

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. 14,032

APPLICATION OF SYNERGY OPERATING, LLC,)
FOR COMPULSORY POOLING, SAN JUAN COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner
DAVID K. BROOKS, Jr., Legal Examiner

December 13th, 2007

Santa Fe, New Mexico

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This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Technical Examiner, DAVID K. BROOKS, Jr., Legal Examiner, on Thursday, December 13th, 2007, 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

December 13th, 2007
 Examiner Hearing
 CASE NO. 14,032

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<u>PATRICK HEGARTY</u> (Landman)	
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* * *

A P P E A R A N C E S

FOR THE DIVISION:

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FOR THE APPLICANT:

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* * *

1 WHEREUPON, the following proceedings were had at
2 10:41 a.m.:

3 EXAMINER EZEANYIM: Let's go now to Case Number
4 14,032. This case was continued from the November 29,
5 2007, Examiner Hearing, and this is the Application of
6 Synergy Operating, LLC, for compulsory pooling, San Juan
7 County, New Mexico.

8 Call for appearances.

9 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
10 representing the Applicant. I have one witness.

11 EXAMINER EZEANYIM: Any other appearances?

12 May the witness stand up to be sworn, please.

13 (Thereupon, the witness was sworn.)

14 EXAMINER EZEANYIM: Mr. Bruce?

15 MR. BRUCE: Just a second here, Mr. Examiner.

16 PATRICK HEGARTY,

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

19 DIRECT EXAMINATION

20 BY MR. BRUCE:

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

22 A. Patrick Hegarty.

23 Q. Where do you reside?

24 A. Aztec, New Mexico.

25 Q. What is your relationship to Synergy Operating?

1 A. I'm a principal with Synergy Operating.

2 Q. And by profession are you a petroleum landman?

3 A. Yes.

4 Q. Have you previously testified before the
5 Division?

6 A. Yes.

7 Q. And were your credentials as an expert landman
8 accepted as a matter of record?

9 A. Yes.

10 Q. And are you familiar with the land matters
11 involved in this Application?

12 A. Yes.

13 MR. BRUCE: Mr. Examiner, I'd tender Mr. Hegarty
14 as an expert petroleum landman.

15 EXAMINER EZEANYIM: Mr. Hegarty is so qualified.

16 Q. (By Mr. Bruce) Mr. Hegarty, could you identify
17 Exhibit 1 for the Examiner and describe what you seek in
18 this case?

19 A. Exhibit 1 contains a lease plat of the south half
20 of Section 10 in 29 North, Range 12 West, and we seek to
21 drill the Beck 29-12-10 Number 108 well, which will be a
22 Fruitland Coal and a Pictured Cliffs well.

23 Q. So you seek to force pool the south half for the
24 Fruitland Coal, and then the southwest quarter for any
25 zones spaced on 160 acres?

1 A. That's correct.

2 Q. What is the working interest ownership in the
3 well unit?

4 A. Below the lease plat we have a listing of the
5 working interest owners and their acreage contributions and
6 percentages as they relate to the Fruitland Coal proration
7 unit, being the south half, and the Pictured Cliffs
8 proration unit, being the southeast quarter of Section 10
9 of 29 North, Range 12 West.

10 Q. Which parties listed on this exhibit do you seek
11 to pool?

12 A. Those parties with an asterisk next to the name
13 have not replied to our written responses or they are
14 unlocatable, and those interests are Barbara R.S. Gates
15 Estate, William Stine, Executor; Ted M. White; Judith
16 Chandler and/or Lewis Chandler, individually and as
17 trustees of the R. Lewis Chandler Trust; and BP America
18 Production Company.

19 Q. Okay. Now let's discuss your efforts to obtain
20 the voluntary joinder of these parties. What is Exhibit 2?

21 A. Exhibit 2 is a compilation of invitations to
22 participate in the drilling of this well, and in which we
23 identified the location, provided cost detail, and I gave
24 them a number of options in which they could partake in the
25 production of this well.

