

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:

ORIGINAL

APPLICATION OF MERRION OIL & GAS  
CORP. FOR COMPULSORY POOLING,  
SAN JUAN COUNTY, NEW MEXICO

CASE NO. 14540

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, Technical Examiner  
DAVID K. BROOKS, Legal Examiner

September 16, 2010

Santa Fe, New Mexico

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This matter came on for hearing before the  
New Mexico Oil Conservation Division, WILLIAM V. JONES,  
Technical Examiner, and DAVID K. BROOKS, Legal Examiner,  
on Thursday, September 16, 2010, 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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A P P E A R A N C E S

FOR THE APPLICANT:

TOMMY ROBERTS, ESQ.  
P.O. Box 129  
Farmington, New Mexico 87499  
(505)327-6807

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1                   EXAMINER JONES:  Let's call Case 14540,  
2   application of Merrion Oil & Gas Corporation for  
3   compulsory pooling, San Juan County, New Mexico.  Call  
4   for appearances.

5                   MR. ROBERTS:  Mr. Examiner, my name is  
6   Tommy Roberts.  I'm an attorney in Farmington, New  
7   Mexico.  I'm appearing on behalf of the applicant.  I  
8   have one witness to be sworn.

9                   EXAMINER JONES:  Will the witness please  
10  stand and be sworn?

11                                   (One witness was sworn.)

12                                   GEORGE SHARPE

13                   Having been first duly sworn, testified as follows:

14                                   DIRECT EXAMINATION

15   BY MR. ROBERTS:

16           Q.     Would you state your name and your address for  
17   the record?

18           A.     My name is George Sharpe, from Farmington, New  
19   Mexico.

20           Q.     By whom are you employed?

21           A.     I'm employed by Merrion Oil & Gas Corporation.

22           Q.     In what capacity?

23           A.     My title is the investment manager.  I'm a  
24   petroleum engineer.

25           Q.     How long have you been employed by Merrion Oil

1 & Gas?

2 A. Twenty years.

3 Q. Have you previously testified before the Oil  
4 Conservation Division?

5 A. I have.

6 Q. In what capacity?

7 A. As an expert witness on oil and gas business  
8 and engineering related matters.

9 Q. Have you testified in compulsory pooling  
10 cases?

11 A. I have.

12 Q. And were your qualifications accepted at that  
13 time?

14 A. Yes.

15 Q. Are you familiar with the application in this  
16 case?

17 A. I am.

18 Q. And have you prepared exhibits to be presented  
19 in conjunction with your testimony?

20 A. I have.

21 MR. ROBERTS: Mr. Examiner, I tender  
22 Mr. Sharpe as an expert in the field of petroleum  
23 engineering.

24 EXAMINER JONES: Mr. Sharpe is qualified  
25 as an expert in petroleum engineering.

1 Q. (By Mr. Roberts) Briefly, Mr. Sharpe, state  
2 the purpose of the application in this case.

3 A. Case 14500 is -- excuse me -- 14540 is an  
4 application for compulsory pooling of the west half of  
5 Section 9, Township 29 North, Range 13 West, for the  
6 Fruitland Coal formation, with a 320-acre gas spacing and  
7 proration unit to be dedicated to the Glade Park 1 and  
8 Glade Park 2 wells drilled in the west half.

9 It is also an application for compulsory  
10 pooling of the Pictured Cliffs formation in the northwest  
11 quarter of that section to be dedicated to the Glade Park  
12 1, and the compulsory pooling of the southwest quarter of  
13 Section 9 to form a 160-acre gas spacing proration unit  
14 to be dedicated to the Glade Park 2.

15 Q. Having both wells dedicated to the Fruitland  
16 Coal formation, is that consistent with the pool rules?

17 A. It is.

18 Q. Can you describe the experience that Merrion  
19 Oil & Gas has in drilling and completing Fruitland Coal  
20 gas wells in the San Juan Basin and Pictured Cliffs  
21 wells?

22 A. We've drilled dozens of them.

23 Q. I'm going to have you refer to what you've  
24 marked as Exhibit Number 1. Identify that exhibit,  
25 please.

1           A.       Exhibit 1 is a general locator map showing the  
2 location of these wells within the San Juan Basin on the  
3 western edge of the city of Farmington and the western  
4 edge of the basin. It's an area of -- not prolific, but  
5 at this point, economic Fruitland Coal and Pictured  
6 Cliffs production.

