

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:

AMENDED APPLICATION OF NOVO OIL & GAS CASE NOS. 16282,
NORTHERN DELAWARE, LLC FOR A NONSTANDARD 16283,
SPACING AND PRORATION UNIT AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

February 21, 2019

Santa Fe, New Mexico

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

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner, Terry Warnell, Technical Examiner, and David K. Brooks, Legal Examiner, on Thursday, February 21, 2019, 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.

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APPEARANCES

FOR APPLICANT NOVO OIL & GAS NORTHERN DELAWARE, LLC:

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1 (2:18 p.m.)

2 EXAMINER McMILLAN: Let's go to the front
3 of the docket, Case Number 16283.

4 MS. CALLAHAN: 282 and 284.

5 EXAMINER McMILLAN: Will these be combined
6 with the other cases?

7 MS. CALLAHAN: Well, the first two are
8 going to be combined. The 84 I'd like to have right
9 afterwards because, as you'll see, it somewhat relates.

10 EXAMINER McMILLAN: Okay. At this time I'd
11 like to call Case Number 16283, amended application of
12 Novo Oil & Gas Northern Delaware, LLC for a nonstandard
13 spacing and proration unit and compulsory pooling, Eddy
14 County, New Mexico. This shall be combined with Case
15 Number 16282, amended application of Novo Oil & Gas
16 Northern Delaware, LLC for a nonstandard spacing and
17 proration unit and compulsory pooling, Eddy County, New
18 Mexico.

19 Call for appearances.

20 MS. CALLAHAN: Candace Callahan appearing
21 for Novo Oil & Gas Northern Delaware, LLC.

22 EXAMINER McMILLAN: Any other appearances?

23 MR. BRUCE: Mr. Examiner, Jim Bruce
24 representing TDY Industries, LLC. I have no witnesses.

25 EXAMINER McMILLAN: Both cases?

1 MR. BRUCE: Both cases.

2 EXAMINER McMILLAN: Please proceed.

3 MS. CALLAHAN: Thank you.

4 If it's all right with you, Mr. Examiner,
5 I'd like to start with 16282, and I just want to give
6 you some general opening remarks for context.

7 Cases 16282 and 16283 were initially heard
8 July 12th, 2018 just after the new horizontal rules went
9 into effect. The record was supplemented in both cases
10 at hearing on August 9th. The lands in these cases are
11 all within the potash area with limited surface access.
12 We're here today to address the depth severance in both
13 cases and the amended applications.

14 EXAMINER BROOKS: Okay. There was a prior
15 hearing?

16 MS. CALLAHAN: There were two, on July
17 12th, right after the horizontal rules went into effect,
18 and then again on August 9th.

19 EXAMINER BROOKS: Okay. I picked up on
20 August, but I missed out on July, and I was going to say
21 there were a lot of hearings closer to the date than
22 that. But I'm glad you explained. Go ahead.

23 MS. CALLAHAN: All right. Thank you.

24 Both of these applications were amended and
25 renoticed to limit the requested spacing unit to the

1 depths within the Bone Spring below 8,773 feet
2 subsurface in accord with the conveyances that created
3 the depth severance. The depth severance in both 16282
4 and 16283 applies only to a 40-acre tract within each of
5 the 320-acre spacing units, and the only working
6 interest owner in the depths excluded from the Bone
7 Spring was COG Operating, LLC. And in the underlying
8 hearings, it was made clear that COG had no opposition.

9 We're presenting Cases 16282 and 16283 by
10 affidavit, since there's been no opposition, and we're
11 asking they be consolidated for hearing purposes.

12 So I'd like to first look at the packet you
13 have for 16282. You'll see there are three affidavits
14 for this case. They're denoted "Land," "Geology" and
15 "Engineering."

16 And the affidavit of the land expert is
17 given by Brandon Patrick who has previously testified
18 before the Division, and his credentials were accepted
19 as an expert in petroleum land matters.

20 The affidavit of Michael Hale reflects
21 credentials set forth in that. He has not been before
22 the Division before.

23 And the affidavit of Kurt Shipley also
24 contains his credentials, and he's offered as an expert
25 petroleum engineer.

