

TW.  
10-27-08

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

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

APPLICATION OF BURLINGTON RESOURCES      CASE NO. 14188  
OIL & GAS COMPANY LP FOR  
COMPULSORY POOLING  
SAN JUAN COUNTY, NEW MEXICO

AMENDED PRE-HEARING STATEMENT

This amended pre-hearing statement is submitted by Burlington Resources Oil & Gas Company LP as required by the New Mexico Oil Conservation Division.

APPEARANCES OF THE PARTIES

APPLICANT

Burlington Resources Oil & Gas Company  
3535 West 32<sup>nd</sup> Street  
Farmington, NM 87501  
Attn: Alan Alexander  
Phone 505-326-9757

ATTORNEY

W. Thomas Kellahin  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
phone 505-982-4285  
Fax 505-982-2047

OTHER PARTIES

Laurence B. Kelly Living Trust  
("LBK Trust")

ATTORNEY

Peter L. Candy, Esq.  
Hollister & Brace  
P.O. Box 630  
Santa Barbara A 93102  
Phone 805-963-6711  
Fax 805-965-0329

**Kelly Family Trust**  
Gregory Kelly, Trustee  
c/o Steve Coldwell  
Coldwell, Sclafani & Company. CPA  
3239 North Verdugo Road  
Glendale CA 91208-1633  
Ph 818-249-2085  
Fx 818-248-7233  
Email [scoldwell@cscppa.com](mailto:scoldwell@cscppa.com)

## STATEMENT OF THE CASE

### APPLICANT:

Burlington Resources Oil & Gas Company LP. ("Burlington") seeks an order pooling all mineral interests in the Mesaverde formation underlying the E/2 of Section 15, T31N, R10W, NMPM, San Juan County, New Mexico, forming a standard 318.86-acre gas spacing and proration unit for the Mesaverde and Dakota formation spaced on 320-acre spacing.

This unit is to be dedicated to its Kelly A No. 3E well to be drilled and completed at a standard well location as a downhole commingled wellbore for production from Dakota and Mesaverde formations in Unit P of this section. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and, pursuant to Commission Order R-11992, a 200% charge for the risk involved in this well.

Burlington, an affiliate of ConocoPhillips Company, is a working interest owner and the proposed operator for the Kelly A No. 3E well to be dedicated to the E/2 of Section 15, T31N, R10W, San Juan County, New Mexico.

Burlington has proposed to drill, complete and operate the Kelly A No. 3E well to be located in Unit letter P of this section and if productive to downhole commingle Dakota and Mesaverde production.

All of the interest owners in the Dakota formation have agreed to participate in this well, but three owners in the Mesaverde formation have declined: (a) Laurence B Kelly Living Trust (6.25% WI); (b) Kelly Living Trust (3.125% WI); and Kelly Family Trust, Gregory Kelly trustee (3.125% WI)

The subject 318.86-acre spacing unit is located within the Blanco-Mesaverde Gas Pool and the Basin-Dakota Gas Pool.

Burlington despite reasonable effort has been unable to obtain the voluntary agreement of these two interest owners in this spacing unit. Pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Burlington needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.

### **OTHER PARTIES**

(A) Burlington's records show that Laurence B. Kelly Living Trust ("LBK Trust") owns a 6.25% mineral interest in the Mesaverde formation of the spacing unit.

In this pre-hearing statement dated September 24, 2008, LBK Trust has no objection to this case provided that the order incorporates the following items:

(1) As to any working interest owner that elects not to pay its proportionate share of reasonable "well costs" in advance, the sole and exclusive source of recovery of "well costs" and the charge for risk shall be made from the share of production allocable to said non-consenting working interest owner. (Section 19.15.1.35 A.)

(2) Because the LBK Trust holds no ownership interest in the Dakota formation, the LBK Trust, and other working interest owners similarly situated, shall be charged only for those "well costs" associated with the Mesaverde formation, and shall not be charged "well costs" associated with the Dakota formation. (Section 19.15.1.35 A(1).)

(3) Any "well costs" imposed on a non-consenting working interest owner, including any risk charge imposed, shall be consistent with the definition of "well costs" set forth in subsections (1) and (2) of Section 19.15.1.35 A.

(B) In addition, Burlington has been contacted by Peter L. Candy, the accountant for the Kelly Family Trust requesting confirmation that this interest is also intended to be compulsory pooled. Burlington has so confirmed and has amended and re-served its amended application on Kelly Family Trust

**SUMMARY**

It is Burlington's understanding that this wellbore will be downhole commingling in accordance with the Division Rule 303 and the costs allocation between the Mesaverde and Dakota formation such that the "cost common to both zones" will be apportioned and the production attributed to the appropriate formation all of which requires the approval of the Division.

Burlington concludes that there is no objection to this application because the items raised by LBK Trust have historically been parts of either a standard compulsory pooling order or a downhole commingling order.

**PROPOSED EVIDENCE**

**APPLICANT**

<b>WITNESSES</b>	<b>EST. TIME</b>	<b>EST. EXHIBITS</b>
Terry B. Simcoe, CPL (landman)	@ 25 -min.	@ 8

**PROCEDURAL MATTERS**

None

KELLAHIN & KELLAHIN  
  
W. Thomas Kellahin

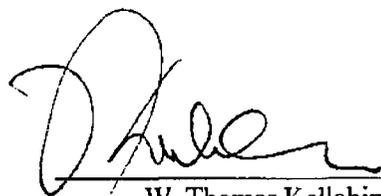
**CERTIFICATION OF SERVICE**

I hereby certify that a copy of this pleading was served upon the following parties and attorneys this 21st day of October 2008, by email

David K. Brooks, Esq.  
Oil Conservation Division  
1220 South St. Francis Drive  
[david.brooks@state.nm.us](mailto:david.brooks@state.nm.us)

Peter L. Candy, Esq.  
Attorney for Laurence B. Kelly Living Trust  
[pcandy@hbsb.com](mailto:pcandy@hbsb.com)

Steve Coldwell,  
CPA for Kelly Family Trust  
[scoldwell@csccpa.com](mailto:scoldwell@csccpa.com)



W. Thomas Kellahin