

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:)

CASE NO. 13,653

APPLICATION OF BP AMERICA PRODUCTION)
COMPANY FOR COMPULSORY POOLING AND)
DOWNHOLE COMMINGLING, SAN JUAN COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

March 16th, 2006

Santa Fe, New Mexico

2006 MAR 30 AM 9 31

WVJ 3/30/06

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, March 16th, 2006, 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.

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 Examiner Hearing
 CASE NO. 13,653

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A P P E A R A N C E S

FOR THE DIVISION:

TED APODACA
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FOR THE APPLICANT:

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P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 8:44 a.m.:

3 EXAMINER JONES: Okay, at this time let's call
4 Case 13,653, Application of BP America Production Company
5 for compulsory pooling and downhole commingling, San Juan
6 County, New Mexico.

7 Call for appearances.

8 MR. CARR: May it please the Examiner, my name is
9 William F. Carr with the Santa Fe office of Holland and
10 Hart, L.L.P. We represent BP America Production Company in
11 this matter, and I have one witness.

12 EXAMINER JONES: Any other appearances?
13 Will the witness please stand to be sworn?
14 (Thereupon, the witness was sworn.)

15 MR. CARR: May it please the Examiner, at the
16 beginning I have a brief statement I'd like to make. I
17 think it would be helpful to tell you why we're here and
18 what we're doing --

19 EXAMINER JONES: Okay.

20 MR. CARR: -- so you don't have to guess as we
21 move into this.

22 BP is here today seeking an order pooling a
23 standard spacing unit for the development of both the
24 Basin-Dakota Pool and the Blanco-Mesaverde Pool. This will
25 be the first Dakota well, it will be the third -- or the

1 fourth, actually, Mesaverde well on the spacing unit. They
2 also plan to commingle production in the wellbore. The
3 pools, Basin-Dakota and Blanco-Mesaverde, are pre-approved
4 pools for commingling pursuant to Rule 303.

5 We're going to be asking you to enter an order
6 that initially today would affect approximately 2 1/2
7 percent of the working interest, although as you'll see, we
8 believe we are going to reach agreements with a couple of
9 outstanding interest owners. And so we're really here to
10 pool less than one half of one percent.

11 And there's an odd history on this property as we
12 go back over time. There was a -- what was called a joint
13 operating agreement for the west half entered in 1953. It
14 was for the drilling of a single Mesaverde well, it covered
15 only one well. It was silent completely on any additional
16 development requirements, it doesn't address it. And
17 there's no provision in that agreement that would either
18 help you figure out how to develop the property in the
19 future or would prevent it.

20 Since that time, two additional wells have been
21 drilled, not under that joint operating agreement. An AFE
22 was circulated and the wells were drilled, and they have
23 100 percent of that interest signed.

24 BP now is proposing to put the third infill well,
25 the fourth infill well, on the Mesaverde. And there are

1 some interest owners who -- three interest owners, small,
2 individual interest owners, who now, after the passage of
3 all this time were -- they will receive their mail, but
4 we've been unable to find them to talk to them, and they
5 haven't signed on.

6 And so we're here today seeking an order pooling
7 the Dakota. It's a new formation. We're seeking an order
8 pooling the Mesaverde.

9 Nothing that we're asking conflicts with that
10 prior agreement. But even if it did, under the pooling
11 provisions in Section 72-17.E, that statute provides that
12 operators may agree on a plan of development. But if it
13 causes waste, following a hearing the Division may modify
14 that plan. We're just trying to be sure that all the t's
15 are crossed, all the i's are dotted.

16 And so with Mr. Hood, we will review and treat
17 this as a standard pooling application for those two
18 horizons. That way at the end we'll definitely have all
19 interests committed, and we think it's consistent both with
20 the agreements and with the statute.

21 Okay?

22 EXAMINER JONES: Thank you for doing that.

23 MR. CARR: Because if not, when we started trying
24 to figure out how to explain this, you kind of get halfway
25 into it and then it sort of breaks down.

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MATT HOOD,

the witness herein, after having been first duly sworn upon
his oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CARR:

Q. Would you state your name for the record, please?

A. Matt Hood.

Q. Mr. Hood, where do you reside?

A. Houston, Texas.

Q. And by whom are you employed?

A. BP.

Q. What is your current position with BP Production
Company?

A. Landman.

Q. Have you previously testified before the New
Mexico Oil Conservation Division?

A. No.

Q. Could you review your educational background for
the Examiner?

A. I received a degree from the University of
Oklahoma in energy management and finance in December of
'04.

Q. And since December of '04, have you been working
with BP?

A. Yes.

1 Q. Does your area of responsibility include this
2 portion of San Juan County, the portion that's the subject
3 of today's hearing?

