

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY )  
THE OIL CONSERVATION DIVISION FOR THE )  
PURPOSE OF CONSIDERING: )  
APPLICATION OF PRESTON EXPLORATION, )  
L.L.C., FOR COMPULSORY POOLING, )  
EDDY COUNTY, NEW MEXICO )

CASE NO. 13,487

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

May 5th, 2005

Santa Fe, New Mexico

2005 MAY 19 AM 9 04

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, May 5th, 2005, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

## I N D E X

May 5th, 2005  
 Examiner Hearing  
 CASE NO. 13,487

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\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	-	-
Exhibit 1A	-	-
Exhibit 1B	-	-
Exhibit 1C	4	-
Exhibit 1D	-	-
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Exhibit A	5	-
Exhibit A1	5	-
Exhibit A2	5	-
Exhibit A3	5	-
Exhibit A4	5	-
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\* \* \*

## A P P E A R A N C E S

FOR THE APPLICANT:

MILLER, STRATVERT P.A.  
150 Washington  
Suite 300  
Santa Fe, New Mexico 87501  
By: J. SCOTT HALL

\* \* \*

ALSO PRESENT:

Richard Gilliland  
Cimarron Exploration Company  
Roswell, NM

1           WHEREUPON, the following proceedings were had at  
2 8:58 a.m.:

3           EXAMINER CATANACH: Call Case 13,487, the  
4 Application of Preston Exploration, L.L.C., for compulsory  
5 pooling, Eddy County, New Mexico.

6           Call for appearances.

7           MR. HALL: Mr. Examiner, Scott Hall, Miller  
8 Stratvert law firm, Santa Fe, on behalf of the Applicant.  
9 I have no witnesses today, I'm presenting this case by  
10 affidavit.

11          EXAMINER CATANACH: Okay, Mr. Hall, you may  
12 proceed.

13          MR. HALL: Mr. Examiner, this is a compulsory  
14 pooling case. The Applicant seeks to pool the interest of  
15 a particular interest owner in order to form a standard  
16 Morrow gas well spacing unit comprised of the south half of  
17 Section 2, Township 20 South, Range 25 East. The interests  
18 to be pooled are from the surface to the base of the Morrow  
19 formation underlying the southwest-southwest of Section 2.

20          The facts for the pooling are set forth in our  
21 Application. The interest owner of record is Santa Fe  
22 Exploration Company in Roswell, who the Applicant has been  
23 unable to locate. If you'll look through the Application  
24 itself, it contains the affidavit of Mr. Jesse Blue, who's  
25 the landman for Preston, and it outlines the due diligence

1 efforts to locate someone affiliated with Santa Fe  
2 Exploration Company.

3 Also, Mr. Examiner, if you would refer to our  
4 Exhibit A, Exhibit A consists of counsel's notice  
5 affidavit.

6 Attached to Exhibit A is Sub-exhibit 1, a copy of  
7 our April 12, 2005, notice letter sent certified mail to  
8 Santa Fe Exploration Company.

9 Exhibit 2 under Exhibit A is a copy of the  
10 certified mail receipt.

11 And then Exhibit A3 is a copy of the return  
12 envelope indicating that it was undeliverable for the  
13 reason that the addressee was unknown.

14 Exhibit 4 under Exhibit A is a copy of the  
15 affidavit of publication in the *Carlsbad Current-Argus* in  
16 Eddy County, and that was published on April 19th as well.

17 In addition to the efforts set forth in Mr.  
18 Blue's affidavit in the Application, we undertook to locate  
19 Santa Fe Exploration by searching the Texas Secretary of  
20 State website for Santa Fe Exploration Company.

21 If you'll look at Exhibit B1, it shows that that  
22 corporation is no longer active, and its status has been  
23 forfeited for some time.

24 We also searched the records of the New Mexico  
25 Secretary of State, as well as the Public Regulatory

1 Commission -- that's in pages 2 and 3 in Exhibit B -- and  
2 it did not appear that Santa Fe Exploration Company had  
3 ever registered to do business in New Mexico at all. They  
4 simply did not show up of record.

5 Page 5 in Exhibit B is a printout of the  
6 Division's registration of operators in the State, and  
7 there is an entry for Santa Fe Exploration Company, as well  
8 as an OGRID number for that company, but there is no  
9 address available for that company.

10 We went to the GO-TECH website to see what  
11 information they had for Santa Fe Exploration Company.  
12 That's reflected on page B6. And if you'll note on there,  
13 there was another Roswell address, but it's indicated to be  
14 a bad address.

15 There was some indication that -- during the  
16 course of Preston's search for Santa Fe Exploration, that  
17 it might have been related to Santa Fe Minerals. They made  
18 inquiry with Nearburg Producing Company and Santa Fe  
19 Minerals -- subsequently Santa Fe Snyder, and subsequently  
20 Devon -- and were informed that that was not any of those  
21 companies' interests in that chain of title at all.