1 Q. And so Exhibit --

2 A. And those are just copies of the letters that we
3 sent to those parties.

4 Q. Okay, so Barbara Gates -- I mean, excuse me, BP,
5 the Gates Estate, and the Chandlers --

6 A. And Ted M. White.

7 Q. And as you said, Ted M. White was unlocatable?

8 A. Yes, as well as the Judith E. Chandler and Lewis
9 Chandler, individually and then trustees of the R. Lewis
10 Chandler Trust.

11 Q. What records did you -- did Synergy check in
12 order to determine the location of -- or to try to
13 determine the location of these people?

14 A. The county records were the basis of which we --
15 the main record we searched from the records that were
16 recorded that identified the ownership of the interests of
17 these various entities. We located addresses, we took
18 those addresses and sent out letters.

19 If they were returned, then we did a search of
20 the Internet and basically Google search, white pages
21 search, and then we would call the towns where these
22 individuals -- where their last known address was, and we
23 would also conduct a check of the phone records.

24 Q. In your opinion, did you make a good faith effort
25 to search all the proper records to determine the addresses

1 of all of the working interest owners?

2 A. Yes, we did.

3 Q. And you said the Chandlers and Mr. White were
4 unlocatable?

5 A. That's correct.

6 Q. Now when I sent out notice I did send notice to a
7 law firm, Pace and Pace, LLP. Why was that?

8 A. We found -- with the Google search we found that
9 Pace and Pace had done some title -- or some estate work,
10 and we found a connection, so we sent the paperwork to that
11 law firm, and --

12 Q. Did you ever receive any response?

13 A. I did receive some e-mail responses, and the
14 attorney wanted additional information, and we sent it.
15 But we asked for an address -- you know, we asked for an
16 interest -- or for any information in regards to an address
17 for these people, and we never received it. So we're not
18 sure if he's actually representing them or if he's
19 compiling information in anticipation of representing them.

20 We think he is representing them, but we just
21 don't know for sure, and we have no -- under your
22 guidelines, it's -- you know, we have to consider them
23 nonlocatable, because we don't have an address for them.

24 Q. And in your opinion did you make a good faith
25 effort to obtain the voluntary joinder of all the working

1 interest owners in these well units?

2 A. Yes, we did.

3 Q. Would you identify Exhibit 3 and discuss the cost
4 of the proposed well?

5 A. The cost of the proposed well is to drill,
6 complete and equip an 1800-foot Fruitland Coal and Pictured
7 Cliffs test well. The cost estimate is broken out in
8 detail as to what those costs are, and it breaks out to a
9 total estimated cost of \$442,000.

10 Q. And is this cost in line with the cost of other
11 wells drilled to this depth in this area of New Mexico?

12 A. Yes, it is.

13 Q. And Synergy does operate -- has drilled and does
14 operate dozens of Fruitland Coal and/or Pictured Cliffs
15 wells in San Juan County, has it not?

16 A. That's correct.

17 Q. And so your engineers have a good handle on the
18 costs of drilling these wells?

19 A. Yes, they do.

20 Q. Do you request that Synergy be designated
21 operator of the well?

22 A. Yes, we do.

23 Q. And do you have a recommendation for the amounts
24 which the operator should be paid for supervision and
25 administrative expenses?

1 A. Yes --

2 Q. And --

3 A. -- that amount is \$5000 for the drilling and \$500
4 per month for the producing.

5 Q. And are these amounts equivalent to those
6 normally charged by operators in this area for wells of
7 this depth?

8 A. Yes, this is the -- those are the amounts that
9 Burlington Resources agreed to in the operating agreement
10 that they signed.

11 Q. Do you request that this rate be adjusted
12 periodically as provided by the COPAS accounting procedure?

13 A. Yes, we do.

14 Q. And do you request the maximum cost-plus-200-
15 percent risk charge be assessed against any nonconsenting
16 interest owners?

17 A. Yes.

18 Q. Were the parties who have not yet joined in the
19 well notified to the extent possible by certified mail?

20 A. Yes.

21 Q. And is that reflected in Exhibit 4?

22 A. It was either certified mail or Fedex, and that
23 is reflected, and we have track and confirms.

24 Q. Those were -- That's where you sent proposal
25 letters?

1 A. Yes.

2 Q. Yeah. No, but I mean notice of this hearing was
3 sent as shown on Exhibit 4, was it not?

4 A. Yes.

5 Q. The only thing to note on this, Mr. Examiner, is,
6 I notified a bunch of people who are not being pooled by
7 certified mail. I notified seven persons of whom only two
8 of them, BP Production Company and the Chandler care of the
9 Pace and Pace law firm in Dallas.

