

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

CASE NO. 14624

APPLICATION OF NADEL AND GUSSMAN PERMIAN, LLC,
FOR APPROVAL OF A NON-STANDARD OIL SPACING AND
PRORATION UNIT AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner
WILLIAM V. JONES, Legal Examiner

November 10, 2011

Santa Fe, New Mexico

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This matter came on for hearing before the
New Mexico Oil Conservation Division, DAVID K. BROOKS,
Hearing Examiner on Thursday, November 11, 2011, at the
New Mexico Energy, Minerals and Natural Resources
Department, 1220 South St. Francis Drive, Room 102,
Santa Fe, New Mexico.

REPORTED BY: Lisa Reinicke
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 By: W. Thomas Kellahin

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10

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1 EXAMINER BROOKS: At this time I will call
2 case number 14624, Application of Nadel and Gussman
3 Permian, LLC, for approval of a non-standard oil spacing
4 and proration unit and compulsory pooling, Eddy County,
5 New Mexico. Call for appearances.

6 MR. KELLAHIN: Mr. Examiner, I'm Tom
7 Kellahin of the Santa Fe Law Firm of Kellahin and
8 Kellahin. Appearing with me this afternoon on behalf of
9 the applicant, I have two witnesses to be sworn.

10 EXAMINER BROOKS: Okay.

11 MR. RANKIN: I'm Adam Rankin, Holland &
12 Hart, Santa Fe, on behalf of DHA and Oil and Gas
13 Operators. No witnesses.

14 EXAMINER BROOKS: Okay. Would the witnesses
15 identify themselves, please?

16 MS. JOHNSON: Crystal Emerald Johnson of
17 Nagel and Gussman Permian.

18 MR. MATTEUCCI: Michael Nicholas Matteucci,
19 Nagel and Gussman Permian.

20 [Whereupon the witnesses were duly sworn.]

21 MR. KELLAHIN: By way of introduction,
22 Mr. Examiner, Jim Bruce filed this case on behalf of
23 Nadel and Gussman back on March 15th of this year. And
24 at the time of that filing, then, there's a list of
25 parties that were to be pooled. Since that time Emerald

1 Johnson, the land person for Nadel and Gussman, has
2 devoted a substantial amount of time negotiating with
3 Nearburg Exploration, not only on participation but on
4 the orientation of the spacing units.

5 That finally was concluded in late October of
6 this year. And as a consequence of that, other parties
7 joined in with Nadel and Gussman. So as we come to the
8 hearing, then, this week the only parties that were to
9 be pooled were a few people that we could not find
10 because the addresses we had were fine, we just couldn't
11 get them to respond to us.

12 There was one additional party, a David Scott
13 Manning, who at the time --

14 MS. JOHNSON: Brian.

15 MR. KELLAHIN: Brian Scott Manning, who at
16 the time the application was filed, was the mineral
17 owner of a small interest. Ms. Johnson has negotiated
18 with Mr. Manning unsuccessfully. And subsequent to the
19 filing of the pooling applications, then Mr. Manning
20 entered into an oil and gas lease with one of the
21 David H. Arrington companies, and he calls it DHA, LLC.

22 Mr. Rankin called me on Tuesday indicating he was
23 interested. As a consequence of that I called
24 Ms. Johnson, and yesterday she called the landman with
25 David Arrington. And the two of them, the land person,

1 negotiated a resolution where Arrington is now agreeing
2 to participate in the well. So having said that, we
3 will give you a list in a minute of those parties we're
4 deleting from the pooling application, one of which is
5 Mr. Rankin's client.

6 EXAMINER BROOKS: Okay. You may proceed.

7 CRYSTAL EMERALD JOHNSON

8 after having been first duly sworn under oath,
9 was questioned and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. KELLAHIN:

12 Q. Ms. Johnson, for the record, ma'am, would you
13 please state your name and occupation?

14 A. Crystal Emerald Johnson. I'm the landman for
15 Nadel and Gussman Permian.

16 Q. On prior occasions have you testified before the
17 division?

18 A. No.

19 Q. Would you summarize your education for us?

20 A. I have a Bachelor's degree in business,
21 accounting. And I guess that's it, other than the
22 multiple land seminars.

23 Q. Subsequent to graduation have you been employed
24 as a petroleum landman?

25 A. Yes, for five years with Nadel and Gussman.

1 Q. And what is your current position with that
2 company?

3 A. I'm currently the land manager.

4 Q. As the land manager, have you made yourself
5 familiar with the land ownership within section 7 that's
6 the topic of this discussion?

7 A. Yes, I have.

8 Q. In addition, are you familiar with negotiating
9 farmout participations, operating agreements with
10 parties?

11 A. Yes.

12 Q. In addition to assimilating the information on
13 ownership, then it was your primary responsibility to
14 negotiate with parties trying to reach a voluntary
15 agreement?

16 A. Yes.

17 Q. So this is your work?

18 A. Yes, it is.

19 MR. KELLAHIN: We tender Ms. Johnson as an
20 expert petroleum landman.

21 EXAMINER BROOKS: So qualified.

22 Q. (By Mr. Kellahin) Ms. Johnson, to have the
23 Examiner oriented as to your project, would you take
24 what we've marked as Exhibit 1 and tell me, first of
25 all, what are we looking at?

1 A. This is a base map that simply reflects section 7
2 where our Long Branch Number 2A-12 sits in the east half
3 of the west half.

4 Q. Am I correct in recalling that Mr. Bruce, at your
5 request, filed a series of pooling applications with the
6 division in mid March of this year?

