

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. 13,198

APPLICATION OF LYNX PETROLEUM)
CONSULTANTS, INC., FOR COMPULSORY)
POOLING, EDDY COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

RECEIVED

BEFORE: DAVID R. CATANACH, Hearing Examiner JAN 22 2004

January 8th, 2004

Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, January 8th, 2004, 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.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

I N D E X

January 8th, 2004
Examiner Hearing
CASE NO. 13,198

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* * *

A P P E A R A N C E S

FOR THE APPLICANT:

KELLAHIN & KELLAHIN
117 N. Guadalupe
P.O. Box 2265
Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

* * *

1 WHEREUPON, the following proceedings were had at
2 8:28 a.m.:

3 EXAMINER CATANACH: At this time I'll call Case
4 13,198, the Application of Lynx Petroleum Consultants,
5 Inc., for compulsory pooling, Eddy County, New Mexico.
6 Call for appearances.

7 EXAMINER CATANACH: Good morning.

8 MR. KELLAHIN: Good morning, Mr. Catanach.

9 Mr. Examiner, I'm Tom Kellahin of the Santa Fe
10 law firm of Kellahin and Kellahin, appearing on behalf of
11 the Applicants, and I have one witness to be sworn.

12 EXAMINER CATANACH: Are there any additional
13 appearances?

14 Will the witness please stand to be sworn in at
15 this time?

16 (Thereupon, the witness was sworn.)

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

20 DIRECT EXAMINATION

21 BY MR. KELLAHIN:

22 Q. Mr. Fonay, for the record, sir, would you please
23 state your name and occupation?

24 A. Gary Fonay, co-owner of Lynx Petroleum
25 Consultants, Inc.

1 Q. Where do you reside, Mr. Fonay?

2 A. Hobbs, New Mexico.

3 Q. On prior occasions have you qualified as an
4 expert witness before the Oil Conservation Division?

5 A. Yes, sir, I have.

6 Q. Do you hold a professional degree?

7 A. Yes, sir.

8 Q. And in what field?

9 A. I have a bachelor of science in petroleum
10 engineering from Colorado School of Mines.

11 Q. When we talk about this particular compulsory
12 pooling Application, were you the principal on behalf of
13 your company that dealt with all the parties to consolidate
14 the interest for the participation in the drilling of this
15 well?

16 A. Yes, sir, I did.

17 MR. KELLAHIN: We tender Mr. Fonay as an expert
18 witness.

19 EXAMINER CATANACH: He is so qualified.

20 Q. (By Mr. Kellahin) Mr. Fonay, let's refer to the
21 package of exhibits. Directing your attention to Lynx
22 Exhibit Number 1, would you orient the Examiner as to the
23 subject spacing unit that's involved in this case?

24 A. This well is dedicated to the east half of
25 Section 1, Township 19 South, 31 East, Eddy County, New

1 Mexico. The subject half-section is highlighted there,
2 about the middle of the page.

3 Q. What is the current status of the well?

4 A. The well is currently drilling ahead. I do not
5 have a report from this morning, but yesterday it was at
6 approximately 10,000 feet.

7 Q. Attached to Exhibit Number 1, if you'll turn to
8 the second page, this is a copy of a portion of the
9 application for a permit to drill?

10 A. Yes, sir.

11 Q. Describe for us where the well is located within
12 the east half of the section.

13 A. The footage location is 1980 feet from the south
14 and 1850 feet from the east in unit letter J of the subject
15 section, and this second page shows the location.

16 Q. So if we'll turn, then, to the page following the
17 cover sheet for the application for a permit to drill,
18 you'll see the Form C-102?

19 A. Yes, sir.

20 Q. Let's look at the east half of the section, using
21 this display for a moment. The east half of the section is
22 composed of how many different oil and gas leases?

23 A. Three separate leases.

24 Q. How do we distinguish one from another in the
25 east half?

1 A. The north half of the northeast there is hached
2 to the right, and given the lease code. The south half of
3 the northeast, south half southeast, and northwest of the
4 southeast is a separate lease hached there, downward to the
5 left. And the final lease is the 40 acres containing the
6 northeast southeast there, and each of the lease numbers is
7 shown.

8 Q. Mr. Fonay, are there any working interest owners
9 with whom you have not yet been able to reach a voluntary
10 agreement?

11 A. Yes, sir, there's one owner we've been unable to
12 reach agreement with.

13 Q. And where is that owner's interest in this east-
14 half section.

15 A. The owner owns a Strawn-only interest in that 40-
16 acre lease in the northeast of the southeast.

17 Q. And who is that owner?

18 A. Anadarko Petroleum.

19 Q. Let's turn now to Exhibit Number 3, which is your
20 chronology that you prepared?

21 A. Yes, sir.

22 Q. Let's go through for the Examiner a short
23 chronology of your efforts to obtain Anadarko's voluntary
24 participation in this project in some fashion.