10 And the others, Mr. Hegarty, Synergy has come to
11 terms with, have they not?

12 A. Yes.

13 Q. And did you publish notice in the local newspaper
14 giving notice to Mr. White and to the Chandlers?

15 A. Yes, we did.

16 Q. And is that affidavit of publication submitted as
17 Exhibit 5?

18 A. Yes, it is.

19 Q. Were Exhibits 1 through 5 prepared by you or
20 under your supervision, or compiled from company business
21 records?

22 A. Yes.

23 Q. And in your opinion is the granting of this
24 Application in the interests of conservation and the
25 prevention of waste?

1 A. Yes, it is.

2 MR. BRUCE: Mr. Examiner, I'd move the admission
3 of Exhibits 1 through 5.

4 EXAMINER EZEANYIM: Exhibits 1 through 5 will be
5 admitted.

6 MR. BRUCE: I have no further questions of the
7 witness, Mr. Examiner.

8 EXAMINER EZEANYIM: Mr. Brooks?

9 EXAMINATION

10 BY EXAMINER BROOKS:

11 Q. Okay, you said -- let's see, you've got the
12 Chandlers and Ted White on your -- Those were the only two
13 unlocatable parties?

14 A. Yes.

15 Q. And on your affidavit of notice -- Barbara Gates
16 on here somewhere?

17 MR. BRUCE: Well, Mr. Examiner, I just noticed
18 that.

19 Q. (By Examiner Brooks) Barbara Gates Estate.
20 Would it be William Stine?

21 A. Yeah, it would be William Stine. He's the
22 trustee.

23 EXAMINER BROOKS: Let's see if he's -- Let's see
24 if I find him here. Yeah, George W. Stine, Executor of
25 Barbara Gates Estate. That was sent to Colorado Springs,

1 Colorado, and signed for by Jean Hunsicker.

2 Okay, thank you. That's all.

3 EXAMINER EZEANYIM: Anything further, Mr. Bruce?

4 MR. BRUCE: I have nothing further, Mr. Examiner.

5 EXAMINATION

6 BY EXAMINER EZEANYIM:

7 Q. Okay, this is just my -- it's not to be in the
8 record.

9 You know, you say you are the principal. Are you
10 the president or the chairman of the board? What -- you
11 know, what is "principal"?

12 A. I am one of three partners that own the company.

13 Q. Oh, okay.

14 A. And so we have one partner that handles the
15 engineering operations, and then we have another partner
16 that handles the engineering reservoir, you know,
17 management, and then I handle the finance, the legal and
18 the land.

19 Q. Okay.

20 A. But we're all principals, that's --

21 Q. Yeah.

22 A. That's what the state designated us when we did
23 our limited partnership.

24 Q. Okay, I mean it's just -- it's not -- it's not to
25 be -- but I just wanted to understand.

1 A. Sure, yeah. Well, maybe I shouldn't use that. I
2 mean, that's -- legally, that's what they called it, so I
3 figured that's what I should probably --

4 Q. Okay.

5 A. -- refer to myself as.

6 Q. But actually you are a land person?

7 A. Yeah, yeah.

8 Q. And this well is not yet drilled? The well is
9 not yet drilled, right?

10 A. No.

11 Q. Okay, and is it in a standard location you're
12 going to drill this?

13 A. Yes.

14 Q. And which order -- because this is in the -- the
15 order that you looked at, that -- the standard location.
16 It's not statewide rule, right? That -- that's an order
17 that -- There must be an order that, you know, we are going
18 to deal with on this 320. This is a 320, right?

