

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 PERCUSSION CASE NO. 20372
PETROLEUM OPERATING, LLC FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

April 5, 2019

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
 SUSAN SITA, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, Michael McMillan,
Chief Examiner, and Susan Sita, Legal Examiner, on
Friday, April 5, 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.

REPORTED BY: Mary C. Hankins, CCR, RPR
 New Mexico CCR #20
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APPEARANCES

FOR APPLICANT PERCUSSION PETROLEUM OPERATING, LLC:

ADAM G. RANKIN, ESQ.
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EXHIBITS OFFERED AND ADMITTED

Percussion Petroleum Operating, LLC Exhibit Numbers 1 through 3	--
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1 (9:22 a.m.)

2 EXAMINER McMILLAN: At this time I'd like
3 to call Case Number 20372, amended application of
4 Percussion Petroleum Operating, LLC for compulsory
5 pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MR. RANKIN: Mr. Examiner, Adam Rankin with
8 the Santa Fe office of Holland & Hart here on behalf of
9 Applicant, Percussion Petroleum, LLC.

10 EXAMINER McMILLAN: Are there any other
11 appearances?

12 Please proceed.

13 MR. RANKIN: Mr. Examiner, before you is an
14 exhibit packet containing the affidavits of Percussion's
15 petroleum geologist and landman.

16 If you turn to the first exhibit in your
17 packet, Exhibit Number 1 is the affidavit of Mr. Joe
18 Dichiarra. He's a landman for Percussion Petroleum.
19 He's previously testified and had his credentials as a
20 petroleum landman accepted as a matter of record.

21 In this case Mr. Dichiarra testifies that
22 Percussion is seeking an order pooling all uncommitted
23 interests in the Atoka-Glorieta-Yeso pool, pool code
24 3250, from a depth of 3,001 feet, the base of the pool
25 within a proposed 160-acre horizontal spacing unit

1 comprised of the south half of the north half of Section
2 28, Township 18 South, Range 26 East in Eddy County, New
3 Mexico.

4 The proposed horizontal spacing unit will
5 be dedicated to the Weezer #3H well, which will be
6 drilled from the surface location in the southwest
7 quarter of the northwest quarter of Unit E, Section 27,
8 the standard bottom-hole location in the southwest
9 quarter of the northwest quarter of Unit E of Section
10 28.

11 And the Weezer #4H well, which will be
12 horizontally drilled, from the southeast quarter of the
13 northwest quarter of Unit E of Section 27, for a
14 standard bottom-hole location in the southwest quarter
15 of the northwest quarter of Unit E of Section 28.

16 Mr. Dichiarra testifies that the completed
17 interval for each well is at an orthodox location under
18 the statewide rules for oil wells.

19 Exhibit 1A is a copy of the C-102 which
20 reflects the designated spacing -- designated acreage
21 for each of these wells, as well as the first and last
22 take points and that each of the completed intervals for
23 these wells will remain at a standard location across
24 the spacing unit.

25 Mr. Dichiarra testifies there is a depth

1 severance in this spacing unit. Therefore, Percussion
2 is seeking to pool only a portion of the
3 Atoka-Glorieta-Yeso -- Glorieta-Yeso pool from 3,001
4 feet to the base of the Yeso Formation, which is at a
5 stratigraphic equivalent of 4,460 feet, as defined in
6 the gamma ray neutron log as the Len Mayer #1 well, API
7 30-015-05926.

8 As a consequence of the depth severance,
9 there is a difference in ownership. Above and below
10 that depth severance line, Percussion has identified the
11 ownership by tract and in the proposed spacing unit
12 across the depth severance in Exhibit 1B.

13 The first page of that exhibit is a
14 depiction of a -- land tracts that comprise the spacing
15 unit by number. And the next page of that exhibit is a
16 blowup of a more complex -- one of those -- one of those
17 tracts is fairly complex and it's got many little
18 divisions.

19 So that second page is a breakout of those
20 tracts within that different area. It's complicated.

21 The third page of the exhibit is a -- there
22 are actually three additional pages following that
23 breakout, the ownership interest, by tract, by depth.
24 Okay? And in this case, as with the previous case,
25 Percussion is seeking to pool only those interests that

1 are highlighted in green. So for each tract, Percussion
2 has identified each of the ownership interests by depth
3 and by interest percent, and then I've identified which
4 of those interests we're seeking to pool by highlighting
5 them in green.