7 A. Yes.

8 Q. What was your intention at that time?

9 A. Our intention at the time was to drill four
10 north/south horizontal wells in this section. And do
11 you want me to go further?

12 Q. No, no. That was your intention?

13 A. That was our intention at the time.

14 Q. When we focus, then, on the spacing unit involved
15 in this particular application, we're looking at the
16 east half of the west half?

17 A. Yes.

18 Q. Is there a well name associated with that well?

19 A. The Long Branch Number 2H Well.

20 Q. Have you obtained an approved application for
21 permit to drill for that well?

22 A. Yes, we have.

23 Q. Would your turn for a moment to what is marked as
24 Exhibit Number 2? This is the first page of your APD?

25 A. Yes, it is.

1 Q. What's attached as the second page to Exhibit 2?

2 A. The C-102 form.

3 Q. Was this permit approved?

4 A. Yes, it was.

5 Q. And what is the current status of your activity
6 for drilling this well?

7 A. We are currently drilling the well. We started
8 on October 30th.

9 Q. So you have commenced drilling the well?

10 A. Yes, we have.

11 Q. To the best of your knowledge, does the operation
12 on the field conform to the approved requirements for
13 the setbacks for this horizontal wellbore as depicted on
14 division form C-102?

15 A. Yes, it does.

16 Q. Let's turn now to the inventory of the parties,
17 and let's take a moment to bring the Examiner up to date
18 on the status of your efforts. If you'll turn with me
19 first to what we've marked as Exhibit Number 3. At the
20 time that Mr. Bruce filed this application for you, does
21 this list on Exhibit 3 represent the list of parties to
22 be pooled?

23 A. Yes, it does.

24 Q. The interest calculations associated with those
25 various companies and entities, is that their percentage

1 interest in this spacing unit?

2 A. Yes, it is.

3 Q. This spacing unit is made up of multiple 40-acre
4 tracts?

5 A. Yes.

6 Q. Does Nadel and Gussman have an interest in each
7 of those four 40-acre tracts?

8 A. Yes, we do.

9 Q. As part of your efforts to gather up all these
10 interest owners on a voluntary basis, prior to
11 Mr. Bruce's filing the application for you on
12 March 15th, did you cause a letter including an AFE to
13 be sent to all these parties?

14 A. Yes, we did, in January.

15 Q. In addition to the January mailing, you've made
16 other mailings to parties as they appear to you in your
17 studies?

18 A. Yes. As soon as we found a new address or
19 discovered a new owner, we'd send a letter typically.

20 Q. Let me have you set aside Exhibit 3 for just a
21 moment. And let's turn to a package of letters, and
22 they're marked Exhibits 4 through 11. When we compare
23 Exhibits 4 through 11 to the list of parties to be
24 pooled, excluding Nadel and Gussman, Nearburg, Yates,
25 and Cimarex, and starting with Patsy Madden Car --

1 Carmoney.

2 A. That's how I pronounced it.

3 Q. Carmoney. Are all those parties then given
4 letters of well proposals in AFE?

5 A. Yes, we did send letters to each of those
6 parties.

7 Q. Going back for a moment, then, to Exhibit
8 Number 3, starting at the top, then, Nadel and Gussman
9 is the proposed operator?

10 A. Yes.

11 Q. And what has happened with Nearburg Exploration
12 Company?

13 A. Well, we recently entered into a JOA with
14 Nearburg and also received a term assignment of their
15 interest.

16 Q. As part of that settlement has Nearburg agreed
17 with Nadel and Gussman about the orientation of the
18 spacing unit wells?

19 A. Yes, they have.

20 Q. Their argument was to do what at one time?

21 A. They originally wanted to propose two wells in
22 the north half going east/west.

23 Q. Everybody now is in agreement that we'd stand
24 these up going north/south?

25 A. I'm sorry. They probably were going west/east.

1 Q. Right. But these now are stand-up units?

2 A. Yes, they are.

3 Q. And so Nearburg can be deleted from the pooling
4 applications?

5 A. Yes, sir.

6 Q. When we look at Yates Petroleum Corporation,
7 what's the status of your dealings with Yates?

8 A. Yates has agreed to support us and they've signed
9 an AFE and returned it to us.

10 Q. So Yates can be excluded?

11 A. Yes, they can.

12 Q. And what's your status of your negotiations with
13 Cimarex?

14 A. Cimarex recently extended the term assignment to
15 us of their interest as well.

16 Q. Continue down the list with me and show me what
17 you've done with each of these additional ones.

18 A. With Patsy Madden Carmoney we sent her a letter.
19 It was returned to sender. Marvin Bohannon was returned
20 to sender. Fred Bohannon, we were never able to obtain
21 a good address. I think it was just unclaimed. Mary
22 Louise Hubbart was returned to sender. Brian Scott
23 Manning, his was delivered. But as you mentioned
24 earlier, he subsequently leased to DHA. Marianne
25 Bohannon Jost, it appears that she received the letter

1 but never responded. And Gail McCleave, we never
2 received any response from way or the other. I don't
3 know where that letter ended up.

4 Q. With the exception of Brian Scott Manning, have
5 you satisfied yourself that you and others on your
6 behalf have made a thorough and diligent search to
7 determine the last best known address for these parties
8 or individuals?

