

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

ORIGINAL

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

APPLICATION OF ENCANA OIL & GAS USA, INC., Case 14987  
FOR APPROVAL OF A UNIT AGREEMENT AND AN  
EXCEPTION TO THE WELL LOCATION REQUIREMENTS SET  
FORTH IN THE SPECIAL RULES FOR THE COUNSELORS  
GALLUP-DAKOTA AND BASIN MANCOS GAS POOLS, SANDOVAL  
COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Presiding Examiner  
PHILLIP GOETZE, Technical Examiner  
RICHARD EZEANYIM, Technical Examiner

May 16, 2013

Santa Fe, New Mexico

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This matter came on for hearing before the  
New Mexico Oil Conservation Division, DAVID K. BROOKS,  
Presiding Examiner, and PHILLIP GOETZE, Technical  
Examiner, RICHARD EZEANYIM, Technical Examiner, on  
Thursday, May 16, 2013, 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  
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FOR THE APPLICANT:

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1 EXAMINER BROOKS: We'll call Case Number  
2 14987, application of Encana Oil & Gas USA, Inc., for  
3 approval of a unit agreement and an exception to the well  
4 location requirements set forth in the special rules for  
5 the Counselors Gallup-Dakota and Basin Mancos Gas Pools,  
6 Sandoval County, New Mexico.

7 Call for appearances.

8 MR. BRUCE: May it please the Examiner?  
9 Michael Feldewert appearing on behalf of Encana Oil & Gas  
10 USA, Inc. I have two witnesses.

11 EXAMINER BROOKS: Would your witness  
12 please stand and identify themselves?

13 MR. BRUCE: Mr. Examiner --

14 EXAMINER BROOKS: I'm sorry, Mr. Bruce.  
15 You're entering an appearance in this case?

16 MR. BRUCE: I'm entering an appearance on  
17 behalf of JMJ Land & Minerals Company. I have no  
18 witnesses.

19 EXAMINER BROOKS: Very good. The  
20 witnesses may stand and identify themselves, please.

21 MR. SOMMER: Nicholas Sommer, geologist.

22 MR. McCOOL: Billy Wade McCool, land  
23 negotiator.

24 (Two witnesses were sworn.)

25 MR. FELDEWERT: We'll call our first

1 witness.

2 EXAMINER BROOKS: Go ahead.

3 BILLY WADE McCOOL

4 Having been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. FELDEWERT:

7 Q. Please state your name identify by whom you're  
8 employed and in what capacity?

9 A. My name is Billy Wade McCool. I'm employed by  
10 Encana Oil & Gas USA, Inc. I'm a land negotiator.

11 Q. How long have you been a land negotiator with  
12 Encana?

13 A. Six years.

14 Q. Is this the first time that Encana Oil & Gas  
15 USA, Inc., has appeared before the Division?

16 A. Yes.

17 Q. So you have not previously testified before  
18 this Division?

19 A. I have not.

20 Q. Would you review your educational background?

21 A. I hold a Bachelor of Arts in Political Science  
22 from the University of North Texas. I hold a Juris  
23 Doctorate from the University of Tulsa, College of Law;  
24 and I'm also enrolled in the LLM Program at the  
25 University of Denver, Sturm College of Law, in

1 environment and natural resources law.

2 Q. You're one of those lawyers?

3 A. Yes, I'm one of those lawyers.

4 Q. Have you passed the Bar?

5 A. Yes, I have.

6 Q. What state?

7 A. I'm Barred in Oklahoma.

8 Q. What has been your work history since you got  
9 your Juris Doctorate degree from Tulsa?

10 A. Upon graduation from the University of Tulsa  
11 in 2006, I did field landwork for a year in Texas. I was  
12 an independent contractor. I did leasing, title  
13 examination, abstracting, seismic permitting, things of  
14 that nature.

15 After I had been working as an independent  
16 contractor for roughly about 11 months, I was brought on  
17 full time as an employee with Encana Oil & Gas as a  
18 surface land negotiator in Fort Worth, working the  
19 Barnett Shale. I've held various positions, working in  
20 East Texas, West Texas, Louisiana, up in North Texas,  
21 following my stint as a mineral land negotiator, doing  
22 general mineral land duties, rig title, acquisition,  
23 divestiture.

24 In 2011 in December, I was transferred to  
25 Denver, Colorado, to work on Encana's New Ventures Team

1 as a land negotiator. In July of 2012, I was moved to  
2 the San Juan Asset Team.

3 Q. Do you have any professional affiliations or  
4 certifications?

5 A. Yes. I'm a member of the American Bar  
6 Association, a member of the Oklahoma Bar Association, a  
7 member of the American Association of Professional  
8 Landmen, a member the Denver Association of Petroleum  
9 Landmen.

10 Q. How long have you been a member of the  
11 American Association of Petroleum Landmen?

12 A. Since 2006.

13 Q. Are you familiar with the application that's  
14 been filed in this case?

15 A. Yes, I am.

16 Q. Are you familiar with the status of the lands  
17 in the proposed unit area for the Gallo Canyon Federal  
18 Exploratory Unit?

19 A. Yes, I am.

20 Q. Why don't you briefly identify for the  
21 Examiners what Encana seeks with this application?

22 EXAMINER BROOKS: Are you going to ask to  
23 qualify --

24 MR. BRUCE: No.

25 EXAMINER BROOKS: You're not going to ask

1 to qualify him?