7           Q.       I'll have you turn to what you've marked as  
8 Exhibit Number 2 and please identify that exhibit and  
9 indicate what it shows.

10          A.       Exhibit Number 2 is a topographic map, again,  
11 showing that the west half of Section 9 and the location  
12 of these wells is within the city limits of Farmington, a  
13 number of neighborhoods in the area, and the land  
14 ownership is quite complex.

15          Q.       What conclusions do you draw with respect to  
16 the application in this case from the material shown on  
17 this exhibit?

18          A.       The identification and what we've been able to  
19 identify, the mineral interests and other leasehold  
20 owners, but getting all of them to make a decision to  
21 participate has been a task.

22          Q.       Turn to what you've marked as Exhibit 3.  
23 Identify that exhibit, please.

24          A.       Exhibit 3 are the approved C-102 plats, the  
25 approved C-102 plats for the Glade Park 1, showing the

1 320-acre proration units in the west half of 9 and the  
2 160-acre proration unit for the Pictured Cliffs formation  
3 in the northwest.

4 And the second page of that exhibit are C-102  
5 plats for the Glade Park 2, showing, again, the west half  
6 of Fruitland Coal in the southwest quarter of Pictured  
7 Cliffs.

8 Q. And the Glade Park 2 is to be drilled at an  
9 unorthodox location in the west half. Has that  
10 unorthodox location been approved?

11 A. The unorthodox location has been approved,  
12 both for the Pictured Cliffs and for the Fruitland Coal.  
13 And the Glade Park 1 is unorthodox as to the Pictured  
14 Cliffs, and that has also been approved.

15 Q. Let's have you turn to what you've marked as  
16 Exhibit Number 4 and please identify that exhibit and  
17 explain its significance to the application.

18 A. Exhibit Number 4 is a production bubble map of  
19 the general area. Roughly, in the center of the exhibit,  
20 you can see the proposed Glade Park Number 1 well  
21 identified. Glade Park Number 2 is in that same  
22 proration unit.

23 The Pictured Cliffs cumulative -- actually,  
24 this is projected ultimate recoveries. The Pictured  
25 Cliffs projected ultimate recovery bubbles are shown on

1 the left. Fruitland Coal ultimate recovery bubbles are  
2 shown on the right. And while there are a number of  
3 healthy-sized bubbles, the statistics are varied, and  
4 certainly there's a significant risk that we will not  
5 recover economic reserves in these wells.

6 Q. Have you quantified that risk?

7 A. Just to the extent that I can put no number on  
8 the statistics, but certainly there's a chance that these  
9 will not pay back the investment.

10 Q. Let's have you turn to what you've marked as  
11 Exhibit Number 5. Please identify that exhibit.

12 A. Exhibit Number 5 shows the authorization for  
13 expenditures to drill and complete these two wells. They  
14 are both estimated to cost \$514,000 to drill and  
15 complete.

16 Q. Have you sent this Authorization for  
17 Expenditures to all nonjoining parties?

18 A. Yes.

19 Q. Are these estimated costs reasonable, given  
20 the nature of the operation, in your opinion?

21 A. Yes, they are. Although the wells are  
22 shallow, you would think you could drill and complete a  
23 11- or 1,200 foot well for less than that.  
24 Unfortunately, that's just the cost of doing business  
25 within the city, pipeline right-of-way, pipeline access

1 out of there, and just the extra cost of location and  
2 purchasing and such in the city has driven the costs up.

3 Q. Are these costs consistent with your  
4 experience in drilling Fruitland Coal wells and Pictured  
5 Cliffs wells in the San Juan Basin?

6 A. Again, they are on the high side for this  
7 depth of well, but we've drilled wells within the city  
8 and they're commensurate with those.

9 Q. I think it is your plan to commingle  
10 production downhole from these two formations. Are those  
11 costs included in the AFE costs?