4 A. Yes.

5 Q. Are you familiar with the Application filed in
6 this case on behalf of BP?

7 A. Yes.

8 Q. Are you familiar with the status of the lands in
9 the subject area?

10 A. Yes.

11 Q. In fact, you're the land person who's responsible
12 for putting this spacing unit together for the drilling of
13 this well; is that correct?

14 A. Yes.

15 MR. CARR: We tender Mr. Hood as an expert
16 witness in petroleum land matters.

17 EXAMINER JONES: Mr. Hood is qualified as an
18 expert petroleum land manager.

19 Q. (By Mr. Carr) Would you briefly state what it is
20 that BP seeks with this Application?

21 A. BP seeks an order pooling all mineral interests
22 from the surface to the base of the Dakota formation, to an
23 approximate depth of 7432 feet in the following described
24 spacing and proration units located in the west half of
25 Section 32, Township 31 North, Range 10 West, San Juan

1 County, New Mexico:

2 Also the west half for all formations and pools
3 developed on 320-acre spacing, which includes the Blanco-
4 Mesaverde Gas Pool and the Basin-Dakota Gas Pool, and the
5 southwest quarter for all formations and pools developed on
6 160-acre spacing.

7 Q. To what well will you dedicate this spacing unit?

8 A. This will be dedicated to EPNG Com B LS Well
9 Number 3M.

10 Q. And this will be the fourth Mesaverde well on the
11 spacing unit?

12 A. Correct.

13 Q. What is the location of the well?

14 A. This well will be drilled at a standard gas well
15 location 2150 feet from the south line and 725 feet from
16 the west line of Section 32.

17 Q. And this is a standard location?

18 A. Yes.

19 Q. BP also plans to commingle production in the
20 well?

21 A. Yes, they plan to commingle production from the
22 Blanco-Mesaverde Gas Pool and the Basin-Dakota Gas Pool in
23 the wellbore of the EPNG Com B LS Well Number 3M.

24 Q. And have these pools been pre-approved for
25 downhole commingling?

1 A. Yes, Rule 303.C authorizes downhole commingling
2 of production from the Blanco-Mesaverde and the Basin-
3 Dakota Gas Pools.

4 Q. And will BP file a Sundry Notice Form C-103 with
5 the Aztec Office to effect this, as required by Division
6 Rule?

7 A. Yes.

8 Q. All right, Mr. Hood, let's go to what's been
9 marked as Exhibit Number 1. Would you identify that --
10 this exhibit, for Mr. Jones?

11 A. Exhibit Number 1 is a land map of the area. It
12 identifies the west half of the spacing unit of Section 32,
13 Township 31 North, Range 10 West, San Juan County, New
14 Mexico. It also shows the proposed well location.

15 Q. It shows other wells in the area?

16 A. Yes.

17 Q. And the four -- This will be the fourth Mesaverde
18 well, and it shows those other wells in the west half of
19 Section 32?

20 A. Yes.

21 Q. What is actually the primary zone here?

22 A. The primary zone is the Mesaverde formation, but
23 the Dakota is just as important for the success of the
24 well.

25 Q. Let's go to Exhibit Number 2. Would you identify

1 this, please?

2 A. Exhibit Number 2 shows the partners participating
3 and not participating and the working interests applied to
4 each.

5 Q. And so what we have at the top of the page are a
6 list of partners who have voluntarily committed to
7 participate with you in the drilling of this well?

8 A. Yes.

9 Q. And what is the total working interest that they
10 actually control?

11 A. 97.226173 percent.

12 Q. Now at the bottom of the exhibit we have a list
13 of individuals who are not participating in the well. What
14 is the status of the commitment of the Energen and Westport
15 working interests?

16 A. We're currently in negotiations with Energen and
17 Westport, and we feel like we'll reach an agreement soon
18 with them that they'll participate in the well and sign the
19 JOA.

20 Q. When and if you reach an agreement with Energen
21 and Westport, will you advise the Division that that
22 agreement has been reached?

23 A. Yes.

24 Q. In fact, the only real issue in getting their
25 interests committed is that their interests come out of a

1 common source, and they're trying to resolve exactly what
2 percentage each of the two of them own --

3 A. Correct.

4 Q. Is that right?

5 A. Yes.

6 Q. Now we have three individuals who -- actually, we
7 have four individuals that we've been unable to reach; is
8 that correct?