9 A. Yes, we have.

10 Q. And having failed to find them, you have caused
11 newspaper publications to be made?

12 A. Yes.

13 Q. As to Mr. Manning's interest, have you ever
14 talked with Mr. Manning?

15 A. Yes, I have.

16 Q. Did you talk to him prior to the filing of the
17 application?

18 A. I don't recall, but I believe so. I think he was
19 willing to lease but the bonus amount was just a little
20 too high for us.

21 Q. Subsequent to filing the pooling application that
22 included Mr. Manning, to your knowledge, what then
23 occurred with his interest?

24 A. I believe that in May he leased his interest to
25 DHA, LLC.

1 Q. And after that you've had conversations with
2 parties --

3 A. With Colina Valdez. And I believe she's a
4 landman at the DHA, LLC.

5 Q. And when I say Mr. Arrington, in fact, we are
6 dealing with the same company, it's DHA?

7 A. That appears to me to be the company of record,
8 so that's why I reference DHA.

9 Q. And to complete the thought with the Examiner
10 now, the interest now held by DHA, what did you do
11 yesterday?

12 A. Yesterday I spoke with Colina Valdez on the phone
13 and she indicated that it was DHA's desire to
14 participate in the well and they simply would like
15 another AFE and another proposal letter. She previously
16 indicated that they had the proposal letter that was
17 sent to Mr. Manning. So I agreed to send her a new
18 letter, a new AFE, and the JOA that we entered into with
19 Yates and COG. I don't know if this matters. But
20 there's a deal between Yates and COG, some sort of
21 internal deal. And I sent that yesterday.

22 Q. Based upon those representations by DHA's
23 landman, are you willing to have them dropped from the
24 pooling application?

25 A. Yes. It was my understanding that they wished to

1 participate. And so under that assumption, then, I
2 don't mind removing them.

3 Q. Let's turn now to what is marked as Exhibit
4 Number 12. This is the first of two AFEs. When you
5 look at Exhibit 12, what is the original date of this
6 AFE?

7 A. January 13th, 2011.

8 Q. Does this represent a copy of the AFE that you
9 sent to all the parties to participate in this well?

10 A. Yes. The one in January that we sent, yes.

11 Q. As we move towards the current date has this AFE,
12 the original AFE, been revised?

13 A. It has been.

14 Q. If we turn now to what is marked Exhibit 13, is
15 this your latest estimate of costs for the well?

16 A. Yes. This is the AFE that I submitted to DHA
17 yesterday.

18 MR. KELLAHIN: Mr. Examiner, we'll have a
19 geologist that can more specifically describe the
20 details and the changes in a moment.

21 Q. (By Mr. Kellahin) But for your purposes,
22 Ms. Johnson, what are the principal increases associated
23 with the two AFEs?

24 A. I'm not an expert on AFEs. But the most glaring,
25 costs, would be that the first AFE didn't include a

1 pilot hole and the new AFE does. And then I also
2 believe that the completion costs are higher on the
3 second AFE.

4 Q. As part of the negotiations reaching, I guess,
5 two different agreements dealing with the JOAs, has
6 there been a collective agreement as to what overhead
7 rates to associate with the drilling of this well and
8 its production?

9 A. Yes, there has been.

10 Q. And what is the number?

11 A. 6,000 and 600.

12 Q. Do you recommend to the Examiner that those
13 numbers also be used against any pool party should they
14 be a non-consenting party under the terms of the pool
15 party?

16 A. Yes, I would.

17 Q. And those numbers again were what?

18 A. 6,000 and 600.

19 Q. As we then continue with the exhibits,
20 Exhibit 14, what is represented in Exhibit Number 14?

21 A. Exhibit Number 14 appears to be a timeline of
22 events that occurred from the initial well proposal
23 letters up until October 30th.

24 Q. Is this timeline information that's taken and
25 assimilated into a timeline associated with Brian Scott

1 Manning's interest?

2 A. Yes, it does.

3 Q. And when this was prepared, the assumption is
4 that Mr. Manning's lessee might be in opposition to the
5 pool?

6 A. Yes.

7 Q. We're going to bypass the details of it, but to
8 the best of your knowledge, at the time you prepared the
9 entries this summarizes what you have done in order to
10 get Mr. Manning's interest pooled?

11 A. Yes. To the best of my memory this is what I
12 summarized was every event that occurred. But it did
13 drag out for a while.

14 Q. And then after Mr. Manning entered into an oil
15 and gas lease with Mr. Arrington's company this summary
16 reflects contacts with Mr. Arrington's company?

17 A. Yes, it does.

18 Q. As to all of the other parties you now seek to
19 pool, do you believe you have concluded a diligent and
20 good faith effort to reach a voluntary agreement?

21 A. Yes, I do.

22 Q. And you've exhausted efforts to find these people
23 in all reasonable ways?

24 A. Yes, to the best of my ability.

25 Q. You've contacted the necessary Internet searches

1 to see if you can find any of these people?

2 A. Yes.

3 Q. At this point, then, in order to consolidate the
4 interests, do you need the assistance of the division in
5 having a pooling order issued?

6 A. Yes, I do.

7 Q. While we still have you on the stand, in case
8 there's any questions, let's turn then to the package of
9 the affidavits associated with the various mailings.

10 MR. KELLAHIN: And for the record,
11 Mr. Examiner --

12 Q. (By Mr. Kellahin) Let's step back. I missed an
13 exhibit. Exhibit 15, would you turn your attention,
14 Ms. Johnson, to Exhibit 15. Do you have that before
15 you?