12 A. They are.

13 Q. What's the status of the -- have you filed an  
14 application for downhole commingling?

15 A. The Pictured Cliffs pool and the basin pool  
16 and coal pool are pre-approved, commingling the pools.  
17 So we've sent out notification, actually, on the  
18 commingling with notification of this compulsory pooling  
19 application and have waited our 20 days, and have  
20 recently submitted for administrative approval for the  
21 commingling. There were no -- as far as I know, there  
22 were no objections from anyone.

23 Q. Let's have you turn to Exhibit Number 6,  
24 please, and identify that exhibit.

25 A. Exhibit Number 6 is the operating agreement

1 that we are proposing to operate under. It was made  
2 available to all parties that may join in the well.

3 Q. And what is the contract area covered by the  
4 operating agreement?

5 A. The west half of Section 9, 29 North, 13 West,  
6 surface to the base of the Pictured Cliffs formation.

7 Q. This, also, was sent to all nonjoining  
8 parties?

9 A. Actually, we did not send a physical copy. We  
10 notified them in the notification that they could access  
11 it on a website and download it, or call us and we would  
12 send a copy.

13 Q. Was it posted on the website in its entirety?

14 A. Yes, it was.

15 Q. Is this standard form operating agreement used  
16 by the industry for operations of this kind, in this  
17 area?

18 A. Yes, it is.

19 Q. Are there any substantial modifications to it?

20 A. They only real modification is the attachment  
21 of provisions for commingling and for allocation of costs  
22 and production.

23 Q. Do you propose that Merrion Oil & Gas would be  
24 designated as operator of the contract area?

25 A. Yes.

1 Q. Let's have you turn to what you've marked as  
2 Exhibit Number 7. Please identify that exhibit.

3 A. Exhibit Number 7 is an Ernst & Young survey of  
4 overhead rates within New Mexico for wells of various  
5 depths. The wells less than 5,000 feet of depth have a  
6 median and average drilling and fixed overhead rates of  
7 4,500 and 5,600, respectively, and producing well rates  
8 of \$477 and \$551 for the median and average,  
9 respectively. We are proposing 5,000 per month for  
10 drilling overhead rates and \$500 per month for producing  
11 overhead rates.

12 Q. And the basis for those rates are the Ernst &  
13 Young overhead rates survey?

14 A. Yes. And/or knowledge of reasonable rates  
15 within this general area.

16 Q. Mr. Sharpe, do you propose that a risk factor  
17 be charged against any interest owner who does not  
18 voluntarily join in these operation?

19 A. Yes.

20 Q. And at what rate?

21 A. We are requesting a 200 percent risk factor.

22 Q. Is it your understanding that that is the  
23 maximum rate allowed by the Oil Conservation Division for  
24 these kinds of operations?

25 A. It is.

1 Q. Let me have you refer now to what you've  
2 marked as Exhibit Number 8. Please identify that  
3 exhibit.

4 A. Exhibit Number 8 is a breakdown of the  
5 ownership within the west half of Section 9. It is  
6 segregated by the northwest quarter and the southwest  
7 quarter, showing the percentage of ownerships of each.

8 The first half of the page in the northwest  
9 quarter are all the entities that are under Merrion Oil &  
10 Gas leases. We have had one mineral interest owner at  
11 the time that this was prepared that has elected to  
12 participate in the drilling. A number of others have  
13 indicated since then. And a number of the other people  
14 down below on the second half of the page that are  
15 unleased mineral interest owners, are in the process of  
16 either signing leases or making those types of decisions.

17 Q. As of today, what is the percentage of the  
18 ownership in the west half of Section 9 that has  
19 committed to these operations that you propose?

20 A. If you go to the very last page of the  
21 exhibit, the whole west half of Section 9 is summarized.  
22 Merrion Oil & Gas has leased 54.32 percent of the west  
23 half of Section 9. Another just less than 1 percent at  
24 the time this was prepared had committed to  
25 participating. And 44 -- roughly 45 percent of the west

1 half of Section 9 had yet to finalize their decisions.

2 Q. Have you been advised of any objection to  
3 these operations --

4 A. We have not.

5 Q. -- by any party?

6 A. We have not.

7 Q. Let's have you turn to what you've marked as  
8 Exhibit Number 9, please, and identify that exhibit.

9 A. Exhibit Number 9 and the attached Exhibit 2  
10 are the affidavit of notification that all parties  
11 received copies of this application by certified mail.  
12 Those that were returned -- I don't know if you want to  
13 run through these one by one or not.