22 So I think the Application, as well as the  
23 affidavits and Exhibit B materials establish that the  
24 Applicant satisfied the due diligence requirements of Rule  
25 1207 and tried to locate the interest owner.

1                   Now, yesterday I received a call from a Mr.  
2 Richard Gilliland with Cimarron Exploration in Roswell, and  
3 he informed me that an acquaintance of his in Roswell who  
4 had been looking at the Division's docket sheet noticed the  
5 name Santa Fe Exploration, knew who that was and called Mr.  
6 Gilliland.

7                   Mr. Gilliland told me that Cimarron had acquired  
8 the assets of Santa Fe Exploration Company out of a  
9 bankruptcy proceeding in 1997. I asked Mr. Gilliland to  
10 send me a copy of the bankruptcy trustee's deed, because I  
11 was curious why the abstract search in the Eddy County  
12 records hadn't revealed Cimarron as an interest owner of  
13 record.

14                   The deed that Mr. Gilliland sent me showed legal  
15 descriptions for several parcels of property. This was not  
16 among them. Mr. Gilliland explained that in addition to  
17 the described properties in the deed, there was a paragraph  
18 G which described any other interest of Santa Fe  
19 Exploration, otherwise described herein.

20                   In my opinion, Mr. Examiner, under the New Mexico  
21 conveyancing statutes that is not sufficient to vest  
22 Cimarron with title in this tract. So we have that issue.  
23 It appears that Cimarron did not acquire title.

24                   Nevertheless, Preston Exploration yesterday sent  
25 Mr. Gilliland an AFE and a joint operating agreement, and

1 they are negotiating today to see whether arrangements  
2 can't be made for the participation of that interest.

3           There is a question about ownership still. We  
4 don't know as of today whether the bankruptcy estate is  
5 still open. If not, it may have to be re-opened and a  
6 subsequent trustee's deed executed to clear title into  
7 Cimarron, if that's the case.

8           In the meantime, Mr. Examiner, what I'm going to  
9 suggest to Preston and to the Division is that we go ahead  
10 and pool the interests. The parties can continue to  
11 negotiate, and I believe Preston will probably have to pay  
12 proceeds attributable to the pooled interest into suspense  
13 until the title issue is worked out.

14           With that, I move the admission of Exhibits A, B  
15 -- and let me give you Exhibit C as well. If you'd look at  
16 Exhibit C, that's a copy of our fax transmittal sheet dated  
17 yesterday, where I transmitted to Mr. Gilliland a copy of  
18 my April 12th, 2005, notice letter, which is a part of  
19 Exhibit A, and also a copy of the Application filed in the  
20 case.

21           So Cimarron and Mr. Gilliland was made aware  
22 yesterday of their rights to appear today and enter an  
23 appearance, and it appears they've chosen not to do so.

24           MR. GILLILAND: Mr. Examiner, I am Richard  
25 Gilliland. We have not had an opportunity to meet yet, and

1 I'm here on behalf of Cimarron Exploration.

2 EXAMINER CATANACH: Okay. So at this point,  
3 Preston is affording Cimarron the opportunity to  
4 participate in the well; is that --

5 MR. HALL: I understand they're negotiating  
6 directly. I'm not a part of that, but I believe they've  
7 been provided with an operating agreement and an AFE as of  
8 yesterday.

9 MR. GILLILAND: Yes, sir, we have. As of  
10 yesterday we received a copy -- yesterday afternoon, a copy  
11 of the AFE and the proposed joint operating agreement. I  
12 have not had an opportunity to thoroughly review the JOA,  
13 but I did have at least one issue with the JOA that I have  
14 not had an opportunity yet to talk directly to Preston  
15 Exploration about.

16 EXAMINER CATANACH: This is an interesting  
17 situation. But I guess, Mr. Gilliland, you -- it's your  
18 assertion that you do own that interest?

19 MR. GILLILAND: It is indeed, yes, sir.

20 EXAMINER CATANACH: Okay.

21 MR. GILLILAND: I make that assertion based on a  
22 conference with our counsel who represented us at the time  
23 of the bankruptcy, and that was the first question that I  
24 posed to him.

25 MR. HALL: I can provide you with a copy of the

1 bankruptcy trustee's deed, if you like. I'll have to get  
2 that to you later on today.

3 EXAMINER CATANACH: Okay.

4 MR. GILLILAND: I actually have a copy of -- if  
5 you're referring to the assignment, which I faxed a copy to  
6 you yesterday, I do have a copy of the assignment from  
7 Santa Fe Exploration to Cimarron Exploration out of the  
8 bankruptcy, I'd be happy to provide this morning.