2 MR. BRUCE: No need to.

3 EXAMINER BROOKS: Go ahead.

4 A. Encana seeks approval of the Gallo Canyon  
5 Federal Exploratory Unit. It's a federal unit composed  
6 of 5,760 acres comprised of state and federal acreage,  
7 located in Sandoval County, New Mexico.

8 Q. (By Mr. Feldewert) Approximately how much of  
9 the land acreage is federal lands -- let me ask you, is  
10 there any fee land?

11 A. There's no fee land.

12 Q. Just federal and state land?

13 A. Yes.

14 Q. How much of the acreage is federal?

15 A. 89 percent.

16 Q. And the remainder is state land?

17 A. That's correct.

18 Q. What else do you seek under this application?

19 A. We seek exception to the special field rules  
20 applicable to the Counselors Gallup-Dakota Oil Pool with  
21 regard to well location.

22 Q. Let me turn to what's been marked as Encana  
23 Exhibit Number 1. Is this a map showing your proposed  
24 unit boundary?

25 A. Yes. The red outline show the proposed unit

1 boundary on this map.

2 Q. On this particular exhibit, you identify the  
3 current acreage or the location of the Counselors  
4 Gallup-Dakota Pool as it extends into this unit area;  
5 correct?

6 A. That's correct.

7 Q. Is the Counselors Gallup-Dakota Oil Pool a  
8 listed pool under the Division order that created the  
9 Basin Mancos Gas Pool?

10 A. Yes, it is.

11 Q. Are you familiar with the fact that the order  
12 creating the Basin Mancos Gas Pool, Order Number R-12984,  
13 indicates that the existing oil pool or any existing oil  
14 pool is extended two miles for purposes of the  
15 applicability of the special pool rules of that oil pool  
16 rule?

17 A. Yes, I am familiar.

18 Q. If that order indeed governs this particular  
19 case, then the entire unit area is within two miles of  
20 the Counselors Dakota Gallup Oil Pool as extended under  
21 the order creating the Basin Mancos Gas Pool?

22 A. Yes, that's correct.

23 Q. Are you familiar with the fact that if you go  
24 to the temporary and special rules and regulations for  
25 the Counselors Gallup-Dakota Oil Pool, that those

1 particular rules say that the unit boundary extends for  
2 one mile?

3 A. Yes, I am aware of that.

4 Q. If that particular boundary applied, then part  
5 of this unit would be within the Counselors Gallup-Dakota  
6 Oil Pool and part of it would remain within the Basin  
7 Mancos Gas Pool?

8 A. That's correct.

9 Q. Is that why you also seek an exception to the  
10 well location requirements for the Basin Mancos Gas Pool,  
11 if indeed it applies here?

12 A. Yes.

13 Q. What are the current setback requirements on  
14 the Basin Mancos Gas Pool, if it applies to part of this  
15 unit

16 A. 660 feet.

17 Q. If, as we believe, the Counselors  
18 Gallup-Dakota Oil Pool applies to this entire unit area,  
19 what are the well location requirements under those  
20 special pool rules?

21 A. 660 feet and also a 1,320 in-between well  
22 spacing.

23 Q. Is that contained within Rule 4 of the special  
24 rules for the Counselors Gallup-Dakota Oil Pool?

25 A. Yes.

1 MR. FELDEWERT: Those rules remain  
2 permanent, Mr. Examiner, under Division Order R-7034-B.

3 Q. (By Mr. Feldewert) Do the setbacks, either  
4 the Basin Mancos Gas Pool or the Counselors Gallup-Dakota  
5 Oil Pool, interfere with your well plans in the unit  
6 area?

7 A. Yes, they do.

8 Q. What does the company therefore seek with  
9 respect to the exception for this unit area?

10 A. The company seeks exception in the form of a  
11 330-foot setback and exception to the in-between well  
12 spacing requirement to allow the wells to be located  
13 anywhere within the unit area.

14 Q. So you're seeking how the well is located  
15 anywhere within the unit, as long as they remain 330 feet  
16 from the outer boundary of the unit area shown on Exhibit  
17 1?

18 A. That's correct.

19 Q. Let's turn to what's been marked Encana  
20 Exhibit 2. Is this a copy of the unit agreement for the  
21 Gallo Canyon Unit Area?

22 A. Yes.

23 Q. Does this copy conform with the federal form?

24 A. Yes, it does.

25 Q. Have there been certain modifications required

1 by the Bureau of Land Management?

2 A. Yes, there have.

3 Q. Did the Bureau of Land Management require that  
4 this Unit Agreement only apply to horizontal development  
5 plans?

6 A. Yes, they did.

7 Q. So if I take a look at what is the first page  
8 of the Unit Agreement, the fourth page of the exhibit,  
9 the second clause at the top indicates, does it not, that  
10 this Unit Agreement is limited to wells that are  
11 horizontally drilled, as defined in that second clause on  
12 the first page of the Unit Agreement?

13 A. Yes, that's correct.

14 Q. Has this -- what horizons are being unitized  
15 under this Unit Agreement?

16 A. It's in Clause 3. It's the Mancos group,  
17 which is defined as "100 feet below the stratigraphic  
18 equivalent of the top of the Mancos Shale (base of the  
19 Mesaverde Group) to the stratigraphic equivalent of the  
20 base of the Greenhorn Limestone Formation."