9 A. Correct.

10 Q. Marcia Berger, WWR Enterprises, Cyrene Inman, and
11 Pennies from Heaven, LLC; is that correct?

12 A. Yes, it is.

13 Q. Would you explain what you've done to try and
14 identify those interest owners?

15 A. We sent out the initial proposal and received the
16 return receipt that they actually received the mail at the
17 address.

18 Then I looked up on the Internet to try and find
19 phone numbers to call, was not able to contact them. I
20 called directory assistance in the towns where their
21 address is and was not able to find -- be able to contact
22 them?

23 Q. Mr. Hood, you did get return receipts back from
24 certified mailing; is that correct?

25 A. Yes, I did.

1 Q. And when you were able to get a phone number and
2 you were able to get an answer, you discovered those were
3 incorrect numbers; is that right?

4 A. Yes.

5 Q. Is BP Exhibit Number 3 again a list of the total
6 working interests, showing the percentage in both the
7 Mesaverde and Dakota formations?

8 A. Yes.

9 Q. When did you first contact these individuals,
10 trying to reach a voluntary agreement?

11 A. I sent out a proposal letter on December 28th of
12 2005.

13 Q. And we've talked about the parties who still are
14 not committed. Is Exhibit Number 4 a copy of the December
15 29th, 2005, certified letter advising the interest owners
16 shown on Exhibit Number 4 --

17 A. Yes, it is.

18 Q. -- of the pending hearing?

19 A. Yes.

20 Q. And behind that is a copy of the AFE that was
21 provided to those parties at that time?

22 A. Yes.

23 Q. And return receipts are also enclosed for the
24 parties?

25 A. Yes.

1 Q. The last page of Exhibit 4, would you turn to
2 that, please? And what is this?

3 A. It is a correspondence log which summarizes my
4 efforts to contact the parties in question.

5 Q. And each of the parties who have not voluntarily
6 committed, you have identified and indicated what efforts
7 you made to individually locate and contact those persons;
8 is that right?

9 A. Yes.

10 Q. What is Exhibit Number 5?

11 A. Exhibit Number 5 is the AFE.

12 Q. And could you review the costs set forth on that
13 AFE?

14 A. Yes, the dryhole costs for the well are \$534,000
15 and the completed well costs are \$1,087,650.

16 Q. Are these costs in line with what's charged by BP
17 and other operators for similar wells in the area?

18 A. Yes.

19 Q. Have these costs been accepted by other partners
20 in this well who are joining in the well?

21 A. Yes.

22 Q. What is Exhibit Number 6?

23 A. It is the COPAS -- the joint accounting
24 procedures for the well.

25 Q. Do these COPAS accounting procedures provide --

1 for joint operations, provide for periodic adjustment of
2 the overhead and accounting charges?

3 A. Yes.

4 Q. And does BP request that the overhead and
5 administrative costs set by this order also be adjusted i
6 accordance with these COPAS procedures?

7 A. Yes.

8 Q. Has BP made an estimate of the overhead and
9 administrative costs while drilling the well and also while
10 producing it, if it is successful?

11 A. Yes.

12 Q. And what are those figures?

13 A. They are \$5000 and \$599 a month.

14 Q. And how do these figures compare with other
15 figures used in the area?

16 A. They're consistently used throughout the Basin,
17 and they're agreed to by the partners, Burlington and
18 Conoco.

19 Q. And so those who have agreed to participate in
20 the well have accepted these figures?

21 A. Yes.

22 Q. So by contract they would cover over 90 percent
23 -- or 95 percent of the interests at this time; is that
24 right?

25 A. That is right.

1 Q. Do you request that these figures be incorporated
2 into the order that results from today's hearing?

3 A. Yes.

4 Q. Does BP request that the 200-percent charge for
5 risk that is authorized by the Oil and Gas Act be imposed
6 upon any interests not voluntarily committed to the well?

7 A. Yes.

8 Q. Does BP America Production Company seek to be
9 designated operator of the well?

10 A. Yes.

11 Q. What would BP do with any funds that are, after
12 the risk charges are recovered, attributable to the pooled
13 interests? Will they be escrowed?

14 A. Yes.

15 Q. And whereabouts will they be escrowed? In the
16 county where the property is located?

17 A. Yes.

18 Q. What is Exhibit Number 7? Is this an affidavit?

19 A. It is an affidavit with the attached letters of
20 notice of the hearing.

21 Q. In your opinion, have you made a good faith
22 effort to locate and notify all affected parties of both
23 the Application and the hearing?

24 A. Yes.

25 Q. In your opinion, will granting the Application be

1 in the best interests of conservation, the prevention of
2 waste and the protection of correlative rights?