14 Q. Let's just have you take a look at, in  
15 general, the notification letter that you sent and kind  
16 of describe the content.

17 A. Exhibit 1 to Exhibit 9, Exhibit 9-1, if you  
18 will, is the copy of the letter that was sent to the  
19 unleased mineral interest owners outlining their options  
20 to either participate in the drilling of the wells under  
21 the terms of the operating agreement and the AFE, to  
22 lease to Merrion at a proposed 15 percent royalty rate,  
23 or notifying them that if they chose neither of the above  
24 options, that we were applying for compulsory pooling for  
25 their interests.

1           We tried our best to explain those in layman's  
2 terms in some of the attachments and give them examples  
3 of the calculations and what their ownership may be in  
4 that particular exhibit.

5           Q.     Attached to that letter -- if you would just  
6 identify briefly what you submitted to them with that  
7 letter. Look at the attachment.

8           A.     There's an attachment sheet on page 4 of that  
9 letter. We sent what we thought they owned in acres, how  
10 many acres they owned within the west half of Section 9.  
11 We sent them a copy of the AFEs. We sent them an example  
12 calculation so they could figure out their proportionate  
13 share of those AFEs that would be based on their acreage.

14                 We sent them operating agreements, signature  
15 pages, and notified them where they could take a look at  
16 the operating agreement online. We sent the application  
17 that we sent in to the New Mexico Oil Conservation  
18 Division for compulsory pooling. And we also had the  
19 notices to commingle the two wells because the ownership  
20 is different between Fruitland Coal and the Pictured  
21 Cliffs.

22           Q.     In that notice of commingling, did you set  
23 forth the allocation that you propose?

24           A.     Yes. So that was Exhibit 1. That was what  
25 was sent out. Exhibit 2 is the same list of interest

1 owners that has already previously been discussed, and,  
2 again, most of the parties that were notified.

3 Exhibit 3 is a copy of the return receipts.  
4 Exhibit 4 is a tracking sheet of those return receipts.  
5 There were, it looks like, 15 or so that were not  
6 delivered, a dozen of which were unclaimed, and another  
7 half a dozen of which had the wrong address and we tried  
8 to find a new address, looking through business records  
9 or other information, and sent out additional notices to  
10 those.

11 And finally, Exhibit 5 to this notification  
12 agreement is the affidavit of publication of an  
13 advertisement for this compulsory pooling that was put in  
14 the "Farmington Daily Times," Thursday, September 2nd,  
15 2010.

16 Q. And the lead sheet to this Exhibit Number 9  
17 appears to be an affidavit notification that you have  
18 signed that's dated September 14, and this is your  
19 statement. It appears that to the best of your knowledge  
20 and belief, the notification requirements required by the  
21 rules of the Oil Conservation Division have been  
22 satisfied; is that correct?

23 A. That's correct.

24 Q. Mr. Sharpe, were Exhibits Numbered 1 through 9  
25 either prepared by you or at your direction and under

1 your supervision?

2 A. They were.

3 MR. ROBERTS: Mr. Examiner, I'll move the  
4 admission of Exhibits 1 through 9 and all attachments.

5 EXAMINER JONES: Exhibits 1 through 9 and  
6 all attachments will be admitted.

7 (Exhibits 1 through 9 were admitted.)

8 Q. (By Mr. Roberts) Would the granting of this  
9 application be in the interest of conservation and the  
10 protection of correlative rights, in your opinion?

11 A. Yes.

12 Q. And the prevention of waste?

13 A. Yes.

14 MR. ROBERTS: Mr. Examiner, I have no  
15 other questions on direct for Mr. Sharpe.

16 EXAMINER JONES: Okay.

17 EXAMINATION

18 BY EXAMINER JONES:

19 Q. Mr. Sharpe, just for the record, the intervals  
20 you're going for, none of them have any issue with them?

21 A. They do not.

22 Q. How about water production?

23 A. We anticipate similar water productions from  
24 both the PC and the Fruitland Coal of about 30 barrels of  
25 water a day, so a total of 60 barrels of water a day.