16 A. I have it.

17 Q. What does this represent?

18 A. It is a copy of the oil and gas lease between
19 Brian Scott Manning and DHA, LLC.

20 Q. And when you turn to the last page, this oil and
21 gas lease was recorded in Lea County when?

22 A. On May 18th, 2011.

23 Q. Now, when you turn to the affidavit and notices,
24 would you now look at what is marked as Exhibit
25 Number 16?

1 A. Yes.

2 Q. Have you reviewed Mr. Bruce's compilation of his
3 notice, letters, and the various parties that he's
4 attempted to notify?

5 A. Yes, I have.

6 Q. And is all that information consistent with your
7 understanding and recollection?

8 A. Yes.

9 Q. Do you believe it to be true and correct?

10 A. Yes, I do.

11 Q. And subsequent to sending the notice, did
12 Mr. Bruce also cause the newspaper in Carlsbad to issue
13 a newspaper publication concerning this case?

14 A. Yes, he did.

15 Q. And that's marked as Exhibit 17?

16 A. Yes, it is.

17 Q. Now, as we look at Exhibit 18, have you reviewed
18 my affidavit to satisfy yourself to the best of your
19 knowledge that it's been accurate as to the parties to
20 be pooled and as to the lists at that time of parties
21 that had interests adjoining the offset of the
22 non-standard operation unit?

23 A. Yes.

24 Q. When you turn to Exhibit 19, is this a
25 supplemental affidavit that I have signed that

1 represents the supplement information you found about
2 additional parties that were offsetting the non-standard
3 operation unit?

4 A. Yes, it is.

5 Q. And then finally Exhibit 20, then, is my
6 newspaper publication of this case and the notice of
7 hearing?

8 A. Yes.

9 MR. KELLAHIN: Mr. Examiner, with your
10 permission that concludes my examination of Ms. Johnson.
11 We move the introduction of Exhibits 1 through 20.

12 EXAMINER BROOKS: Exhibits 1 through 20 are
13 admitted.

14 [Exhibits 1 through 20 admitted.]

15 EXAMINER BROOKS: Now, let's see, which of
16 these parties have you been unable to contact?

17 MS. JOHNSON: Okay. If you look at
18 Exhibit Number 3.

19 EXAMINER BROOKS: That's what I'm looking
20 at.

21 MS. JOHNSON: If you start at Patsy Madden
22 Carmoney, everybody except for Brian Scott Manning.

23 EXAMINER BROOKS: Okay. So Patsy Madden
24 Carmoney, Marvin J. Bohannon, Fred Bohannon, Mary Louise
25 Hubbart, and Marianne Bohannon Jost, and Gail McCleave

1 you've been unable to contact?

2 MS. JOHNSON: Yes, sir.

3 EXAMINER BROOKS: Okay. Now, some of these
4 you believe you have correct addresses; is that right?

5 MS. JOHNSON: Marianne Bohannon Jost I do
6 because she signed her green cards, but we just were
7 never able to establish contact with her. And I did
8 reach at least one member of the Bohannon family and he
9 gave me as many addresses as he thought might be
10 relevant, but none of them worked, particularly for Fred
11 and Marvin Bohannon.

12 EXAMINER BROOKS: Okay. What steps did you
13 take to contact Mary Bohannon Jost after you received
14 the green card back from her?

15 MS. JOHNSON: To be honest, it was so long
16 ago, I can't recall. But what we typically do is just
17 continue to search the Internet for any relevant phone
18 number. I have an assistant who helps as well, and we
19 sometimes use search engines. I don't believe that we
20 ever found a good phone number for her.

21 EXAMINER BROOKS: Did you inquire of any of
22 the other members of the family about her, about her
23 whereabouts or how you could get in contact with her?

24 MS. JOHNSON: Yes, we did. Joe Bohannon, we
25 lease Joe Bohannon, and he didn't -- he had information

1 on Fred Bohannon and Marvin Bohannon, but the rest of
2 the family he just didn't have much. And he may even be
3 the only Bohannon that we leased, was Joe Bohannon. But
4 I guess they're not a very close family. He had some
5 addresses, but they were all returned to sender.

6 EXAMINER BROOKS: The addresses he gave you
7 on Fred and Marvin didn't work out?

8 MS. JOHNSON: No, they didn't. And then
9 with Gail McClease we were able to find two addresses
10 and neither one of them seemed to be correct. They were
11 both returned. I'm sorry. They weren't returned, they
12 just -- I don't know where they went. We didn't get a
13 green card back and they weren't returned.

14 EXAMINER BROOKS: And have you followed up
15 on any address information that's available in the
16 public records in Lea County for these people?

17 MS. JOHNSON: Not recently. But we do
18 typically search through older assignments to see if
19 there's any older addresses, and I believe we did that.
20 I'm sorry. Older oil and gas leases.

21 EXAMINER BROOKS: Yeah. Okay. I guess
22 that's all my questions.

23 Mr. Jones?

24 EXAMINER JONES: Did COG specifically agree
25 or was it Yates agreed?

1 MS. JOHNSON: COG agreed and they've
2 actually executed the JOA. It's actually of record but
3 they have some sort of joint venture agreement between
4 them that wasn't of record when we first were searching
5 title. But COG signed the JOA and Yates -- I've been
6 informed by Chuck that he's going to sign it any day and
7 he has signed an AFE.

