

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

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

ORIGINAL

APPLICATION OF CONOCOPHILLIPS COMPANY AND Case 14928
BURLINGTON RESOURCES OIL & GAS COMPANY, LP,
TO AMEND DOWNHOLE COMMINGLING REFERENCED CASES
ORDERS FOR FOURTEEN TOWNSHIP UNITS TO DELETE
THE NOTICE REQUIREMENTS, SAN JUAN AND RIO ARRIBA
COUNTIES, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Presiding Examiner
DAVID K. BROOKS, Legal Examiner

November 29, 2012

Santa Fe, New Mexico

This matter came on for hearing before the
New Mexico Oil Conservation Division, RICHARD EZEANYIM,
Presiding Examiner, and DAVID K. BROOKS, Legal Examiner,
on Thursday, November 29, 2012, at the New Mexico Energy,
Minerals and Natural Resources Department, 1220 South St.
Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
Paul Baca Professional Court Reporters
500 Fourth Street, N.W., Suite 105
Albuquerque, NM 87103 505-843-9241

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A P P E A R A N C E S

FOR THE APPLICANT:

KELLAHIN & KELLAHIN
W. THOMAS KELLAHIN, ESQ.
706 Gonzales Road
Santa Fe, New Mexico 87501
(505) 982-4285

WITNESSES:

PAGE

Charles E. Creekmore:

Direct examination by Mr. Kellahin

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EXHIBIT BOOKS 1 AND 2 WERE ADMITTED

18

REPORTER'S CERTIFICATE

20

1 EXAMINER EZEANYIM: I think we are making
2 progress. We go to page 2. And at this point, I call
3 Case 14928, application of ConocoPhillips Company and
4 Burlington Resources Oil & Gas Company, LP, to amend
5 downhole commingling referenced cases orders for fourteen
6 township units to delete the notice requirements, San
7 Juan and Rio Arriba Counties, New Mexico. Call for
8 appearances.

9 MR. KELLAHIN: Mr. Examiner, I'm Tom
10 Kellahin, of the Santa Fe law firm of Kellahin &
11 Kellahin, appearing this morning on behalf of the
12 applicant.

13 And Mr. Creekmore is still my witness. I'd
14 like the record to reflect he's still under oath and
15 continues to qualify as an expert petroleum landman.

16 EXAMINER EZEANYIM: Any other appearances?

17 Okay. Mr. Kellahin, you may proceed.

18 CHARLES E. CREEKMORE

19 Having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. KELLAHIN:

22 Q. Mr. Creekmore, as you did with the last case,
23 have you been responsible for preparing the exhibit books
24 and all the attachments?

25 A. Yes.

1 Q. As part of that process, have you utilized
2 staff to assist you in compiling a correct notice list,
3 to the best of your knowledge?

4 A. Yes.

5 MR. KELLAHIN: We continue by asking that
6 you accept Mr. Creekmore as an expert in this case.

7 EXAMINER EZEANYIM: Mr. Creekmore is so
8 qualified.

9 Q. (By Mr. Kellahin) Let's set the stage again
10 for Examiner Ezeanyim and Mr. Brooks about what you're
11 trying to seek in the package of units associated with
12 this application.

13 A. In units, when we send out notice for downhole
14 commingling, it's a little different than just doing it
15 on a drill-block, because we have what are called
16 participating areas, where once a well and a tract is
17 determined to be commercial by the BLM, it goes into a
18 participating area. And I'll show you where these
19 participating areas sometimes encompass the entire
20 township, and sometimes these owners total between 350
21 and 450 parties.

22 And we have an exemption for the Mesaverde and
23 Dakota PAs from having to give downhole commingling
24 notice. However, now that we've added the Mancos to the
25 mix, on some of these downhole commingled wells, we are

1 now having to send these notices back out to all the
2 parties at a minimum of \$10 a piece, and I think I've
3 seen an estimate of \$14 a piece, at a minimum of \$10, to
4 send out Certified Mail. That doesn't include the
5 man-hours to develop all the mailing labels and determine
6 the ownerships. You're talking about \$4,500 for downhole
7 commingling notices every time we do that.