1 And Mr. Hale is offered as an expert in
2 geology.

3 In Mr. Patrick's affidavit, he testifies
4 that Case 16282 as amended seeks an order creating a
5 320-acre nonstandard spacing unit in the Culebra Bluff;
6 Bone Spring, South Pool, pool code 15011, limited to all
7 depths below 8,773 feet to the base of the Bone Spring
8 Formation. And the proposed spacing unit is comprised
9 of the south half-south half of Section 4 and the south
10 half-south half of Section 5, Township 23 South, Range
11 29 East in Eddy County. The well proposed for this unit
12 is the Rana Salada Fed Com 0504 134H well. The C-102
13 for this well was submitted at the August 9th hearing.
14 And Novo is seeking to pool all uncommitted mineral
15 interests underlying this proposed spacing unit.

16 If we look at Mr. Patrick's Exhibit Number
17 20, we'll see a plat and an updated mineral ownership
18 schedule reflecting additional interests which Novo has
19 acquired since the initial filing of the case.

20 Page 2 provides the mineral interests in
21 the south half-south half of Sections 4 and 5 for all
22 benches in the Bone Spring and below the Bone Spring.

23 Exhibit Number 21 lists all the parties
24 that Novo seeks to be pooled. The only working interest
25 owner to be pooled is Marathon Oil Permian. The

1 remainder of the owners listed are all overriding
2 royalty interest owners with the exception of two
3 companies, TDY and BTA Oil Producers, who are identified
4 as royalty interest owners. They currently are
5 litigating competing interests in district court. They
6 have competing claims to the minerals in the fee acreage
7 within the spacing unit.

8 At the August 9th hearing, Mr. Patrick
9 testified to his good-faith efforts to obtain the
10 joinder of Marathon, and the subsequent conveyance by
11 Marathon -- of its interests to Novo, I think, reflects
12 those efforts.

13 Exhibit 22 includes a copy of the two
14 transfers of operating rights into Novo which are
15 defining the depth severance that we're using in this
16 hearing.

17 And Exhibit 23 is a description of the
18 depths for the proposed spacing unit for the Rana Salada
19 Fed Com 0504 134H well.

20 Exhibit 24 is my Affidavit of Notice of the
21 amended application.

22 And 24B reflects the status of the
23 return-receipt cards. All of the return-receipt cards
24 were received in this case except the notice sent to one
25 of the overriding royalty interest owners, and that was

1 Destiny Management, Inc.

2 So as a result of that, we have published
3 notice, and that Affidavit of Publication is Exhibit 25.

4 All of the mineral owners within the Bone
5 Spring -- within all intervals of the Bone Spring were
6 sent notices of this amended application.

7 EXAMINER BROOKS: Including COG?

8 MS. CALLAHAN: Including COG, yes.

9 If we turn now to the affidavit of Michael
10 Hale, the geologist for Novo, he's submitted five
11 exhibits. The first, which is denoted Exhibit 26, is a
12 picture of the -- it's a plat of the Bone Spring
13 execution plan for the 3rd Bone Spring proposed location
14 for the well in this case. I think it will in part
15 explain why all these cases are being asked to be
16 considered together.

17 Let's see. Exhibit 27 is a subsea
18 structure map on the top of the 3rd Bone Spring.

19 EXAMINER McMILLAN: Jim, do you have any
20 problems with the geologist being an expert witness?

21 MR. BRUCE: No.

22 EXAMINER McMILLAN: Okay. Continue.

23 MS. CALLAHAN: Thank you.

24 Should I have submitted him as an expert?

25 EXAMINER McMILLAN: Yes.

1 MS. CALLAHAN: Okay. I am asking to do so.

2 Thank you.

3 Let's see. Exhibit 27 is a subsea
4 structure map on the top of the 3rd Bone Spring.

5 Exhibit 28 is the gross isopach map for the
6 3rd Bone Spring.

7 And Exhibit 29 is a stratigraphic cross
8 section of the 3rd Bone Spring illustrating three type
9 wells in and offsetting Novo's Rana Salada development
10 block. You'll see that the cross section identifies the
11 depth severance of 8,773 feet, the target zone and the
12 target depth of the landing point. The API numbers for
13 all three of these wells are given at the top of each of
14 the logs.

15 Exhibit 30 is a Rana Salada development
16 block type log with frac barriers and target interval.
17 The Carthel Federal 2 has been used to illustrate the
18 low porosity limestone barriers between the 2nd and 3rd
19 Bone Spring intervals. The depth severance, the target
20 zone and the target depth are also identified.

21 In his affidavit, Mr. Hale concludes from
22 his study of the Bone Spring that the 3rd Bone Spring
23 Lime barrier will effectively prevent communication
24 between the 2nd and 3rd Bone Spring intervals. The
25 fracs from the proposed well will not extend into the

1 2nd Bone Spring interval. The Bone Spring Formation
2 underlying the proposed unit is suitable for horizontal
3 development. Each quarter-quarter section will
4 contribute more or less equally to the production from
5 the proposed well, and the granting of Novo's
6 application will be in the best interest of conservation
7 and the prevention of waste.