8 EXAMINER JONES: Chuck?

9 MS. JOHNSON: Moran.

10 EXAMINER JONES: DHA just had Brian
11 Manning's --

12 MS. JOHNSON: To my knowledge, yes.

13 EXAMINER JONES: And the rest of them
14 weren't part of it?

15 MS. JOHNSON: Uh-huh.

16 EXAMINER JONES: Yeah, I remember a Joe
17 Bohannon from Roosevelt County. Was this a guy young?

18 MS. JOHNSON: No. He was older and in bad
19 health. I think he lives in Oklahoma.

20 EXAMINER JONES: It might have been the same
21 guy. It might not be.

22 MS. JOHNSON: There's definitely a lot of
23 Bohannons somewhere around New Mexico, I'm sure. But we
24 couldn't find him.

25 EXAMINER JONES: I don't have any more

1 questions.

2 EXAMINER BROOKS: Very good. Neither do I.

3 MR. KELLAHIN: You may be excused.

4 EXAMINER BROOKS: Do you have another
5 witness?

6 MR. KELLAHIN: Yes, sir.

7 EXAMINER BROOKS: Okay. Go ahead and call
8 your next witness.

9 MR. KELLAHIN: The next witness is Michael
10 Matteucci, the geologist for Nadel and Gussman.

11 MICHAEL MATTEUCCI

12 after having been first duly sworn under oath,
13 was questioned and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. KELLAHIN:

16 Q. Mr. Matteucci, for the record, sir, would you
17 please state your name and occupation?

18 A. I'm Michael Nicholas Matteucci, and I'm the
19 senior geologist for Nadel investment.

20 Q. On prior occasions have you testified as a
21 petroleum geologist?

22 A. Not in the state of New Mexico.

23 Q. Summarize for us your education.

24 A. I graduated from the University of Texas Permian
25 Basin in 2007 with a Bachelor's of Science and Geology.

1 Q. Subsequent to graduation, where have you been
2 employed as a petroleum geologist?

3 A. I've been employed by Nadel and Gussman since
4 that point.

5 Q. And your current responsibilities include what,
6 sir?

7 A. Current responsibilities include exploration and
8 operations in Southeast New Mexico as well as most of
9 Texas.

10 Q. Are you knowledgeable about the geology
11 associated with the Long Branch 2 Horizontal Wellbore?

12 A. Yes, I am.

13 Q. As part of your activities have you generated
14 geologic displays and made geologic investigations?

15 A. Yes, I have.

16 Q. And based on that information, are you able to
17 give us opinions about what the appropriate method is to
18 utilize for sharing production among the four tracts
19 assimilated into and joined in the forced pooling of
20 160-acre spacing unit?

21 A. To my best knowledge, yes, I am.

22 Q. Before we get into that last topic, let's take a
23 moment and update the Examiner as to the current status
24 of the wellbore. If you'll take a moment, and let's
25 start with what we've marked as Nadel Investment Exhibit

1 Number 21. Identify for the record what it is we're
2 looking at.

3 A. You're looking at a north/south oriented wellbore
4 with a pilot hole situated 330 feet from the north line,
5 2310 feet from the west line. That pilot hole has
6 currently been drilled, and we are kicking off a plug
7 now to drill laterally to the south where the bottom
8 hole location will be 330 feet from the south line and
9 2310 from the west line.

10 Q. The intended target for this wellbore is what
11 formation?

12 A. The intended target is what is commonly referred
13 to as the Paddock within the Yeso.

14 Q. So when I look at the geologic section of the
15 various formations in Lea and Eddy Counties and look at
16 the Permian intervals, what portion of the Yeso am I
17 specifically targeting?

18 A. We are targeting basically the top third of the
19 Yeso where typical porosity develops in the area.

20 Q. Have you looked to determine whether there's a
21 specific pool in the near area that's been created by
22 the division?

23 A. Yes. I believe that the North Seven Rivers
24 Glorieta Yeso field is the most appropriate pool for
25 this area.

1 Q. Do you find that there are any special pool rules
2 associated with the North Seven Rivers Yeso pool?

3 A. It appears to be on statewide rules.

4 Q. And that was your intent in how this was
5 permitted?

6 A. Yes, it is.

7 Q. In the preparation of the C-102, to the best of
8 your knowledge, has Nadel and Gussman complied with the
9 setback requirements associated with obtaining approval
10 to do this type of activity?

11 A. Yes, we have.

12 Q. Let's turn now to what is marked as Exhibit 22.
13 What is it that we're looking at here?

14 A. You're looking at plan view, basically a lateral
15 view of the wellbore. The surface location or surface
16 vertical well is indicated as 0 foot, and that is the
17 330 from the west -- I'm sorry, 330 from the north
18 location. We have approximately 600 feet to build a
19 10 degree per 100 or 12 degree per 100 curve in which we
20 will then be 90 degrees in our targeted pay zone within
21 the Paddock.

22 Q. Is this a typical drilling and completion program
23 associated with your company for doing this activity?

24 A. Yes.

25 Q. Is it similar to those used by other companies in

1 this area?

2 A. Yes.

3 Q. Let's turn now to what is marked as Exhibit 23.

4 And before we talk about the details on the structure
5 map let's take a moment, first of all, sir, and have you
6 describe what it is that we're seeing here.

7 A. What we have here is, first of all, this is
8 section 7. The east half of the west half of section 7.
9 North to south is the Long Branch Number 2H, the
10 wellbore in question in the forced pool. This is a
11 50-foot contour interval structure map based on the top
12 of the Glorieta. The Glorieta is a commonly used
13 regional marker in attempt to derive structure from the
14 Yeso.