21 Q. If I turn to -- if I take a look at Encana  
22 Exhibits 3 and 4, are they the letters from both the  
23 State Land Office and Bureau of Land Management granting  
24 preliminary approval of this Unit Agreement in the unit  
25 area?

1           A.     Yes.   Exhibit 3 is from the State Land Office,  
2           and Exhibit 4 is from the Bureau of Land Management.

3           Q.     Was there a mistake in the application that  
4           was filed in the fact that it made a reference to  
5           vertical well development?

6           A.     Yes.

7           Q.     And based on the amendments required by the  
8           BLM and the State Land Office, this unit would only apply  
9           to horizontal wells?

10          A.     Yes.

11          Q.     Exhibit A to the Unit Agreement identifies the  
12          boundary to the unit area and essentially conforms to  
13          what's been marked as Encana Exhibit Number 1; is that  
14          correct?

15          A.     Yes.

16          Q.     And Exhibit B to the Unit Agreement, it  
17          provides an ownership breakdown, does it not?

18          A.     That's correct.

19          Q.     Just to finish that off, Exhibit C to the Unit  
20          Agreement is what?

21          A.     It's a stratigraphic interval type log.

22          Q.     Looking at Exhibit B to the Unit Agreement,  
23          are there any uncommitted leases or working interests  
24          currently to this Unit Agreement?

25          A.     Yes.

1 Q. How much of the interest shown on Exhibit B  
2 has been formally committed to the Unit Agreement?

3 A. 86 percent.

4 Q. And the remaining at this point remains  
5 uncommitted?

6 A. That's correct.

7 Q. Have you had various contacts with the owners  
8 of the current uncommitted acreage?

9 A. Yes, I have.

10 Q. Have you provided them with an opportunity to  
11 participate?

12 A. Yes.

13 Q. And you've had discussions to date about that  
14 participation?

15 A. Yes, I have.

16 Q. In addition to the modifications that are  
17 required by the BLM, has the Bureau of Land Management  
18 also agreed to treat the entire unit area as a single  
19 participating area?

20 A. Yes.

21 Q. As a result, under the Division rules, the  
22 company will be able to operate the unit area if this is  
23 granted as a single project area?

24 A. That's correct.

25 Q. Now, with respect to your request for an

1 exception to the well location requirements within the  
2 unit area, did you undertake an examination of the  
3 operators and the lessees in the spacing units  
4 surrounding the entire unit area?

5 A. Yes.

6 Q. And is Exhibit 5 an affidavit with attached  
7 letters providing notice of this application and the  
8 hearing to those parties?

9 A. Yes.

10 Q. Are all of the surrounding acreage subject to  
11 a lease?

12 A. No, they're not.

13 Q. What acreage remains unleased?

14 A. The acreage immediately to the east, which is  
15 the Jicarilla Tribe.

16 Q. The notice list that is comprised starting on  
17 page 4 of Exhibit 5, does it reflect that notice was  
18 provide to the Jicarilla Oil & Gas Administration of this  
19 application?

20 A. Yes, it does.

21 Q. Were Encana Exhibits 1 through 5 prepared by  
22 you or compiled under your direction and supervision?

23 A. Yes, they were.

24 MR. FELDEWERT: Mr. Examiner, I move the  
25 admission into evidence of Encana Exhibits 1 through 5.

1 EXAMINER BROOKS: One through 5 are  
2 admitted.

3 (Exhibits 1 through 5 were admitted.)

4 MR. BRUCE: That concludes my examination  
5 of this witness.

6 EXAMINER BROOKS: Mr. Bruce?

7 MR. BRUCE: Just a few questions.

8 CROSS-EXAMINATION

9 BY MR. BRUCE:

10 Q. Mr. McCool, Exhibit 2, the Unit Agreement, is  
11 this based on the State Land Office form or is it based  
12 on the federal form?

13 A. This is based on the federal form that I  
14 receive from BLM.

15 Q. Mr. Feldewert asked you on page 4 of that  
16 exhibit, page 1 of the actual Unit Agreement, is that  
17 second paragraph the only change to the form?

18 A. No, that is not the only change to the form.

19 Q. What are the other changes?

20 A. There were quite a few basically typographical  
21 changes. In Section 12, Paragraph Number 3, the State  
22 Land Office requested that we add "and Commissioner" to  
23 form.

24 Q. I'm not looking for stuff like that.

25 Is there -- what I'm asking is substantive

1 changes. Normally, a federal unit agreement form  
2 provides for participating area for wells after they've  
3 been drilled.

4 Looking at paragraph 11 of this form,  
5 "Allocation and Production," is that a change --  
6 substantial change to form? Because this agreement does  
7 not provide for separate participating areas as wells are  
8 drilled?

9 A. Correct. This is an undivided Unit Agreement,  
10 so it wouldn't have participating areas, per se.

11 Q. That's what I'm looking for. Are there any  
12 others? I've looked at a ton of these, but the print  
13 gets to you after a while.

14 A. As far as the change to the horizontal wells  
15 that I pointed out, that's the only substantive change  
16 that I can recall off the top of my head right now.