8 I'd like to move now to the affidavit of
9 Novo's engineer, Mr. Kurt Shipley. Mr. Shipley
10 reiterates that the 130H well is targeting the 3rd Bone
11 Spring Sand interval. He states the stimulation design
12 for the 134H well is a slick water and sand fracture
13 stimulation, and the design is intended to control
14 height and maximize fracture half-length.

15 Attached to Mr. Shipley's affidavit are two
16 exhibits. Exhibit 31 is a type log for the Carthel
17 Federal 2. And you'll see that the target depth and the
18 distances are denoted on this exhibit.

19 And Exhibit 32 is a map and diagram used
20 for comparison of the vertical separation of the 2nd and
21 3rd Bone Spring Formations -- or benches.

22 With reference to these exhibits,
23 Mr. Shipley states the gross height between the depth
24 severance of 8,773 feet subsurface and the producing 3rd
25 Bone Spring Sand interval is approximately 788 feet, and

1 the conductive frac height is not expected to exceed
2 approximately 100 feet. The stimulation model suggests
3 the limestone barrier which exists between 8,773 feet
4 subsurface and the producing 3rd Bone Spring Sand
5 interval will act as a barrier and isolate these
6 intervals.

7 He goes on to state that Novo is not aware
8 of any lasting communication effects between these zones
9 in the immediate area, and there is 788 feet of vertical
10 separation between the depth severance of 8,773 feet and
11 the top of the 3rd Bone Spring Sand at 9,561 feet.
12 There is 849 feet between the base of the 2nd Bone
13 Spring at 8,712 feet and the top of the 3rd Bone Spring
14 at 9,561 feet. The planned landing point for the
15 proposed well is at 9,750 feet. There are 336 feet of
16 frac barriers in the Upper 3rd Bone Spring Lime and
17 multiple frac barriers in the Lower 3rd Bone Spring.

18 Mr. Shipley concludes that the Bone Spring
19 Formation above the depth severance of 8,773 feet
20 subsurface and the producing 3rd Bone Spring interval
21 will be isolated from each other and not within
22 hydraulic fracture communication. The granting -- and
23 he also states the granting of the application is in the
24 best interest of conservation and the prevention of
25 waste.

1 And I guess at this point, I'd like to move
2 for the admission of the affidavits and the related
3 exhibits of Brandon Patrick, Michael Hale and Kurt
4 Shipley, together with my affidavits and the Affidavit
5 of Publication.

6 EXAMINER McMILLAN: So Exhibits 20 through
7 31?

8 MS. CALLAHAN: 32.

9 EXAMINER McMILLAN: Oh, 32.
10 Any objections?

11 MR. BRUCE: No.

12 EXAMINER McMILLAN: Exhibits 20 through 32
13 for Cases 16282 and 16283 may now be accepted as part of
14 the record.

15 (Novo Oil & Gas Northern Delaware, LLC
16 Exhibit Numbers 20 through 32 are offered
17 and admitted into evidence.)

18 MS. CALLAHAN: Okay. I have a little bit
19 of information I'd like to give for Case 16283 just to
20 point out the differences between the two. They're
21 virtually identical, but, you know, there is a different
22 spacing unit, and I just wanted to point those things
23 out.

24 EXAMINER BROOKS: Okay. Before you go into
25 the next case, that is another case. You said you were

1 going to do that separate, right?

2 MS. CALLAHAN: Yes.

3 This is it for 16282.

4 EXAMINER BROOKS: I just want to make a
5 brief remark on depth severances. The depth severance
6 information we've got here is sufficient, I think, but
7 it's only sufficient because we have the consent of the
8 party that owns the counterinterest. But if it were not
9 on a consent basis, I think we would need to have the
10 geology witness testify based -- well, ideally what we
11 would have is a copy of the title instrument attached to
12 the landman's affidavit, which includes the depth
13 severance -- the actual definition of the depth
14 severance in the title.

15 MS. CALLAHAN: That is included in here.
16 Yes.

17 EXAMINER BROOKS: Yeah.

18 Well, then the second thing is if it's only
19 X number of feet, which is what you're saying here, then
20 we need to get it clarified whether it's X number of
21 feet in a straight line or whether it's 8,773 -- or the
22 stratigraphic equivalent of 8,773 feet as to some
23 marker, and that marker would have to be identified by a
24 particular well at which the marker appears at that
25 level.