15 Q. Touch with me on this point for a moment. Give
16 us the salient points with regards to your conclusion
17 about the orientation of these wellbores in 7 as stand
18 up wellbores.

19 A. As stand up wellbores, based on successful
20 operators in this area that we've participated with such
21 as Mewbourne, Concho, and other operators such as
22 Nearburg. All the wellbores to the southwest of
23 section 7 are all north/south wellbores based on
24 scientific data that those companies have derived in
25 terms of optimal orientation in regards to fracture

1 orientation. That is the primary reason for the Long
2 Branch Number 2H to be a north/south wellbore.

3 Q. It's a carbonate reservoir, is it not?

4 A. It is, yes, a carbonate. Specifically a
5 dolomite.

6 Q. In addition to being consistent with what other
7 companies are doing based upon that science, are there
8 other components associated with section 7 that cause
9 you to want to stand these spacing units up north and
10 south?

11 A. Yes. Given that we would prefer to stay with the
12 industry standard of a north/south orientation, the
13 Wyatt Draw 18, 19 in the west southwest quarter
14 section 18 to the south of us operated by Mewbourne, we
15 have a partial interest in that well, and that well only
16 produced water. I have annotated with a blue hash mark
17 on the 800-foot sub C contour interval line that we
18 believe that there is some sort of transition or at
19 least an increased probability for water production to
20 the south southeast of section 7. That's indicated by
21 the blue arrow that you can see pointing to the
22 southeast.

23 Q. Let's turn to the second topic of my reason to
24 call you as a witness, and that's about the science and
25 the geology of trying to determine how best to allocate

1 share production in the horizontal wellbore among the
2 interest in four 40-acre tracts that have been
3 assimilated into a non-standard 160-acre spacing unit.
4 When you look at this data, and relying on your
5 knowledge and research, is there any other way to
6 apportion an interest other than on a straight acres
7 basis?

8 A. It is my opinion that straight acres basis is the
9 most appropriate allocation for production in this
10 wellbore.

11 Q. When you use horizontal wellbores in trying to
12 get at least data on the vertical limits of the
13 producing interval, what are you obtaining with a pilot
14 hole in a horizontal wellbore?

15 A. In this particular case we elected to drill a
16 pilot hole to run a full suite of open hole electrical
17 logs as well as take side wall cores below within and
18 above the pay zone to verify water saturations because
19 water was a concern directly to the south and southeast
20 of us.

21 Q. So at the most, is that data only associated with
22 what would occur within the 40-acre tract associated
23 with where the well sits?

24 A. Yes. The Paddock in this area is highly variable
25 in its quality and extent, so the pilot hole really may

1 not be indicative of any given point within the lateral
2 as you progress south. Also note that there's only two
3 deep penetrations that saw the Yeso, and both of those
4 were in the north half of section 7. There is no well
5 control in the south half of section 7 that may give us
6 a relative idea of pay quality.

7 Q. Is it possible with the type of data that you're
8 generating to take each of the four 40-acre tracts and
9 do some type of calculation to give you a volumetric
10 volume of the hydrocarbons associated with that
11 40 acres?

12 A. Without knowing porosity at any given point south
13 of the pilot hole, I'd say at this time no volume
14 metrics are possible based on surface hole data.

15 Q. Is that true of almost all horizontal wellbores?

16 A. Yes. And also especially considering most
17 horizontal wellbores in the area do not even elect to
18 run open hole logs in the pilot holes. They do not run
19 a pilot hole at all.

20 Q. So in conclusion, then, do you see any other way
21 to apportion interest among the pool parties and all
22 those participating on anything other than a straight
23 acreage form?

24 A. In my opinion, no.

25 MR. KELLAHIN: That concludes my examination

1 of Mr. Matteucci. We move the introduction of his
2 Exhibits 21, 22, and 23.

3 EXAMINER BROOKS: 21, 22, and 23 are
4 admitted.

5 [Exhibits 21 through 23 admitted.]

6 EXAMINER BROOKS: Do you believe that
7 horizontal -- these one-mile horizontals that range
8 north/south in this section, do you believe that that is
9 the most economic and efficient way to develop the
10 reserves in the Yeso in this area?

11 MR. MATTEUCCI: It is my opinion that a mile
12 long or perhaps in the future even longer laterals are
13 the most appropriate.

14 EXAMINER BROOKS: Okay. I guess that's the
15 only question I have.

16 Mr. Jones?

17 EXAMINER JONES: Tom never leaves me any
18 questions to ask.

19 MR. KELLAHIN: I try not to, sir.

20 EXAMINER JONES: And I was going to ask why
21 your pilot hole because it increased your costs by a
22 million dollars?

23 MR. MATTEUCCI: Well, it increased our costs
24 by roughly 400 to \$500,000.

25 EXAMINER JONES: Oh.

1 MR. MATTEUCCI: The rest of the AFE cost is
2 in -- it's been a while since the first proposal, since
3 January of the beginning of the year.

4 EXAMINER JONES: To increase that much?

5 MR. MATTEUCCI: Yeah, commodity prices,
6 again, have increased considerably. And as such, the
7 simulation services in New Mexico has increased almost
8 exponentially since that point.

9 EXAMINER JONES: Your structure map, is that
10 above sea level or below sea level?

11 MR. MATTEUCCI: These are all positive
12 values.

13 EXAMINER JONES: It seems like some people
14 forget to put the negative on there, but you did it.

15 MR. MATTEUCCI: Yeah, working throughout the
16 basins sometimes it gets a little -- you're not used to
17 seeing positive numbers.