6 So as you go through these exhibits, you'll
7 see by column they identify all the tracts and all the
8 interests for which they have identified an ownership
9 interest across the entire proposed spacing unit.

10 In this case Percussion is seeking to pool
11 a combination of the working interest owners, overriding
12 royalty interest owners and unleased mineral interest
13 owners. Percussion has proposed to drill and complete
14 horizontal wells as well in the shallower portion of
15 this pool, which is from the top of the Glorieta-Yeso
16 pool down to 3,000, and has already proposed wells and
17 presented a case for compulsory pooling before the
18 Division, Case Number 20234, which was presented on
19 March 7th. That case has been taken under advisement.

20 No interest owner that Percussion seeks to
21 pool has opposed presenting this case by affidavit.
22 Percussion has presented notice of this case and its
23 intent to pool to the vertical offsets within the
24 spacing unit. In other words, those mineral interest
25 owners within the spacing unit that were being excluded

1 have gotten notice of the pooling. Okay? And none have
2 objected.

3 Exhibit 1C is a copy of the well proposal
4 letters that were sent to the uncommitted interest
5 owners, working interest owners that Percussion is
6 seeking to pool. Each of those well-proposal letters
7 contained a --

8 EXAMINER McMILLAN: Slow down.

9 MR. RANKIN: Yeah. Each well proposal
10 contains an AFE.

11 EXAMINER McMILLAN: Slow down. I'm writing
12 notes.

13 MR. RANKIN: Okay. You mean wait.

14 EXAMINER McMILLAN: Okay.

15 MR. RANKIN: So Exhibit 1C is a copy of
16 the -- contains a copy of the well-proposal letters that
17 were sent for each of these wells, as well as the
18 estimated costs, or AFE, that was attached and sent to
19 each of the working interest owners that Percussion is
20 pooling or seeking to pool. Mr. Dichiaro testifies he's
21 made a good-faith effort to reach agreement with each of
22 the parties that Percussion is seeking to pool here and
23 that the costs that they've identified in the AFE are
24 consistent with what other operators and Percussion has
25 incurred drilling similar wells in the area.

1 In compiling its list of notice parties,
2 Percussion -- Mr. Dichiaro testifies he conducted a
3 diligent search of all public records in the county
4 where the proposed wells are located and the phone
5 directories, including computer searches, and all
6 interest owners were locatable.

7 In addition, as I mentioned, Percussion did
8 provide notice of the applications to the vertical
9 offsets of the interest owners within the pools that
10 would be excluded from the spacing unit Percussion is
11 seeking to create here at this depth. Those parties
12 received notice and did not object.

13 Percussion has identified administrative
14 costs for drilling and producing at 7,000 per month
15 while drilling and \$700 per month while producing.
16 Those costs are consistent with what other operators
17 have incurred.

18 Exhibits A -- 1A through 1C [sic] were
19 prepared by Mr. Dichiaro under his supervision. Those
20 are the land exhibits.

21 Do you want me to move on to notice before
22 we go on to the geology?

23 EXAMINER McMILLAN: Yeah. Do notice, and
24 then we'll ask questions.

25 MR. RANKIN: So Exhibit 3 is a copy of the

1 affidavit prepared by my office reflecting that we,
2 Holland & Hart, sent out notice letters to the
3 individuals that were identified by Percussion. The
4 second page of that exhibit is a copy of the letter that
5 was sent out giving notice of today's hearing on April
6 4th. The subsequent pages are copies of the USPS
7 tracking service information sheet that will show that
8 each of the parties that were identified by Percussion
9 were sent a certified return receipt requested letter.

10 I believe that the -- as a matter of
11 record, that the letters that were sent in this case
12 were combined with the letters that were sent in the
13 Radiohead case, Case Number 20370. I noticed this
14 morning that the signature page sheet was not included
15 in this -- in this exhibit, so they should be -- I'm
16 going to direct you to Exhibit 3 in Case Number 20370,
17 which does include the sheet showing that which parties
18 actually received -- signed for notice and which parties
19 are still in transit. But that's the same list of
20 parties because they were sent together.

21 EXAMINER McMILLAN: Okay. When you send
22 the PDF file, make sure it's correct.

23 MR. RANKIN: I'll make sure that it's in
24 there. I just noticed this morning that that sheet
25 wasn't in there.

1 The last page of this exhibit is a copy of
2 the Notice of Publication, which reflects that each of
3 the parties, the interest owners, were identified by
4 name, given notice -- constructive notice of the hearing
5 and the application today, April 4th, in a newspaper in
6 the county in which the well is located.