1 EXAMINER McMILLAN: It is tied to one.

2 EXAMINER BROOKS: Okay. Good. Then I made
3 the speech --

4 EXAMINER McMILLAN: It's the Carthel
5 Federal 2.

6 MS. CALLAHAN: The conveyance is not tied
7 to that, but the geologist and the engineer used that as
8 a basis for --

9 EXAMINER BROOKS: Okay. That's good,
10 except it does need to be -- if you don't have the
11 consent involved, then you need to have that depth
12 severance either -- the marker either specified in the
13 title instrument or have your experts testify that that
14 is a recognized marker, and it can be identified in a
15 particular other well -- in a particular well. I mean,
16 since you're drilling a new well, it couldn't be that
17 well, so, of course, it would be another well. But in
18 another type of case, it might be that well. But we
19 need -- if it's in the title instrument, the title
20 instrument governs, of course. If it's not in the title
21 instrument, then we have to have some interpretation of
22 the title instrument, and that can only come from a
23 geologist. So I just wanted to give you my take on how
24 these depth severances --

25 MS. CALLAHAN: Thank you. In our case it's

1 clearly set forth in the conveyance instrument, and, in
2 fact, COG is responsible for creating the depth
3 severance. So they had an opportunity to tie it to a
4 well, but they did not.

5 EXAMINER BROOKS: Well, there's a rumor
6 going around that I'm an expert on depth severances.
7 I'm not. Michael over here is the expert on depth
8 severances, but I have to add my own little twist to it.

9 EXAMINER McMILLAN: Sitting through a ton
10 of these cases, you learn real quickly what's needed.

11 EXAMINER BROOKS: Well, it's unfortunate
12 that I drafted conversance of instruments a long time
13 before -- as did many other lawyers.

14 MS. CALLAHAN: So as I said, Case 16283 is
15 virtually identical, and there are just a few
16 exceptions. A spacing unit is proposed. It's a
17 320-acre spacing unit, but it's to be comprised of the
18 north half-south half of Sections 4 and 5, so in the
19 same sections as 16282. And the initial well proposed
20 is the Rana Salada Fed Com 0504 133H well.

21 And then if we look at the exhibit packet
22 for 16283 and look at Exhibit 20, you'll see that the
23 mineral ownership is different in this case.

24 The parties we request to be pooled are set
25 forth in Exhibit 21, and the working interest owners to

1 be pooled are OXY Y-1 Company and XTO, who are the
 2 successors in interest to THRU Line Oil & Gas NM, LLC.
 3 The remainder of all these people are all overriding
 4 royalty interest owners. And miraculously enough we
 5 received return-receipt cards for all but two of the
 6 overriding royalty interest owners, and we did publish
 7 as to those owners. And then those are really the
 8 differences.

9 The affidavits of Mr. Patrick, Mr. Hale and
 10 Mr. Shipley are all comparable to what we submitted for
 11 Case 16282 and contain virtually the same information.

12 So with that, I'd move for the admission of
 13 the affidavits of Mr. Patrick, Mr. Hale and Mr. Shipley
 14 together with their respective exhibits, 20 through 32,
 15 which include my Affidavit of Notice and the Affidavit
 16 of Publication.

17 EXAMINER McMILLAN: Exhibits 20 through 32
 18 for --

19 Any objections?

20 MR. BRUCE: No.

21 EXAMINER WARNELL: Wait a minute. Wait a
 22 minute. Do I have the geologist? Oh, yeah, I do.
 23 Never mind.

24 EXAMINER McMILLAN: 20 through 32 in Case
 25 16283 may now be accepted as part of the record.

1 (Novo Oil & Gas Northern Delaware, LLC
2 Exhibit Numbers 20 through 32 are offered
3 and admitted into evidence.)

4 MS. CALLAHAN: That's all I have for those
5 two cases.

6 EXAMINER McMILLAN: Do you want them taken
7 under advisement?

8 MS. CALLAHAN: Oh, yes, please. Would you
9 please take those two cases under advisement?

10 EXAMINER McMILLAN: Jim?

11 MR. BRUCE: No objection.

12 EXAMINER McMILLAN: 16282 and 16283 may now
13 be taken under advisement.

14 Thank you.

15 MS. CALLAHAN: Thank you.

16 (Case Numbers 16282 and 16283 conclude,
17 2:43 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 27th day of March 2019.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
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