8 So what we're trying to do, we sent out -- we
9 combined all the units and then determined the ownerships
10 of all the parties and then sent out one notice, because
11 we combined the case. And we still had to send out 1,722
12 notices, several of which, when the letters would come
13 back, we had to re-send them out with corrected addresses
14 things like that.

15 So our notice here cost us \$17,000 just to be
16 able to come to hearing today.

17 Q. Would you take a moment and explain to the
18 Examiner and Mr. Brooks what you have in the small
19 exhibit books?

20 A. The small exhibit books are -- the postal
21 authority is now keeping track of what used to be the
22 green cards, and they are preparing a printout of all the
23 parties that received notice. And they record it for you
24 and provide this information to you so that you no longer
25 have to keep track of all the green cards. This smaller

1 notebook is the notice records. And is provided by the
2 United States Postal Service for the mailed-out notices
3 that we sent for this hearing.

4 EXAMINER EZEANYIM: You're saying that if
5 you want to do downhole commingling, you are going to do
6 all this?

7 THE WITNESS: There will be a lesser
8 number of parties, but it will be everybody in the PA.
9 And as I stated, some of these participating areas have
10 as many as 350 to 450 owners. So yes, you have to send
11 out to all of those owners. Because it's a different
12 dynamic than the wells in one of these PAs, where you
13 have to send -- everybody in the PA has an undivided
14 ownership entirely. So you have to send it out to much
15 more than if you're just doing it on a spacing unit
16 drill-block.

17 EXAMINER EZEANYIM: On a unit basis, those
18 14 units, that's all you have there?

19 THE WITNESS: Yes. Units are a different
20 situation than just a normal commingling on a drill-block
21 basis.

22 EXAMINER EZEANYIM: Okay.

23 Q. (By Mr. Kellahin) This is notice for all the
24 14 in this case?

25 A. Yes.

1 Q. If you had a well in a single unit, the number
2 would be less?

3 A. It would be anywhere from, in the last case,
4 where we had 18, to as many as 350 to 450, every time you
5 drilled a well that was commingled.

6 Q. As with the other case, you are relying on the
7 underlying approvals by the Division for the criteria
8 that's been accepted for Mancos and Mesaverde and Dakota
9 productions?

10 A. Yes.

11 Q. We're dealing only here with the notice
12 obligation?

13 A. Yes.

14 Q. In sending the notices out that are tracked by
15 the postal notice receipts, will you turn to the big book
16 and look at Exhibit Tab Number 1 and tell me if this is
17 the notice letter, followed by the application, that was
18 sent to all these parties?

19 A. That's correct. This is what we sent out that
20 they kept track of.

21 Q. As a result of sending those out, did you
22 receive any filed objections to this application?

23 A. I had three telephone inquiries, and I
24 satisfied all of those. We did have one objection from
25 Devon.

1 Q. What happened with that?

2 A. I talked with the landman, and they withdrew
3 their objection.

4 Q. So to the best of your knowledge, there is no
5 opposition with regard to deleting the notice obligation
6 for any of these 14 units?

7 A. No. Everybody I explained it to that had a
8 concern were satisfied.

9 Q. Let's turn to Exhibit Tab Number 3, and we
10 pulled out a couple of these to look at. First of all,
11 you have a reduced copy of a map. What are we looking at
12 here?

13 A. This is the San Juan Basin, with all of the
14 various pools and all of the units.

15 Q. If you turn behind the small map, you've
16 included in the book for the Division a large copy of the
17 small map?

18 A. Yes.

19 Q. You don't have to unfold yours, but we'll take
20 one of these out as an example.

21 So if the Division desires to go and
22 specifically look at any of your individual units --

23 A. The unit outlines are here, including -- the
24 Basin Mancos encompasses the entire map down to the
25 southern borders of San Juan County and Rio Arriba

1 County. I think there's one section in Sandoval County.
2 But the entire map is the Basin Mancos, with the
3 exception of Gallup pools that are set out on your map.
4 And then the outline borders --

5 EXAMINER BROOKS: What tab is this map
6 behind?

7 MR. KELLAHIN: Behind Tab Number 3.

8 EXAMINER BROOKS: It's a little map.

9 MR. KELLAHIN: There should be a big map.

10 EXAMINER BROOKS: I appreciate that.

11 EXAMINER EZEANYIM: Let me ask this
12 question before we lose track of this. Does this
13 encompass all the 14 units, this map?

