming case that said -- that said that pay as fed
17 clause under a federal oil and gas lease was equivalent
18 to pooling power if the BLM had approved the pooling,
19 but I never have found a case that supports that theory,
20 so I keep harping on it.

21 That's all I have.

22 EXAMINER McMILLAN: Okay. Is the ownership
23 in the mineral estate identical in the Bone Spring and
24 the Wolfcamp.

25 MR. FELDEWERT: Yeah. If you'll notice on

1 Exhibit C, you'll see the same tracts of land are
2 involved. So Exhibit 1C, there are four tracts of land
3 that comprise the east half of the subject acreage, and
4 so the ownership is consistent across that east half.

5 EXAMINER BROOKS: Let me ask one other
6 thing. You said something about equivalents, and you
7 have some lots here down in Section 5. What is the
8 acreage discrepancy between Section 5 -- how much is it
9 off from being a full section?

10 MR. FELDEWERT: I do not know that.

11 EXAMINER BROOKS: Okay. Well, I don't
12 either, so I won't belabor that point.

13 I was going to say that this would be a
14 good case in which to put in the order something about
15 how it doesn't have to be a precisely regular section to
16 comply with the new horizontal well, but I'll wait until
17 there is a more sharper evidentiary presentation to do
18 that.

19 MR. FELDEWERT: I would say that,
20 Mr. Examiner, if we look at the C-102s --

21 EXAMINER BROOKS: Yeah.

22 MR. FELDEWERT: -- and we look at the
23 dedicated acreage, you'll see that they're not all that
24 far off from what would be a standard, and so what would
25 be a 640 or a 320. So I would assume then that the lots

1 add acreage, it would appear, and track from that.

2 EXAMINER BROOKS: Well, I would prefer a
3 sharper presentation to announce that precedent.

4 MR. FELDEWERT: You're going to need
5 someone better than me.

6 EXAMINER BROOKS: No. I don't know that
7 I'll need someone better than you. I'll just need a
8 more thorough landman.

9 MR. FELDEWERT: Uh-huh.

10 So we ask that these cases be taken under
11 advisement.

12 EXAMINER McMILLAN: Cases 16396 and 16397
13 shall be taken under advisement. Thank you.

14 (Case Numbers 16396 and 16397 conclude,
15 2:19 p.m.)

16 EXAMINER BROOKS: Could we take --

17 EXAMINER McMILLAN: Yeah. Let's take a
18 five-minute break.

19 (Recess, 2:19 p.m. to 2:30 p.m.)
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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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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.

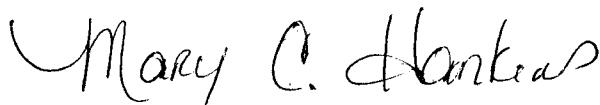
13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

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 DATED THIS 28th day of September 2018.

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MARY C. HANKINS, CCR, RPR
Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2018
Paul Baca Professional Court Reporters