25 A. Okay, the -- Lynx had decided to try to drill

1 this well in early '03, and multiple lease owners in the
2 area started contacting about March. We contacted the
3 landman in question with Anadarko, Mr. Smith, in March and
4 had a phone conversation with him, sent a letter as per his
5 request. He had indicated an interest in either selling
6 his interest or a term assignment. They had sold all their
7 other interest in New Mexico, actually thought they'd sold
8 this interest but hadn't.

9 May through July, visited with Pat on several
10 occasions, and he said it was moving slow but moving ahead.

11 In August we found out that Mr. Smith had been
12 laid off by Anadarko, and it took about a month to work
13 through that situation and find out the new landman that
14 would be handling it, Mr. Kirk Ary.

15 Had several discussions with Mr. Ary there in
16 September and October. In the latter part of October I
17 actually traveled to Houston to meet with Mr. Ary and the
18 engineer and geologists, and thought we were about to maybe
19 reach some resolution on the issue.

20 But later, in November, Mr. Ary said that due to
21 the fact that, you know, they really didn't have any
22 interests in New Mexico, it wasn't really on their radar
23 scope, so to speak, and just thought that what they would
24 do is take no action, a small fractional interest.

25 And at that time, then, I told Mr. Ary that in

1 December we would move forward with a force-pool order, and
2 -- a force-pool hearing, excuse me, sir. And Mr. Ary said,
3 Well, that would be fine with him.

4 Q. Let's turn to the next page of Exhibit 3 and talk
5 about the correspondence. Does this represent all the
6 correspondence from you to Anadarko and from Anadarko back
7 to you?

8 A. It includes all the written correspondence from
9 me to Anadarko with the exception of -- I did send them
10 some information clarifying that they did own the interest,
11 but we did not receive any written correspondence from
12 Anadarko.

13 As I said, the original letter here of April 8th
14 was to Mr. Smith, following some phone conversations that
15 he had indicated that -- probably would be interested in
16 selling the small interest. That was our preference as
17 well, and the letter is very brief and says that, and if
18 they'd prefer a term-assign, we would be glad to do that
19 also.

20 Q. Do you have a letter here that represents a
21 written well proposal letter which included among its
22 provisions the opportunity to participate in the well?

23 A. Yes, sir, I did, and that letter is October 22nd,
24 then, to Mr. Ary with Anadarko. And to try to move this
25 forward, we gave Anadarko several options. The option that

1 we had originally discussed is selling their interest, the
2 option number one.

3 Option number two was a three-month term-assign
4 where they would deliver us an effective 75 net revenue
5 lease.

6 And the third option, which would be to
7 participate in the proposal.

8 The subject tract is substantially depth-
9 segregated. Anadarko owns the Strawn only in this 40-acre
10 tract, and there's several other interest owners that own
11 Strawn only and then some that owned all the other rights.

12 When the well was originally being worked out, we
13 felt there was really three target horizons, the Bone
14 Springs, the Strawn and the Morrow, and three of the other
15 owners in this particular 40-acre tract had agreed to pool
16 their interests from 4000 feet down. The shallow rights
17 were also segregated, but from 4000 down, create a common
18 interest. And the agreement was to give a two-thirds
19 interest to those that owned rights other than Strawn and a
20 one-third interest for those with Strawn, based on two
21 target zones and the other zone being the Strawn.

22 And I gave Anadarko this same opportunity to
23 participate based on that level and attached an AFE.

24 Q. Is this well subject to a joint operating
25 agreement?

1 A. Yes, sir, it is.

2 Q. And who is the designated operator under the
3 agreement?

4 A. Lynx Petroleum.

5 Q. Have you consolidated all the interest owners,
6 either by lease assignment or commitment to a joint
7 operating agreement, with the exception of Anadarko?

8 A. That's correct. Everybody has signed the
9 operating agreement and agreed to these terms, or term-
10 assigned or otherwise sold their interest to us.

11 Q. Do you have agreement from all other parties,
12 excluding Anadarko, as to the estimated costs of the well?

13 A. Yes, sir, we do. We have executed AFEs.

14 Q. And did you make Anadarko aware that this well
15 had the potential to be produced not only in the Strawn but
16 in the Morrow as well?

17 A. Yes, sir. In our meeting there on the 29th of
18 October when I went to Houston, we had a chance to go
19 through all the details with Mr. Ary from a land standpoint
20 and their engineering geologist and were able to discuss,
21 you know, all the issues there.

22 Q. Let's turn to the next page following the well-
23 proposal letter. This represents to be an AFE?

24 A. Yes --

25 Q. The attachment to the letter?

1 A. The next page is the AFE that was provided to Mr.
2 Ary and has been executed by other parties there, with an
3 estimated cost to the Morrow at just a little over a
4 million dollars completed cost.

5 Q. Let's turn to Exhibit 4. Is this a document that
6 you prepared?

7 A. Yes, sir, I prepared this document.

8 Q. Can you show us how you have proposed to allocate
9 the cost between the Strawn owners and the Morrow owners?

10 A. This is a cost comparison here on an AFE basis.
11 We recently out in this area drilled a well to the Strawn
12 and carried it to the Morrow. AFE costs were, you know,
13 based substantially off this experience.