17 Q. Is there a Unit Operating Agreement?

18 A. A Unit Operating Agreement has not been sent  
19 out yet. There is one draft in draft version.

20 Q. Insofar as the change that this covers only  
21 horizontal wells, who requested that?

22 A. The BLM and the State Land Office. But the  
23 BLM specifically requested it.

24 Q. The Counselors Gallup Pool, what is the  
25 spacing in that?

1           A.     160-acre spacing.

2                     MR. BRUCE:  That's all I have,  
3  Mr. Examiner.

4                     EXAMINER BROOKS:  Okay.  I have a few  
5  questions about this one.

6                                     EXAMINATION

7  BY EXAMINER BROOKS:

8           Q.     You said the Unit Agreement applies only to  
9  horizontal wells; right?

10          A.     Yes.

11          Q.     Does the Unit Agreement contain a definition  
12  of horizontal wells?

13          A.     Yes, it does, sir.

14          Q.     Where is that?

15          A.     In the preamble.  It's in the second  
16  paragraph.

17                     MR. FELDEWERT:  The fourth page of Exhibit  
18  5.

19          Q.     (By Examiner Brooks)  But is it numbered page  
20  1, though?

21          A.     Yes.

22          Q.     You had me confused on the pages.  
23                     Okay.  Where is it?

24          A.     The second paragraph from the top.

25          Q.     Okay, the second paragraph, numbered paragraph

1 2?

2 A. Yes. I'm sorry, it's the second paragraph,  
3 not the numbered paragraph 2.

4 Q. Very good. Now, are there existing vertical  
5 wells in this unit that are completed in the Mancos?

6 A. There are two existing verticals on the  
7 northeast portion of unit.

8 Q. They would be excluded from this and would  
9 continue to be -- production would continue to be  
10 allocated on a spacing unit basis?

11 A. That's correct.

12 Q. What does the Unit Agreement provide in regard  
13 to the drilling of any future vertical wells?

14 A. The agreement doesn't limit the drilling of  
15 future vertical wells on a tract basis. However, the  
16 unitized portion is limited to horizontal development.

17 Q. When you say, "the unitized portion," you  
18 don't mean the same thing as the unitized formation?

19 A. No. The unitization provided for in this Unit  
20 Agreement specifically only applies to horizontal wells.

21 As far as the vertical wells in existing  
22 production or if you were to have future vertical wells  
23 drilled within the boundaries of what would be this  
24 horizontal unit, the unit would not have applicability to  
25 the vertical wells. The vertical wells would be drilled

1 on a tract basis, based on --

2 Q. Based on what?

3 A. Based on whatever the existing spacing pattern  
4 would be for that.

5 Q. You're aware of the Oil Conservation  
6 Division's rules on that subject?

7 A. Yes, sir.

8 Q. And that says that they have to have -- to  
9 drill further vertical wells would require the permission  
10 of all working interest owners. And that would be all  
11 working interest owners, I would assume, in the project  
12 area. I don't have that in front of me. And the project  
13 area would be the unit area.

14 A. Well, I don't necessarily know if it has to  
15 be -- the project area is the unit area as for horizontal  
16 production.

17 Q. But that's what the horizontal well rule would  
18 contemplate, as I would assume. So the Unit Agreement,  
19 unless there's something otherwise provided in the Unit  
20 Operating Agreement, a typical operating agreement would  
21 preclude drilling wells not drilled under that agreement  
22 within the same formation unless they were in the  
23 existing spacing pattern, which, if you use the older  
24 form, I'm sure they'll clean that up in the new form  
25 they're working on.

1           But if you use the older form, that creates  
2 something of an ambiguity where you have both horizontal  
3 and vertical wells working in the same area.

4           Is that issue going to be covered in your Unit  
5 Operating Agreement?

6           A.     Yes.   Going to the BLM and putting the Unit  
7 Agreement together, the very basis of the unit is the  
8 exploratory nature of the horizontal wells in the unit.

9           Adding the vertical production or adding  
10 vertical wellbores into the unit abrogates that  
11 exploratory nature of it, which would be the reason we  
12 haven't addressed it.

13           I don't want to say, "not addressed it."  
14 That's not the right word.   But the reason it's been  
15 excluded from this Unit Agreement.

16           Q.     Okay.   Very good.

17           You said there were uncommitted interests in  
18 the unit?

19           A.     Yes.

20           Q.     What nature are they, and where are they?

21           A.     Section 27.   If you could turn to Exhibit 2 --  
22 I'm sorry, Section 27.

23           Q.     I have Exhibit 1 in front of me.   That shows  
24 me where the section is.   Now, is there something in  
25 Exhibit 2?

1           A.     No. Exhibit 1 is the correct one. Section  
2 27.

3           Q.     All of Section 27?

4           A.     There's 12.5 percent working interest that  
5 remains outstanding in that tract and an overriding  
6 royalty interest in the amount of 7.5 percent.

7                     And then in the northwest of Section 24, there  
8 is an uncommitted interest in 100 percent of that 160.

9           Q.     That's the only part of that -- that's the  
10 only divided tract that is wholly excluded -- wholly  
11 uncommitted?