7 So with that, Mr. Examiner, I'd like to
8 move on to the geology exhibits, unless you have any
9 questions.

10 EXAMINER McMILLAN: No. I don't
11 understand. I'm looking at Exhibit B. Okay? I see the
12 first page is -- I guess I don't understand the
13 situation.

14 MR. RANKIN: Sure. I'll walk you through
15 it. Okay?

16 So looking at the first page of Exhibit 1B
17 is a depiction of the spacing unit, and it's highlighted
18 in red. Within the red-highlighted area are different
19 tracts, numbered tracts, 1, 2. If you start on the east
20 half, you'll see Tract Number 1. Then in the southeast
21 quarter is Tract Number 2. And working your way west,
22 the east half of the -- I don't know. I lost track.
23 But the southeast quarter of the northeast quarter of
24 Section 28, I believe --

25 EXAMINER McMILLAN: Uh-huh.

1 MR. RANKIN: -- that tract is more
2 complicated and divided up into many more ownership
3 tracts. So the second page of this exhibit is a
4 breakout -- a blowup or breakout of that --

5 EXAMINER McMILLAN: Of 3 to 10?

6 MR. RANKIN: Of 3 to 10. So that's what
7 that page number 2 is.

8 Then going back to the first page, you'll
9 see there are Tracts 11, 12 and 13, which are the west
10 half of spacing unit.

11 The subsequent pages are the ownership
12 interests and the percentage interests associated with
13 each of those tracts by depth. Okay? And as you can
14 see, a lot of work went into this to identify all those
15 interests by depth and by percentage interest. So
16 EOG -- I mean, Percussion has identified all those
17 interest owners for each of these tracts. If you walk
18 through each of those pages, you'll see that they have
19 identified them and the different ownership interest and
20 percentages for each depth, and -- and as well
21 identified the type of interests that they own.

22 In some cases, it's not -- I'll just point
23 out that in some cases, they've identified where it's
24 not exactly clear what the percentage of ownership is
25 for each of these different tracts because I think there

1 is some question in some cases about what the actual
2 ownership percentage is. But they've included, based on
3 their title work, their understanding of what each
4 ownership interest is across all these tracts. There's
5 no question that they've identified all the owners.
6 There is just sometimes a question of what each entity
7 owns within each of those tracts.

8 EXAMINER McMILLAN: Okay. I'm thinking
9 through.

10 MR. RANKIN: Yeah, I understand. These are
11 challenging cases.

12 EXAMINER McMILLAN: Do you have any
13 questions?

14 MS. SITA: No. He answered the questions I
15 had.

16 MR. RANKIN: So this land is complicated.
17 It is complicated, and they've undertaken an effort to
18 try to eliminate or remove the depth severances used
19 by reaching a voluntary agreement with all the parties.
20 In this case it wasn't possible, at this time anyway.
21 And to the extent they have been able to reach agreement
22 in other cases, they're working to do that so we can get
23 rid of these depth-severance issues. It's a challenge.

24 So, Mr. Examiner, with that, unless you
25 have any further questions, I will ask that Exhibits 1,

1 2 and 3 in Case Number 20372 be admitted to the record.

2 I understand, Mr. Examiner, that you've
3 asked me to prepare a type log -- or have the geologist
4 prepare a type log and submit that along with an updated
5 structure map reflecting either -- either to remove the
6 color or to make the color --

7 EXAMINER McMILLAN: Make the color
8 relevant.

9 MR. RANKIN: In addition, we will make sure
10 that the submitted copy of the exhibits includes that
11 USPS signature status page, as it was included in one
12 case but not the other. I'll make sure it's there.

13 That's it, unless you have any other
14 questions.

15 Mr. Examiner, we ask that Case Number 20372
16 be taken under advisement.

17 EXAMINER McMILLAN: And did the geologist
18 state that all quarter-quarter sections --

19 MR. RANKIN: He did, yeah. In his opinion,
20 that each tract of land that comprises the spacing unit
21 will contribute more or less equally, proportionately to
22 the well.

23 And I'd ask the case be taken under
24 advisement, and I'll supplement the record per your
25 request.

1 EXAMINER McMILLAN: Okay. Case Number
2 20372 shall be taken under advisement.

3 MR. RANKIN: Thank you. I think that
4 concludes my presentations today.

5 EXAMINER McMILLAN: We're done.

6 (Case Number 20372 concludes, 9:39 a.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 24th day of April 2019.

21

22

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