9 EXAMINER CATANACH: Would review of those  
10 documents, Mr. Hall, clarify this situation any, do you  
11 believe?

12 MR. HALL: In my opinion, it would not. It  
13 wouldn't answer the ultimate question. I think some more  
14 research has to be done on that about the status of a --  
15 It's simply my opinion that the deed is not sufficient to  
16 convey title into Cimarron.

17 MR. GILLILAND: If I may, the clause under  
18 paragraph G that Mr. Hall refers to, in my understanding,  
19 was included just out of necessity in a situation such as a  
20 bankruptcy, such as this, to catch any assets that may not  
21 have been caught in the regular file examination at the  
22 debtor's offices.

23 So that's what was included in the assignment  
24 into Cimarron Exploration, was basically a -- for lack of a  
25 more legal term, a catch-all clause.

1 EXAMINER CATANACH: Would it benefit anybody to  
2 continue this case to provide additional time to review  
3 these documents, Mr. Hall? What's your position on that?

4 MR. HALL: I think if we were to proceed and have  
5 an order issued, Cimarron would still have a period of time  
6 to be able to elect to participate if it chose, if we could  
7 straighten out the time situation. I would think that's  
8 enough time for the parties to negotiate and then do  
9 whatever's necessary to clear title, take care of the  
10 problem. It would be our preference to go ahead and see  
11 the order issued.

12 EXAMINER CATANACH: Mr. Gilliland, do you have a  
13 position on that? Do you believe that's sufficient time?  
14 If we issue an order, under the terms of the order you  
15 would still have 30 days --

16 MR. GILLILAND: Thirty days.

17 EXAMINER CATANACH: -- to elect to participate or  
18 not from the date they send you an AFE.

19 MR. GILLILAND: It would be my hope that that  
20 would be sufficient. I'm not convinced that it would be,  
21 simply because, as I say, I have just noticed a couple of  
22 issues that I may have in regard to the proposed joint  
23 operating agreement that was provided to me yesterday  
24 afternoon, and I've not yet had an opportunity to even  
25 bring that up in discussion with Preston Exploration.

1           So therefore, I'm really unable to say what kind  
2 of success we may have in reaching agreement of terms on  
3 that one issue. There may be other issues that I just  
4 haven't yet come across. Under normal circumstances, I  
5 would hope 30 days would be adequate, but since I have not  
6 had an opportunity yet to begin negotiations, I'm a little  
7 unsure.

8           EXAMINER CATANACH: Okay. I'll tell you what,  
9 Mr. Hall, let's continue for two weeks and see if you guys  
10 can make any progress on the ownership issue and maybe on  
11 the participation of this party.

12           MR. HALL: Sure.

13           EXAMINER CATANACH: And maybe you can report back  
14 to me in a couple of weeks and see if anything's changed.  
15 At that time we may go ahead and take the case under  
16 advisement. But that will give you an extra two weeks, at  
17 least, to try to work something out.

18           MR. HALL: That would be fine.

19           Let me go ahead and move the admission of  
20 Exhibits A, B and C.

21           Then I also have the original execution of the  
22 affidavit as part of the Application --

23           EXAMINER CATANACH: Okay.

24           MR. GILLILAND: And I do likewise have a copy of  
25 the assignment, if that would be beneficial, some

1 properties --

2 MR. HALL: I'll get that to you. You might as  
3 well have that in the file, I think.

4 EXAMINER CATANACH: Okay, yeah.

5 MR. GILLILAND: Would you like this copy?

6 EXAMINER CATANACH: Yeah, why don't you just --  
7 Can you gather up all that stuff, Mr. Hall, and --

8 MR. HALL: Sure.

9 EXAMINER CATANACH: -- and just get it to me?  
10 Do you happen to have a more legible publication  
11 notice than this?

12 MR. HALL: We have the original.

13 EXAMINER CATANACH: Okay, with that, I guess --  
14 anything further, gentlemen?

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

16 EXAMINER CATANACH: Okay. With that, we'll  
17 continue this case for two weeks and hopefully at that time  
18 get a report on the status of the parties.

19 Thank you.

20 MR. HALL: Thank you.

21 (Thereupon, these proceedings were concluded at  
22 9:15 a.m.)

23 \* \* \* I do hereby certify that the foregoing is  
24 a complete record of the proceedings in  
25 the Examiner hearing of Case No. 13487,  
heard by me on May 5, 2005.

*David J. Catnach*, Examiner

Oil Conservation Division  
STEVEN T. BRENNER, CCR  
(505) 989-9317

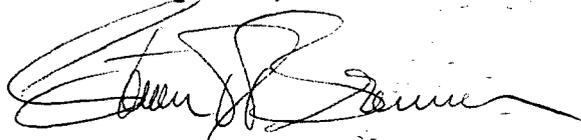
## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO )  
 ) ss.  
 COUNTY OF SANTA FE )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL May 6th, 2005.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006