12          A.     Yes, that's correct.

13          Q.     Is that state or federal?

14          A.     That is a federal tract.

15          Q.     Those are the only interests that have not  
16 been committed to the unit; is that correct?

17          A.     That's correct.

18          Q.     Now, what exactly are you asking for in this  
19 application?

20          A.     We're asking for the Commission to approve  
21 this application for the Unit Agreement, and we're also  
22 asking to --

23          Q.     To approve the Unit Agreement?

24          A.     To approve the Unit Agreement.

25          Q.     Which the State Land Office requires?

1 A. Yes.

2 And we're also asking for the exception to the  
3 special pool rules for the Counselors Gallup-Dakota Oil  
4 Pool.

5 Q. That would be for the setbacks?

6 A. Yes, sir, that's correct, and in-between well  
7 spacing in that pool.

8 Q. It's the distance between the wells --

9 A. Yes, Mr. Examiner. It's -- 1,320 is the  
10 distance.

11 Q. Of course your horizontals would be -- the  
12 only setbacks that would apply would be from the outer  
13 boundary of the spacing -- from the outer boundary of the  
14 unit, since the whole unit is going to be the project  
15 area?

16 A. That's correct.

17 Q. What spacing are you asking for -- what  
18 setback are you asking for from the outer boundary of the  
19 unit?

20 A. 330 feet.

21 Q. And you did not receive any objections from  
22 any of the offsets?

23 A. No, we did not receive any objections from  
24 offsets.

25 Q. I just have one other question. What is your

1 reason for preferring to be characterized as a land  
2 negotiator, rather than a landman?

3 A. That's our styling internally in the company.  
4 I think I can use them interchangeably. Maybe when I'm  
5 in Texas, I can use landman.

6 EXAMINER BROOKS: It has interested me  
7 that many ladies introduce themselves as landmen here  
8 without raising a political correctness objection. Very  
9 good.

10 Mr. Ezeanyim?

11 EXAMINATION

12 BY EXAMINER EZEANYIM:

13 Q. You just asked my question, because I didn't  
14 understand what negotiator and landman is. I want to  
15 find out. When you say, "negotiator," is this landman?  
16 I don't know. So you asked my question.

17 A. Yes. It's definitely interchangeable.

18 Q. But it's the same thing; right?

19 A. Yes, sir

20 EXAMINER BROOKS: You are also a lawyer?

21 THE WITNESS: I am an attorney

22 Q. (By Mr. Ezeanyim) Currently, you have 86  
23 percent committed?

24 A. That's correct.

25 EXAMINER EZEANYIM: No further questions.

1 EXAMINER BROOKS: Mr. Goetze?

2 EXAMINER GOETZE: No questions for this  
3 witness.

4 EXAMINER BROOKS: Mr. Bruce, follow-up?

5 RECROSS-EXAMINATION

6 BY MR. BRUCE:

7 Q. Mr. McCool, on your Unit Agreement, the  
8 exhibit -- you were talking about uncommitted interests.  
9 And I just wanted to clarify, on Tract 1A, northwest of  
10 24 --

11 A. Give me a moment, sir.

12 Q. Tract 1A --

13 A. Okay. I'm with you.

14 Q. -- you said it was uncommitted. But were you  
15 talking about the working interests?

16 A. I was talking about the working interest.  
17 That's correct.

18 Q. Has Dugan Production Corp. ratified the  
19 agreement, the record title owner?

20 A. Yes.

21 Q. What about the overrides? I presume the Tom  
22 Dugan family --

23 A. Yes, the overrides have been ratified.

24 MR. BRUCE: Okay.

25 MR. FELDEWERT: Mr. Examiner, we're going

1 to call our next witness. But there's one thing I want  
2 to clarify. And I don't want to put you on the spot, but  
3 maybe I am.

4 The exception that we seek is certainly to the  
5 setback requirements under the Counselors Gallup-Dakota  
6 Oil Pool.

7 As I read the interplay between the order  
8 creating the Basin Mancos Gas Pool and the special rules  
9 that existed for the Counselors Gallup-Dakota Oil Pool  
10 which were entered some time ago and were actually made  
11 permanent in 1986, before the Basin Mancos Gas Pool was  
12 entered, I read those existing rules, and they say that  
13 the rules apply to the area of the Counselors  
14 Gallup-Dakota Pool and anywhere within one mile.

15 Then we go to the more recent order creating  
16 the Basin Mancos Gas Pool, and it says that for all oil  
17 pools that are listed, that those rules apply within two  
18 miles of the area boundary.

19 Now, I would take that to mean that the  
20 subsequent order has modified the special pool rules.  
21 But I'm not 100 percent certain, to the extent there's  
22 any ambiguity, the exception would also apply that we  
23 seek to the setback requirements under the Basin Mancos  
24 Gas Pool order to the extent there is acreage within the  
25 unit area that would fall within the Basin Mancos Gas

1 Pool.

2 EXAMINER BROOKS: I understand the  
3 witness's testimony in that respect. And I would  
4 interpret the Basin Mancos order as you suggested, that  
5 it takes precedence over the preceding Counselors Gallup  
6 Gas Pool order. Certainly that can be taken care of in  
7 the order in this case, as far as this unit is concerned.

8 MR. FELDEWERT: With that said, we'll call  
9 our next witness.

10 EXAMINER BROOKS: The witness may step  
11 down.

12 THE COURT REPORTER: Can I have five  
13 minutes?

14 EXAMINER BROOKS: Let's take a break.

15 (A recess was taken.)