18 EXAMINER JONES: So those are positive
19 numbers. That means it's dipping to the southeast?

20 MR. MATTEUCCI: Yes, sir, it is.

21 EXAMINER JONES: And yet -- okay. So the
22 further you get to the southeast you get more chance of
23 water?

24 MR. MATTEUCCI: I believe there is -- past
25 that 800-plus, that positive 800 value, there's an

1 increased probability. Again, there is no pilot hole.
2 And through my discussions with Mewbourne they are not
3 sure why the Wyatt Draw 18, 19 produced only water.

4 EXAMINER JONES: Is that why you put that
5 dash, whatever the color of it is, line on that?

6 MR. MATTEUCCI: Yeah. Yeah, that's why I
7 elected to put that there. At some point there's a
8 potential transition.

9 EXAMINER JONES: And the reason you had
10 existing wells in the north of this section is because
11 of people somehow just --

12 MR. MATTEUCCI: Those were Nearburg wells,
13 and this was previously an area that was highly
14 exploited for morrow gas. Both of those wells are
15 approximately, I believe, 12,000 feet deep and only
16 logged the Yeso, never tested.

17 EXAMINER JONES: So you didn't drill your
18 well to a morrow and plug back?

19 MR. MATTEUCCI: No, sir. It was drilled to
20 3,000 feet and then we set a plug for takeoff above that
21 point.

22 EXAMINER JONES: And speaking of that, you
23 did plug it back with a plug. And did you plug back
24 the --

25 MR. MATTEUCCI: We plugged back -- we set a

1 cement plug above our lateral point, and we're currently
2 building our curve to get to our lateral TBD.

3 EXAMINER JONES: But you didn't put plugs
4 across a lot below that or is that the only plug in --

5 MR. MATTEUCCI: I can't speak for the
6 wellbores on it at this point. I know it was approved
7 by the commission though.

8 EXAMINER JONES: What do you do with your
9 salt water out here?

10 MR. MATTEUCCI: Right now the salt water is
11 trucked to a disposal facility. I believe in another
12 area nearby we're currently notifying offset operators
13 to convert an old morrow well into an SWE.

14 EXAMINER JONES: So this is oil.

15 MR. MATTEUCCI: Yes, sir.

16 EXAMINER JONES: And it's Paddock?

17 MR. MATTEUCCI: It could be considered
18 Paddock. It exists within 300 feet of the base of the
19 Glorieta.

20 EXAMINER JONES: Okay. Okay. And all four
21 normal spacing units will contribute to this well?

22 MR. MATTEUCCI: Yes.

23 EXAMINER JONES: But you don't now how much?

24 MR. MATTEUCCI: But we do not know how much.

25 EXAMINER JONES: Did your pilot hole change

1 your original estimate on where you were going to drill
2 your horizontal?

3 MR. MATTEUCCI: The pilot hole did not
4 change our original estimate. The pay came in almost
5 precisely where we anticipated the process developed.

6 EXAMINER JONES: So if you could have looked
7 into the future you wouldn't have spent that extra
8 money?

9 MR. MATTEUCCI: I felt pretty good at that
10 point. Not from spending the money, but from not having
11 to change our lateral TBD.

12 EXAMINER JONES: Does that still make your
13 managers say no more pilot holes?

14 MR. MATTEUCCI: You know, with the risk of
15 the water and us being newer to the play and evaluating
16 this, we always like to do a little science to prevent
17 waste.

18 EXAMINER JONES: And your fractures are
19 east/west?

20 MR. MATTEUCCI: To the best of our
21 knowledge, we have not run an FMI in this particular
22 area. But talking to Raymond Raes over at COG, he would
23 lead us to believe that that is the correct.

24 EXAMINER JONES: That's why you're drilling
25 north/south.

1 MR. MATTEUCCI: Yes, sir.

2 EXAMINER JONES: Or north --

3 MR. MATTEUCCI: They've run some
4 microseismic and some heavier duty science than we've
5 elected to run at this point.

6 EXAMINER JONES: I'm not sure we covered,
7 it's not geology, but as far as the ownership
8 specifically within this 160 whether it's split up.

9 EXAMINER BROOKS: I know we hadn't covered
10 that. So perhaps I should have asked that question.
11 These outstanding small interests, where are they
12 located in terms of what portion of the section?

13 MR. MATTEUCCI: I would have to defer to the
14 land expert.

15 EXAMINER BROOKS: Of course that would be a
16 question for the land witness.

17 MR. KELLAHIN: We'll need to recall the land
18 witness.

19 EXAMINER BROOKS: Okay. Very good. I have
20 no further questions of this witness.

21 EXAMINER JONES: I don't either. Thank you.

22 CRYSTAL EMERALD JOHNSON

23 REDIRECT EXAMINATION

24 BY MR. KELLAHIN:

25 Q. Ms. Johnson, you've been recalled to the stand.

1 I'll remind you that you're still under oath.

2 A. Okay. Let me see, to say this area is messy is
3 an understatement.

4 Q. Well, let's get the question on the record.

5 A. Okay.

6 Q. The question the Examiners had is when we take a
7 160-acre spacing unit that's proposed for this well
8 you've got four 40-acre tracts. Describe for us in
9 whatever order you choose if there's differences in
10 ownership among those as we move up and down the list.