14 THE WITNESS: Yes.

15 EXAMINER EZEANYIM: We can find the unit
16 boundaries when I look at these. Can you show it to us
17 here?

18 MR. KELLAHIN: You've got two ways to do
19 this. You've got the large map. And as we go through
20 the individual units, for example, if you turn to Tab 14
21 in the book -- you don't need to unfold the big map --
22 you'll find something else. If you turn to Tab 14 and
23 look behind the order, behind the order there's going to
24 be a pull-out map. And for each of the units, he's
25 prepared an individual pull-out map.

1 EXAMINER EZEANYIM: Okay. That's helpful.

2 MR. KELLAHIN: The 14 are each in the
3 folder. And if you want to collate them into a large
4 map, the large map will do that for you.

5 EXAMINER EZEANYIM: Thank you.

6 Q. (By Mr. Kellahin) Let's turn, Mr. Creekmore,
7 past the large map, and again set the background in
8 existing Division approvals for the commingling process.
9 If you'll turn with me to Tab 4, just look at Tab 4 and
10 describe for us what we find in the exhibit book at this
11 point.

12 A. This is the initial order establishing the
13 Basin Mancos pool, gas pool, in the Rio Arriba, San Juan,
14 and as I said, one section in Sandoval County. And it
15 was actually brought by OCD Aztec Office's geologist,
16 Steve Hayden, and this was in 2008. And it basically
17 established the same spacing and density as the Basin
18 Dakota and Blanco Mesaverde pools.

19 Q. Following that order, if we look behind Tab 5,
20 we see what, sir?

21 A. The case that I just referred to you under Tab
22 4, downhole commingling with the Basin Dakota and Blanco
23 Mesaverde, was also requested, and it was denied. When
24 ConocoPhillips and Burlington Resources brought this last
25 summer a case to reopen that and to -- and we were

1 successful in getting approval for preapproval for
2 downhole commingling.

3 Q. Again, the preapproval for downhole
4 commingling satisfied all the commingling criteria that's
5 in the rule, with the exception of deleting the notice
6 obligations?

7 A. Yes.

8 Q. Following this, on Exhibit Tab 6, what have
9 you put in the book?

10 EXAMINER EZEANYIM: Excuse me. I need to
11 know exactly what you want. On these 14 units, on some
12 of them, you already have the burden of notice removed?

13 MR. KELLAHIN: Yes.

14 EXAMINER EZEANYIM: So what are you asking
15 for in all these 14?

16 MR. KELLAHIN: The addition of the Mancos
17 as a pool for which notice can be deleted. Notice was
18 already deleted for Dakota and Mesaverde.

19 EXAMINER EZEANYIM: Okay. So look at
20 Order Number 13106. It's for what two pools? Notice has
21 been deleted; right? But you want to add the Mancos;
22 right?

23 MR. KELLAHIN: Correct.

24 EXAMINER EZEANYIM: And then have the
25 burden of giving notice removed? Is that what you want

1 to do?

2 MR. KELLAHIN: Yes.

3 EXAMINER EZEANYIM: Is that what you want
4 in all 14 of them?

5 MR. KELLAHIN: Yes

6 EXAMINER EZEANYIM: So both of them have
7 gotten notice removed for the two pools, but you want to
8 add a third pool? That is what you are doing here?

9 MR. KELLAHIN: Yes.

10 THE WITNESS: Actually, Tab 6 shows just
11 that. It's a spreadsheet. If you look at all of the
12 units, we didn't -- we're not here for the Canyon Largo
13 because it already has an exemption for the Basin Mancos.