16 EXAMINER BROOKS: You may proceed with  
17 your next witness, Mr. Feldewert.

18 MR. BRUCE: Thank you, Mr. Examiner.

19 NICHOLAS SOMMER

20 Having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FELDEWERT:

23 Q. Would you please state your full name,  
24 identify by whom you are employed and in what capacity?

25 A. Nicholas Curt Sommer. I'm employed by Encana

1 Oil & Gas USA, Incorporated. I'm a geologist.

2 Q. How long have you been a -- is it petroleum  
3 geologist?

4 A. Petroleum geologist.

5 Q. How long have you been a petroleum geologist  
6 with Encana?

7 A. Five and a half years.

8 Q. Have you previously testified before the  
9 Division?

10 A. No.

11 Q. Why don't you provide us with your educational  
12 background? Where did you get your degree?

13 A. I earned my Bachelor's of Science Degree in  
14 Geology from the University of Texas in Austin in 2002.  
15 I earned my Master's of Science in Geology at the  
16 University of Colorado at Boulder in 2007.

17 Q. Upon graduation in 2007, did you begin work as  
18 a petroleum geologist with Encana?

19 A. Yes, I did.

20 Q. And have your responsibilities over time  
21 included the San Juan Basin of New Mexico?

22 A. Yes, they have, since February of 2011.

23 Q. Are you a member of any professional  
24 affiliations?

25 A. I'm a member of the American Association of

1     Petroleum Geologists, the Rocky Mountain Section, RMAG.  
2     I'm also a member of Rocky Mountain Section of the  
3     Society of Economic Paleontologists and Mineralogists.  
4     I'm also a member of the Denver Well Logging Society,  
5     which is the local chapter for the Society of  
6     Professional Well Log Analysts.

7           Q.     How long have you been a member of the  
8     American Association of Petroleum Geologists?

9           A.     Since 2001.

10          Q.     Did you join when you were a student?

11          A.     Yes.  There are student chapters of AAPG  
12     across the nation.  I joined while I was at the  
13     University of Texas.

14          Q.     And you've maintained your membership  
15     throughout?

16          A.     Yes.

17          Q.     Are you familiar with the application that's  
18     been filed in this case?

19          A.     Yes, I am.

20          Q.     Have you conducted a geologic study of the  
21     area and the lands that are the subject of this  
22     application?

23          A.     Yes, I have.

24                   MR. FELDEWERT:  Mr. Examiner, I would  
25     tender Mr. Sommer as an expert witness in petroleum

1 geology.

2 EXAMINER BROOKS: He's so qualified.

3 Q. (By Mr. Feldewert) Would you turn to what's  
4 marked Encana Exhibit 6?

5 Let me first ask you, is this the same type of  
6 log that comprises Attachment C to the Unit Agreement  
7 which was marked as Exhibit Number 2?

8 A. Yes, it is. The Gallo Canyon Number 1 Well  
9 was drilled by Gulf Oil in 1983. It's a bit confusing  
10 because there's another well called the Gallo Canyon  
11 Number 1 that is outside the unit area. This is in the  
12 unit.

13 Q. Are you familiar with the horizon that is  
14 being unitized for the Gallo Canyon unit?

15 A. Yes.

16 Q. What is that horizon?

17 A. It is from 100 feet below the top of the  
18 Mancos shale, which is the base of the Mesaverde group,  
19 all the way down to the base of the Greenhorn Limestone  
20 member.

21 Q. Is that interval or that horizon depicted in  
22 what's been marked as Encana Exhibit 6?

23 A. Yes, it is.

24 Q. Have you conducted a study to determine  
25 whether this particular horizon extends across the

1 unitized area?

2 A. Yes, I have. And yes, it does extend across  
3 the unit area.

4 Q. Turn to what's marked as Encana Exhibit 7.  
5 Would you please identify it for us and tell us what it  
6 shows?

7 A. Sure. This is just a zoomed-in portion of the  
8 type log from the Gallo Canyon Number 1 Well. We've got  
9 it out of scale so that we can see some detail in the  
10 Gallup member of the Mancos shale.

11 It's included so that we can point out some of  
12 the characteristics of the pay sands. They have, on the  
13 far left tract, a clean gamma ray response, which would  
14 be when it curves just to left and the color shading gets  
15 more yellow, the pay sandstones do.

16 In the middle tract, the resistivity curve,  
17 you see brighter colors where you have oil and gas  
18 present. Then on the right, there's the neutron and  
19 density porosity curves.

20 The density porosity is shaded with a cutoff  
21 showing greater than 5 percent porosity. The sandstones  
22 within the Gallup cause that curve to deflect towards the  
23 left. They range anywhere from 4 to 12 or 13 percent on  
24 the high side in porosity.

25 Q. Are those colored in red on Encana Exhibit 7?

1 A. Yes, they are.

2 Q. Is that the target sands for your development  
3 under this proposed Unit Agreement?

4 A. Yes, they are. We target typically the sands  
5 of the Lower Gallup with our horizontal laterals. We  
6 usually land the laterals in either the lowest sand with  
7 good porosity and resistivity response or the  
8 second-lowest sand because our hydraulic fracture  
9 stimulations go primarily upwards, we believe.