14 And what we show is an estimated cost for Strawn
15 dryhole cost -- you know, drill and plug -- a drill-and-
16 case issue where you drill to TD and case the well, and
17 then also the final-completion cost. I show costs there
18 for a well drilled just to the Strawn and one drilled all
19 the way to the Morrow. And attached -- AFEs with details
20 on both those is attached there.

21 Q. If the well is productive in the Strawn, it would
22 be the southeast quarter of the section that's dedicated to
23 the well?

24 A. Yes, this would be a Lusk-Strawn Pool, 160-acre
25 proration unit.

1 Q. And if it's successful in the Morrow, it would be
2 a 320-acre dedication, the entire east half of the section?

3 A. Yes, sir, it would.

4 Q. And what is your understanding of the pool that's
5 associated with that Morrow production?

6 A. The Shugart.

7 Q. Did you bring part of the joint operating
8 agreement that includes the portion that shows the agreed-
9 upon overhead rates for this well?

10 A. Yes, I just xeroxed the front page of the
11 operating agreement, indicating the east half, shows the
12 first page of the Exhibit "C", the COPAS. And then on the
13 page that details our fixed-rate charges, our standard rate
14 is \$4500 per month for a drilling well rate, and a
15 producing well rate of \$450 per month. And this has
16 already been agreed to by the other owners in the well.

17 MR. KELLAHIN: Mr. Examiner, the last exhibit is
18 my certificate of notification to Anadarko. It's Exhibit
19 Number 6.

20 And with that explanation, Mr. Examiner, we would
21 move the introduction of Lynx Petroleum Company -- Lynx's
22 Exhibits 1 through 8 [sic].

23 EXAMINER CATANACH: Exhibits 1 through 8 will be
24 admitted.

25 MR. KELLAHIN: Mr. Examiner, pursuant to a

1 Commission decision, we have not submitted any testimony or
2 exhibits with regards to the risk factor penalty. We have
3 not received any objection from Anadarko pursuant to the
4 Division Order 11,992, and therefore have asked you at this
5 time to award Lynx a 200-percent-plus recovery-of-cost risk
6 factor penalty associated with this case.

7 EXAMINER CATANACH: Okay.

8 MR. KELLAHIN: So that concludes our
9 presentation.

10 EXAMINER CATANACH: Mr. Kellahin, in this order
11 do we need a COPAS adjustment of the overhead rates?

12 MR. KELLAHIN: If you please.

13 EXAMINER CATANACH: Okay.

14 MR. KELLAHIN: And that would make it consistent
15 with Mr. Fonay's joint operating agreement.

16 EXAMINER CATANACH: Okay.

17 EXAMINATION

18 BY EXAMINER CATANACH:

19 Q. The only question I have, Mr. Fonay, is, the
20 various parties that are participating in this well, they
21 are aware of how you have broken out the cost between the
22 Strawn and the Morrow? Are they aware of that?

23 A. Well, yes, sir. Those that are participating --
24 and we have -- that had interests -- I guess there's four
25 of those, plus Lynx -- their interest will be pooled from

1 4000 down in the entire east half.

2 So regardless of where we were ultimately
3 complete the well and make a well, their cost share and
4 share of production would be the same regardless of
5 horizon.

6 Now on Anadarko's interest, if we come up to the
7 Strawn, I have notified each of those parties of our
8 intention here in front of the OCD in our request, and they
9 understand our request here and that we would -- we would,
10 of course, allocate costs to the Strawn based on actual
11 cost. We have an AFE here, and we would do that ultimately
12 on actual cost to the Strawn, best we can. Or that would
13 be our proposal.

14 Q. So in the case of Anadarko, their share of the
15 well cost would only be to the Strawn, even though you may
16 drill to the Morrow; is that correct?

17 A. That's our intent, yes, sir.

18 EXAMINER CATANACH: Okay. All right, I have
19 nothing further, Mr. Kellahin.

20 MR. KELLAHIN: Thank you.

21 EXAMINER CATANACH: There being nothing further
22 in this case, Case 13,198 will be taken under advisement.

23 (Thereupon, these proceedings were concluded at
24 8:44 a.m.)

25 I do hereby certify that the foregoing is
a complete record of the proceedings to
the Examiner hearing of Case No. 13,198.
heard by me on January 8, 2004.

STEVEN T. BRENNER, *Steven T. Brenner*, Examiner
(505) 989-9317
Oil Conservation Division

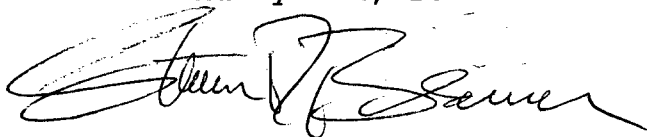
CERTIFICATE OF REPORTER

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 January 8th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006