3 A. Yes.

4 Q. How soon does BP propose to commence the drilling
5 of this well?

6 A. Our drilling schedule is an influx [sic], but we
7 expect to drill it as soon as the end of May.

8 Q. Were Exhibits 1 through 7 either prepared by you
9 or compiled under your direction?

10 A. Yes.

11 MR. CARR: May it please the Examiner, at this
12 time we'd move the admission into evidence of BP Exhibits 1
13 through 7.

14 EXAMINER JONES: Okay, BP Exhibits 1 through 7
15 will be admitted to evidence.

16 MR. CARR: That concludes my direct examination
17 of Mr. Hood.

18 EXAMINATION

19 BY EXAMINER JONES:

20 Q. Mr. Hood, as far as the overhead rates, did you
21 say \$5000, \$500?

22 A. I said \$5000 and then \$599 for the --

23 Q. \$599?

24 A. Right.

25 Q. I do want to round that up --

1 A. No problem.

2 Q. -- to \$600.

3 MR. CARR: And Mr. Jones, they're also set out in
4 the COPAS form that is --

5 EXAMINER JONES: Okay.

6 MR. CARR: -- attached as Exhibit -- or included
7 as Exhibit 6.

8 Q. (By Examiner Jones) Okay. The AFE is -- Can I
9 get you to explain that me real quick? I think it's --
10 Let's see here. And let me know if that's the AFE that you
11 sent to Energen and Westport and attempted to send to these
12 other people?

13 A. Yes, it is.

14 Q. Okay. How do you get the completed well costs
15 from -- I see your dryhole costs, here, but your completed
16 well costs, I don't see the extra half a million listed
17 here. Is it -- you can't all those up to \$1,087,000, can
18 you?

19 MR. CARR: Mr. Hood, was this the -- This was the
20 AFE that was submitted to the other partners?

21 THE WITNESS: Yes, it was.

22 MR. CARR: And this is the AFE that was accepted
23 by the other partners?

24 THE WITNESS: Yes, it was.

25 EXAMINER JONES: So they've already accepted it?

1 MR. CARR: Everyone except these last 2-1/2-
2 percent interest owners.

3 Q. (By Examiner Jones) Who you can't locate?

4 A. Correct.

5 Q. Okay. So you don't anticipate a dispute about
6 well costs on this case?

7 A. No.

8 MR. CARR: And in fact, they will be charged
9 based on actual cost, once the well has been drilled; isn't
10 that true?

11 THE WITNESS: That's true.

12 Q. (By Examiner Jones) Okay. We do have something
13 coming back to hearing, disputed well costs in a compulsory
14 pooling case, so you focused me right in on -- this time.
15 But I guess Energen and Westport are just taking their time
16 accountingwise to figure out --

17 A. Right, and that's -- should be resolved fairly
18 soon.

19 Q. Okay, you're going to go ahead and pool the
20 southwest quarter also for any southwest production that
21 would occur in the future?

22 MR. CARR: We're going to be drilling a well
23 through that zone, and it will be at a standard location.
24 And if we should encounter something that's a bit developed
25 on 160, there would be a -- it wouldn't be all owned by BP,

1 and we would like to have the protection of a pooling
2 order.

3 Q. (By Examiner Jones) Okay, and so it's possible
4 the PC or the Fruitland -- well, the Fruitland would be
5 320. The Fruitland, you didn't want to be named here at
6 all in this 320 west-half spacing unit?

7 A. (Nods)

8 EXAMINER JONES: Okay.

9 MR. CARR: What we did is, we asked for pooling
10 of -- the objective is the Mesaverde and the Dakota. We
11 asked for pooling of all formations developed on 320,
12 including those, so --

13 EXAMINER JONES: Okay, so it would pool --

14 MR. CARR: It would cover that, although --

15 EXAMINER JONES: It would pool everything,
16 basically.

17 The -- You might not know this, but just let me
18 know if you don't. The Mesaverde -- is it the Point
19 Lookout that is the productive horizon, the bottom part of
20 the Mesaverde?

21 A. I'm not -- don't know the answer to that
22 question.

23 EXAMINER JONES: That's okay. Let's see. That's
24 about it. I think we're pretty much done with our
25 questions, Mr. Root. Thank you very much.

1 MR. CARR: And that concludes our presentation in
2 this case.

3 EXAMINER JONES: Thank you, Mr. Carr.

4 We'll take Case 13,653 under advisement.

5 (Thereupon, these proceedings were concluded at
6 9:02 a.m.)

7 * * *

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11 I do hereby certify that the foregoing is
12 a complete record of the proceedings in
13 the Examiner hearing of Case No. _____
14 heard by me on _____
15 _____, Examiner
16 Oil Conservation Division
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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 March 19th, 2006.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006