10 Q. Anything else about this particular exhibit?

11 A. No.

12 Q. Let's turn to what's been marked as Encana  
13 Exhibit Number 8. Please first identify it for us, and  
14 then tell us what it shows.

15 A. Sure. What we have with Exhibit Number 8 is a  
16 structure contour map on the top of Gallup. The depths  
17 are Sub C true vertical depths.

18 The Gallo Canyon Unit outline is shown in red.  
19 Highway 550 is the dashed black line that cuts across  
20 from west to east and goes through the unit.

21 Our proposed initial unit well is shown with a  
22 black line. There is a square at the surfacehole  
23 location. It will be drilled southeasterly at  
24 approximately 135 degree azimuth, and the bottomhole  
25 location is shown with a circle.

1 Oil wells primarily from the Counselors  
2 Gallup-Dakota field are shown with green circles, and gas  
3 wells are shown in a hollow red circle with lines  
4 radiating out. There are also other symbols for plugged  
5 and abandoned wells, dry holes, and canceled APDs shown  
6 on the map.

7 What these structure contours reveal, which is  
8 typical for the Chaco slope in the San Juan Basin, is a  
9 fairly uniform monoclinial dip towards the north/northeast  
10 of approximately 1 degree. The structural contours show  
11 good continuity across the whole mapped area, including  
12 the unit boundary, indicating that there are no faults  
13 within the mapped area or the unit.

14 Q. Do you have cross-sections that corresponds to  
15 A to A prime and B to B prime that are shown on this  
16 exhibit?

17 A. Yes, I do. Those are going to be Exhibits 9  
18 and 10. The A to A prime provides a view in a downdip  
19 direction. The B to B prime gives us a glimpse across  
20 the unit along structural strike.

21 Q. Let's turn to what's been marked as Encana  
22 Exhibit 9. Is this your A to A prime cross-section?

23 A. Yes, it is.

24 Q. What does this show us?

25 A. This shows us from -- on the left side of the

1 page, where we labeled A, which would be south, the  
2 Encana Lybrook A03 Well all the way over to the other  
3 Gallo Canyon Number 1 Well at A prime, which is to the  
4 north, downdip outside the unit.

5           When we look between the formation tops  
6 labeled "Gallup" and "Base Gallup," what you can see is  
7 good continuity of sandstone, the pay sandstone  
8 reservoirs of the Gallup member.

9           Looking from left to right, you can see good  
10 clean gamma ray response, elevated resistivity and  
11 elevated porosity throughout all five of the wells shown  
12 on the cross-section, including the very middle one that  
13 we looked at earlier, the Gallo Canyon Number 1 Well  
14 that's in Section 26.

15           You can notice on the two wells on the  
16 right-hand side, the Absolut 1 and the other Gallo Canyon  
17 Number 1 Well, those sandstones have been perforated and  
18 completed within the Gallup and just above the Gallup as  
19 well.

20           Q.     Is that shaded in -- what's that color?

21           A.     They are shaded pink, and they are in the  
22 left-hand side of the corresponding depths that are  
23 labeled.

24           Q.     Do the pay sands that you're targeting then  
25 extend across the area that you've examined?

1           A.     Yes, they do. They exhibit good continuity  
2 across the unit area.

3           Q.     So that was your south-to-north cross section?

4           A.     Yes.

5           Q.     Let's go to what's been marked as Encana  
6 Exhibit Number 10. Is this your west to east?

7           A.     Yes, it is.

8           Q.     B to B prime?

9           A.     B to B prime. B would be west, B prime is  
10 east. This also has the type log Gallo Canyon Number 1,  
11 which is the second well from the right.

12                    Again, just looking at the well log responses  
13 of the Gallup member, you can see clean gamma ray,  
14 elevated resistivity and elevated porosity, showing again  
15 that the pay sands exhibit good continuity along strike  
16 within the unit area. And there are perforations in the  
17 wells that are on the far west and the far west, the Dome  
18 Federal 28-23 Number 1 and the Gulf State 36 Number 1.

19                    So again, the Gallup sandstone reservoirs do  
20 exhibit good continuity across the unit area.

21           Q.     Now, Mr. Sommer based on your analysis, have  
22 you observed any faults or pinchouts or any other  
23 geologic anomaly that would adversely affect the  
24 development of this area under a unit plan?

25           A.     No, I have not.

1 Q. In your opinion, is the unitized area one that  
2 can be effectively and efficiently developed under a  
3 horizontal unit plan?

4 A. Yes, it is.

5 Q. Will the formation of this unit, in your  
6 opinion, provide for the most efficient development of  
7 the reserves in the unitized interval?

8 A. Yes, it will.

9 Q. Do you believe that the granting of this  
10 application is in the best interest of conservation, the  
11 prevention of waste and the protection of correlative  
12 rights?

13 A. Yes, I do.

14 Q. Were Encana Exhibits 6 through 10 prepared by  
15 you?

16 A. Yes.

17 MR. FELDEWERT: Mr. Examiner, I move the  
18 admission into evidence of Encana Exhibits 6 through 10.

19 EXAMINER BROOKS: Six through 10 are  
20 admitted.

21 (Exhibits 6 through 10 were admitted.)