11 A. Okay. Actually in the north half and in the east
12 half of the southeast quarter, to my knowledge, in our
13 research, ownership is common. So in the east half of
14 the northwest quarter that ownership is most likely --
15 that ownership is common and actually all of the mineral
16 owners that we're asking to force pool are located in
17 that east half of the northwest quarter. We're not
18 force pooling anybody in the east half of the southwest
19 quarter. But I can see if that's divided by 40s in the
20 south.

21 EXAMINER JONES: What about in the southeast
22 to the northwest and the northeast to the southwest?

23 MS. JOHNSON: So are you saying the east
24 half of the southwest quarter?

25 EXAMINER JONES: Okay.

1 MS. JOHNSON: Okay. Sorry.

2 EXAMINER JONES: So no pooling or pooling in
3 that?

4 MS. JOHNSON: Let me see. One moment and
5 let me see if it's split.

6 EXAMINER JONES: I better let David ask
7 these questions.

8 MS. JOHNSON: I'm just checking to see if
9 it's split, if it's an 80 that's common or if it's two
10 40s. Okay. The east half of the southwest quarter is
11 common. And, once again, to my knowledge, 60 acres of
12 that was leased by Devon, who we received a term
13 assignment -- I'm sorry, format agreement. Ten acres of
14 that is owned by Yates Petroleum Corporation. Five
15 acres was owned by Charles Wiggins, who we lease. And
16 another five acres was owned by Cimarex, who we received
17 a term assignment from. So it's actually two 80s and
18 not four 40s.

19 EXAMINER BROOKS: Okay. In this case you're
20 only pooling the east half of the west half; is that
21 correct?

22 MS. JOHNSON: The east half of the northwest
23 quarter, yes.

24 EXAMINER JONES: No, east half of the west
25 half.

1 MS. JOHNSON: I'm sorry. Yes, you're right.

2 EXAMINER BROOKS: The east half of the west
3 half.

4 MS. JOHNSON: Yes, you're correct.

5 EXAMINER BROOKS: You show here on Exhibit
6 Number 23 that you're going to be drilling four
7 horizontal wells, but I take it you've achieved
8 voluntary consolidation for the remaining three; is that
9 correct?

10 MR. KELLAHIN: Yes, we've reached agreement
11 on the other three.

12 EXAMINER BROOKS: So only the east half of
13 the west half is at issue.

14 MR. KELLAHIN: That's right.

15 MS. JOHNSON: At this time.

16 EXAMINER BROOKS: And what I understand
17 you're telling me is that the small interests to be
18 pooled are all located in the north half of the -- or
19 the --

20 MS. JOHNSON: In the north half and in the
21 east half of the southeast quarter. That's common
22 ownership.

23 EXAMINER BROOKS: Oh, okay. So they're in
24 the north half and the east half of the southeast
25 quarter.

1 MS. JOHNSON: Yes.

2 EXAMINER BROOKS: So they would be in three
3 of the four spacing units including this pool, correct?

4 MS. JOHNSON: Yes, they would. But we're
5 only force pooling one spacing unit at the moment.

6 EXAMINER BROOKS: Well, no, you're only
7 asking us to form one non-standard spacing unit. You're
8 pooling four existing standard spacing units, correct?

9 MR. KELLAHIN: That's correct, yes.

10 MS. JOHNSON: Yes.

11 EXAMINER BROOKS: And in three of those
12 there's common ownership and the small interests are in
13 those?

14 MS. JOHNSON: Yes.

15 EXAMINER BROOKS: And then the southeast
16 quarter of the southwest quarter, the pool parties don't
17 own any interests?

18 MS. JOHNSON: No, they do not.

19 EXAMINER BROOKS: Okay. I think I
20 understand.

21 MR. KELLAHIN: And the last one on that
22 topic is Mr. Bruce filed the application to indicate a
23 40-acre pooling. There's no reason to do that here
24 because we're associated only with that portion of the
25 greater Yeso that we're assimilating for the horizontal

1 well pool.

2 EXAMINER BROOKS: Yeah, and I'm glad you
3 mentioned that because that makes it easier.

4 I have nothing further. Very good. Then case
5 number 14624 will be taken under advisement.

6 MR. RANKIN: And, Mr. Examiner, just to make
7 a point on record that DHA Arrington does not object to
8 being excluded from the pooling. In fact, he
9 specifically requested it.

10 EXAMINER BROOKS: Okay. Thank you.

11 MR. KELLAHIN: One moment, Mr. Examiner.
12 One of the things I've not done completely is in talking
13 with Ms. Johnson we picked up some additional parties to
14 notify for the non-standard operation unit, and their
15 notice period for the 20 days will not run unless we
16 leave this record open and continue the case to the
17 December 1st time.

18 EXAMINER BROOKS: Very good. Okay. Then I
19 withdraw the statement that case number 14624 has been
20 taken under advisement. Case number 14624 will be
21 continued to December 1st, 2011.

22 Anything further?

23 MR. KELLAHIN: No, sir.

24 EXAMINER BROOKS: Very good. We stand
25 adjourned.

[Case 14624 was continued.]

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 14624
heard by me on Nov 10, 2011
David K. B... Examiner
Oil Conservation Division

REPORTER'S CERTIFICATE

1
2
3 I, Lisa Reinicke, New Mexico Provisional
4 Reporter, License #P-405, working under the direction
5 and direct supervision of Paul Baca, New Mexico CCR
6 License #112, Official Court Reporter for the US
7 District Court, District of New Mexico, do hereby
8 certify 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 and
11 was reduced to printed form under my direct supervision.

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

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20 Lisa R. Reinicke,
21 Provisional License P-405
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22 Ex count:
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