19 MR. BRUCE: You mean which pool it's going to --

20 EXAMINER EZEANYIM: Yeah, pool rules, yeah.

21 MR. BRUCE: Mr. Examiner, it is the --

22 EXAMINER EZEANYIM: I mean, I --

23 MR. BRUCE: I've got it here.

24 EXAMINER EZEANYIM: -- I just want to know the --

25 MR. BRUCE: The Fulcher, F-u-l- --

1 EXAMINER EZEANYIM: Yeah.

2 MR. BRUCE: -- c-h-e-r --

3 EXAMINER EZEANYIM: Yeah.

4 MR. BRUCE: -- Kutz --

5 EXAMINER EZEANYIM: Yeah.

6 MR. BRUCE: -- Pictured Cliffs Gas Pool, which is
7 -- which is spaced on statewide rules, 160-acre spacing for
8 the --

9 EXAMINER EZEANYIM: Okay --

10 MR. BRUCE: -- for the Pictured Cliffs.

11 EXAMINER EZEANYIM: Okay, do you have the order
12 number that --

13 MR. BRUCE: I'll get it for you this afternoon.

14 Q. (By Examiner Ezeanyim) Okay. That will be
15 helpful. So in accordance with that order number, the
16 location is standard. What is the location? Do you have
17 the physical location of the well?

18 A. It is -- Yes, we do.

19 Q. Since we don't have the APD --

20 A. Let's see, it is in letter -- it looks like it's
21 in letter N.

22 Q. Okay.

23 A. That should be the southeast of the southwest.

24 Q. Yeah, but do you have the physical footage
25 location?

1 A. You know, I don't have the APD with me, but I can
2 get you those -- that -- Do you want me to just send you a
3 copy of the APD?

4 Q. Oh, you have the APD already?

5 A. Yeah --

6 Q. Oh, you have --

7 A. -- we have an approved APD.

8 Q. Oh, okay, but it's not in this package?

9 A. No.

10 Q. Okay.

11 A. You know, if we need to submit that, we can
12 certainly do that.

13 Q. Okay. Otherwise it's a notice -- a location --

14 A. Yeah, I can -- it's -- I can give you the exact
15 footages. As a matter of fact, I can call the office right
16 now and get you those exact footages.

17 Q. Okay, yeah, I would like to have that, yeah,
18 because the order number is --

19 A. Do you want me to do that?

20 Q. Yes. Not now, I mean --

21 MR. BRUCE: We'll call after the hearing, and
22 when I submit the pool rule info to you I will give you
23 the --

24 EXAMINER EZEANYIM: Okay.

25 MR. BRUCE: -- the footage location.

1 THE WITNESS: Okay.

2 EXAMINER EZEANYIM: Okay, very good.

3 MR. BRUCE: Along that line, Mr. Examiner, I
4 noticed there is one typo on Exhibit 1.

5 EXAMINER EZEANYIM: One typo?

6 MR. BRUCE: On Exhibit 1 --

7 EXAMINER EZEANYIM: Okay.

8 MR. BRUCE: -- when it gives -- the Pictured
9 Cliffs proration unit should be the southwest quarter, not
10 the southeast quarter.

11 EXAMINER EZEANYIM: Oh.

12 THE WITNESS: Oh, mine says southwest.

13 EXAMINER BROOKS: It says southwest quarter at
14 the top, but it says the southeast quarter down at the
15 bottom.

16 MR. BRUCE: Yeah, down at the bottom.

17 THE WITNESS: Oh, okay.

18 MR. BRUCE: Yeah. And the Application is --

19 EXAMINER EZEANYIM: So it should be -- it should
20 be southwest quarter.

21 MR. BRUCE: Should be --

22 THE WITNESS: Right --

23 MR. BRUCE: -- southwest quarter.

24 THE WITNESS: -- yeah.

25 MR. BRUCE: The Application and all the other

1 info --

2 EXAMINER EZEANYIM: Yeah, the Application --

3 MR. BRUCE: -- in the exhibit package is correct.

4 EXAMINER EZEANYIM: Yeah, okay.

5 THE WITNESS: Good eye.

6 EXAMINER EZEANYIM: That's all I have.

7 THE WITNESS: Thank you.

8 EXAMINER EZEANYIM: At this point Case Number

9 14,032 will be taken under advisement.

10 And this concludes the hearing today.

11 (Thereupon, these proceedings were concluded at

12 10:59 a.m.)

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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. 14,032
heard by me on 12/13/82


_____, Examiner
Oil Conservation Division

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 9th, 2008.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2010