14 But all the other pools that we brought today
15 in this case, notice between the Basin Mancos -- I mean
16 between the Basin Dakota and the Blanco Mesaverde, we
17 have been exempt from giving notice. But now that we've
18 added the Mancos to these wells, we're back to having to
19 give notice to all of them.

20 We're just asking that the Basin Mancos be
21 included in that with the Gallup.

22 Q. (By Mr. Kellahin) This spreadsheet confirms
23 what Mr. Ezeanyim just said?

24 A. Yes, sir.

25 EXAMINER EZEANYIM: Except the Canyon

1 Largo?

2 THE WITNESS: You can see the Canyon Largo
3 already has that exemption.

4 EXAMINER EZEANYIM: Okay. Now I
5 understand.

6 Q. (By Mr. Kellahin) Let's complete a review of
7 the orders that are helpful in deciding the case. If
8 you'll turn to Tab 7, what have you put in the exhibit
9 book here?

10 A. In a very similar case in the Rosa Unit,
11 Williams Production Company, back in 2008, also
12 petitioned to have an exemption from giving notice. And
13 I provided you a copy of that case, where you've already
14 granted that in a federal unit.

15 Q. And Exhibit 8?

16 A. Likewise, XTO brought a case, and you also
17 granted them an exemption.

18 Q. And Exhibit 9?

19 A. Exhibit 9 is the order that established -- was
20 the initial order establishing preapproval for downhole
21 commingling.

22 Q. This is the order that converts from the old
23 numbering system to the current rule numbering system?

24 A. And the current rule number is under Tab 10..

25 Q. And then when we turn to Tab 11, what do we

1 see here?

2 A. That's a case where a party did -- filed an
3 objection, but failed to show up at hearing. And based
4 on notice, filed an objection with the NMOCD. And at
5 that particular time, we were obligated to come and put
6 on a full hearing, and the lady that filed the objection
7 did not show up for the hearing.

8 Q. Now, starting with the Exhibit Tab 12, let's
9 use 12 as the illustrator which will illustrate the
10 things that are applicable to the rest of the units. And
11 rather than going through each of the tabs, let's use Tab
12 12 as our example. If we do so, what unit are we looking
13 at?

14 A. Tab 12 is the Allison Unit, which most of
15 these are township-named units. But the Allison Unit is
16 a unit that is in New Mexico and Colorado.

17 Q. If you turn past the order itself, before you
18 start the next tab, there's a pull-out map section.
19 There's two maps to pull out?

20 A. Right. The order itself exempts the Mesaverde
21 and Dakota from having to give notice on downhole
22 commingling. And then we provided maps on each of these
23 units similar to the Allison Unit, where we give you the
24 unit outline.

25 And then also, as I said before, when the

1 tracts -- the wells and then the tracts become
2 commercial, they're put in a participating area. Once
3 they're put in a participating area, they're no longer
4 accounted for both expense and revenue on a drill-block
5 basis, but they're put in the undivided unit, the entire
6 unit that's in yellow.

7 Q. Why are there two colored maps?

8 A. This is the Mesaverde participating area. It
9 says, "Mesaverde PA."

10 Q. What's the second map?

11 A. The second map is the Dakota PA. It doesn't
12 have as large a participating area at the present time.
13 You can see they're expanding all the time. There's a
14 green tract down in Section 31, where it's an expansion,
15 pending approval by the BLM. So they're continuing to
16 expand.

17 Q. So as you add Mancos to the Allison Unit, does
18 Mancos yet have a participating area established for it?

19 A. Not yet, because we've previously not been
20 opening up the Mancos in these wells.

21 Q. As time goes on, there would be a third map
22 generated that would show the Mancos participating area
23 as that evolved?

24 A. Yes. We're hoping to in most of these units.

25 Q. As we go through the package of orders, will

1 the Examiner find that in all cases for these units, they
2 have currently deleted the notice obligations for Dakota
3 and Mesaverde productions?