22 MR. FELDEWERT: That concludes my  
23 examination of this witness.

24 EXAMINER BROOKS: Mr. Bruce?

25 MR. BRUCE: Just a few questions.

## CROSS-EXAMINATION

1

2 BY MR. BRUCE:

3 Q. Mr. Sommer, in looking at your Exhibit 6, why  
4 does the unitized zone, unitized formation, commence 100  
5 feet below the base of the Mancos Shale, rather than at  
6 the top of the Mancos Shale?

7 A. Well, all geologists will likely not make that  
8 formation top interpretation the same way. It's a  
9 conformable rock sequence, where you're going from a near  
10 shore marine sandstone down into shalier and shalier  
11 rocks, so it's kind of a gradational contact. So you  
12 have to pick some sort of criteria to place that top. We  
13 just wanted to give a 100-foot buffer to allow for  
14 potential different interpretations there.

15 Q. If you turn to your Exhibit 8 -- and I don't  
16 know if you have this data handy. But just looking at  
17 the vertical wells inside the unit area, the vertical  
18 Gallup wells, what type of -- what were the cums on these  
19 wells?

20 A. So a lot of them are commingled Gallup and  
21 Dakota wells. We see oil cumulative production from  
22 anywhere approximately perhaps 10,000 to 30,000 barrels.  
23 Most of the wells have been on line for decades, and  
24 essentially what they cum is probably very close to their  
25 ultimate recovery.

1           On the gas side, you're probably looking at  
2 maybe a quarter bcf to three-quarters of a bcf. There  
3 could be a fairly wide range on the variability on the  
4 gas cums. They've been produced and completed in  
5 different ways, so there's variability due to that.

6           Q.     The initial unit well, why is it being drilled  
7 at about -- why is it not being drilled as a stand-up or  
8 lay-down? Why is it at the angle?

9           A.     Sure. We try to orient wells perpendicular to  
10 the maximum horizontal stress field in the basin to allow  
11 for the hydraulic fracture stimulations to achieve  
12 maximum length from the wellbore to maximize the  
13 stimulated rock volume. And we've observed the maximum  
14 horizontal stress in the Gallup to be at approximately  
15 north 45, north 50 degrees to azimuth.

16          Q.     At this time, are there any plans to drill  
17 wells outside of the Gallup, your initial target zone?

18          A.     At this time, no.

19                   MR. BRUCE: That's all I have,  
20 Mr. Examiner.

21                                   EXAMINATION

22 BY EXAMINER BROOKS:

23          Q.     I've heard several geologists testify here  
24 about the Mancos play. And there seems to be a view  
25 among many of them that -- well, the statement has been

1 categorically made from the witness stand that the Gallup  
2 formation is not present in the productive part of the  
3 San Juan Basin.

4           And my belief is that that is more a  
5 difference of opinion about what is properly called the  
6 Gallup than it is a difference of opinion about what  
7 geologic strata actually exist.

8           If you were one of those geologists, what name  
9 would you use?

10          A.     I would probably call the sandstones -- I use  
11 the term, "Gallup," because that's what it's been  
12 traditionally known as to not create confusion. I agree  
13 it's probably misnamed.

14           The sandstones are more genetically related to  
15 the Mancos Shale that was deposited in the ocean at that  
16 time, as opposed to the beach sand, which is the Gallup.

17           There are other names that have been given to  
18 individual sands, such as Tocito, the Alvarado. We use  
19 those names to discriminate the Lower and the Upper  
20 Gallup, respectively.

21          Q.     Those would be within the area that you have  
22 designated on your cross-sections, this Gallup --

23          A.     Correct. The classic Tocito sand, really, the  
24 type logs and where that was established is further to  
25 the west. But we have sands that are time equivalent, so

1 we would call it the Tocito interval, not the actual  
2 individual Tocito sandstones.

3 EXAMINER BROOKS: Thank you.

4 Mr. Ezeanyim?

5 EXAMINER EZEANYIM: No questions.

6 EXAMINER BROOKS: Mr. Goetze?

7 EXAMINER GOETZE: I do have one request,  
8 that we get the API number for your type section well.

9 THE WITNESS: I looked at that last night.  
10 It's 30, I believe, 04320468. I can confirm that.

11 MR. FELDEWERT: Hold on a minute. I know  
12 I wrote that down someplace.

13 THE WITNESS: I apologize for not  
14 including that, especially since there's two Gallo Canyon  
15 Number 1 wells.

16 EXAMINER GOETZE: Yeah, it's confusing.  
17 And also you're making a petition, so it would be nice to  
18 have it on the record.

19 MR. FELDEWERT: It's 3004320684.

20 EXAMINER GOETZE: No further questions.

21 EXAMINER BROOKS: Anything further?

22 MR. BRUCE: No, sir.

23 MR. FELDEWERT: No, Mr. Examiner.

24 EXAMINER BROOKS: Very good. The witness  
25 may stand down. Case 14987 will be taken under

1 advisement.

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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. 14987, heard by me on 5-16-13.  
David K. Burt, Examiner  
Oil Conservation Division

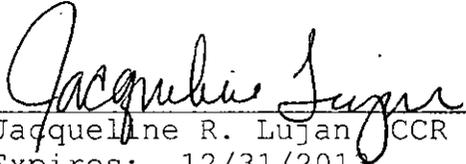
## REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO  
HEREBY CERTIFY that on May 16, 2013, 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 29th day of May, 2013.

  
Jacqueline R. Lujan CCR #91  
Expires: 12/31/2013