4 A. Yes. I've supplied those orders.

5 Q. You have all the references in there that
6 track all 14?

7 A. All the reference cases are listed here, yes.

8 Q. And all 14 also have maps associated with
9 them, to the best of your knowledge, that are accurate?

10 A. If they have participating areas, we've placed
11 that map in here, yes. I think most, if not all, do have
12 a participating area in both the Mesaverde and Dakota.

13 Q. When the Examiner reviews the order, he's
14 going to find the criteria exempted for the Mancos,
15 Dakota and Mesaverde is the conventional pressure, cost,
16 those components of the commingling process that the
17 Division worries about and that you comply with?

18 A. Yes.

19 Q. And all we're asking for is to delete the
20 administrative burden of notice to all the parties?

21 A. Yes.

22 Q. So you'll track the Mancos, as you're doing
23 with Mesaverde and Dakota, and no longer have that notice
24 obligation?

25 A. Yes.

1 Q. Do you have anything else to comment on? I
2 think there is one tab that we have not yet talked about.
3 When you get behind all 14 of the cases, you're going to
4 come to Tab 26. There's an order associated with Tab 26.
5 What is happening here?

6 A. We did a similar case, where we've lumped all
7 the cases together. And we brought a case in 2010, where
8 we modified the language in these orders that we put in
9 the book where they were limited to one method of -- one
10 allocation method to make the determination of gas
11 allocation.

12 We wanted alternative methods as the science
13 evolved, so we weren't limited to a previous method of
14 allocation determination when new methods were available.
15 What we did here was we asked that any approved method by
16 the NMOCD could be used in determination of allocation.

17 Q. Incorporated in this case, was there also the
18 request that these units be exempted from the notice?

19 A. No.

20 Q. There's a notice deletion in this order; is
21 there not?

22 A. I'm not sure. I think we already had the
23 notice exemption. We were just asking that the method of
24 allocation would be broadened so we could use any
25 accepted method by the NMOCD, instead of previous

1 methods, just that the language was broad enough to cover
2 any method that --

3 MR. KELLAHIN: I stand corrected.

4 That concludes our presentation. We would
5 move the introduction of these two exhibit books. The
6 first one is the notice exhibit book. The second one is
7 the exhibit book with Tabs 1 through 26.

8 EXAMINER EZEANYIM: Exhibit books 1 and 2
9 will be admitted.

10 (Exhibit books 1 and 2 were admitted.)

11 EXAMINER BROOKS: No questions.

12 EXAMINER EZEANYIM: I lost my thought
13 here. But that's a very good presentation. Let me say
14 that. I got everything I wanted.

15 On that last -- on 16, you were asking for
16 something. That's why I want to try and see what you
17 said on that last tab you were -- method of allocation.

18 MR. KELLAHIN: There was a different
19 allocation method approved by the Division in that last
20 order. It's a gas composition analysis method, where
21 they go in and take a gas sample. And if it's within a
22 certain range of comparison, they know that that gas
23 signature can be tracked to historically know it's Mancos
24 or Mesaverde, and that was what was done.

25 EXAMINER EZEANYIM: Yeah. I like that.

1 You're up to date with the current status in the gas
2 industry. That's what that last order is saying? You
3 got an approval? After all notice, nobody is objecting
4 to that; is that correct?

5 MR. KELLAHIN: That's correct.

6 EXAMINER EZEANYIM: That's what I wanted
7 to know. Otherwise, it's a very good presentation.

8 You may be excused.

9 At this point, Case Number 14928 will be taken
10 under advisement.

11 Can we take a 10-minute break and come back?

12 EXAMINER BROOKS: Yes.

13 (A recess was taken.)

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I hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 14928
heard by me on 11/28/12.
Oil Conservation Division, Examiner

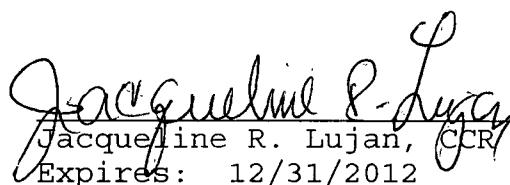
REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on November 29, 2012, proceedings in
the above captioned case were taken before me and that I
did report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

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

WITNESS MY HAND this 11th day of December,
2012.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2012