1 Q. So you'll have a little pumping unit?

2 A. We will have a pumping unit, and we're going  
3 to have to comply with --or some sort of artificial lift.  
4 And we'll have to comply with all the regulations of the  
5 City of Farmington in terms of noise regulations and  
6 heights and aesthetics and part of what drives up the  
7 costs.

8 Q. They'll be electrified units?

9 A. It is anticipated they'll be electrified.

10 Q. You're not a landman; is that correct?

11 A. I'm not a landman, but the land group works  
12 under me. I supervise the land group.

13 Q. That was my next question. Isn't there an old  
14 Mesaverde well that was plugged in the south part of this  
15 spacing unit?

16 A. I'm not aware of that.

17 Q. I think it was the subject of a forced  
18 plugging order.

19 A. I'm --

20 Q. But it would be the same surface disturbance  
21 to re-enter that one, as it would be to start a new well;  
22 is that correct?

23 A. You know, I don't know where that well is and  
24 what the situation is. We have negotiated surface use  
25 agreements with the City of Farmington to compensate them

1 and to use surface that's owned by the city in both cases  
2 for the Glade 1 and Glade 2 that we think minimize the  
3 impact of neighborhoods in the area.

4 Q. Downhole commingles are done to the  
5 district -- I heard you talk about the nonstandard  
6 location, but I didn't hear the rest of it. Did you  
7 already submit --

8 A. We have submitted those, and my understanding  
9 is that they have been approved.

10 Q. Okay. 5,000 and 500. What about the timing  
11 of when you're going to start on these?

12 A. We hope to get started in late October. We've  
13 still got to go through the city permit process and are  
14 scheduled, and it's a process in and of itself. We're on  
15 the schedule. The applications have been made. So even  
16 though we've negotiated the surface use agreements,  
17 that's separate from the permit -- special use permit to  
18 actually drill the well within the city.

19 Q. Some parties were unlocateable. Were there  
20 any title disputes?

21 A. There were no title disputes.

22 EXAMINER JONES: The unlocateable parties,  
23 you didn't put their names in the newspaper.

24 Okay. That's all my questions. I'll turn it  
25 over to David.

1 EXAMINER BROOKS: Okay. Good morning, Mr.  
2 Sharpe.

3 THE WITNESS: Good morning.

4 EXAMINATION

5 BY EXAMINER BROOKS:

6 Q. I think that Philana Thompson was working  
7 on --

8 A. Philana is permitting agent. She doesn't work  
9 under my direct supervision but worked with me in regard  
10 to this.

11 Q. I did those here, so I believe they have been  
12 approved.

13 A. Okay.

14 Q. What are the target formations? You told me,  
15 but --

16 A. Pictured Cliffs formation and the Fruitland  
17 Coal formation.

18 Q. How is the Pictured Cliffs spaced out there?

19 A. It's on 160s. I think we may have had a  
20 conversation with you and Richard Ezeanyim -- I always  
21 butcher his name --

22 Q. Ezeanyim.

23 A. -- in regards to actually looking at putting  
24 the Pictured Cliffs on 320-acre spacing. And we decided  
25 that that was opening up a can of worms.

1 Q. You're asking for a 160-acre unit to be formed  
2 in the PC and 320 in the Fruitland?

3 A. Yes.

4 Q. Are you asking for units to be formed in any  
5 other formations?

6 A. Just those two.

7 Q. You're going to downhole commingle?

8 A. Yes.

9 Q. And you'll do that by separate application  
10 administratively?

11 A. Yes. To my knowledge, those have been -- if  
12 they haven't been, they're in the process of being  
13 submitted. They've been prepared. The notification was  
14 sent out to the affected parties, and we waited the 20  
15 days and are ready to submit those.

16 Q. Okay. You've got some differences in  
17 ownership between them?

18 A. Yes, we do.

19 Q. Between Pictured Cliffs -- I would assume you  
20 do, because you have a different size unit.

21 A. We do, and we've got -- you know, chopped up  
22 100 or so owners, different owners, which was originally  
23 why we thought it made sense to space them both on 320  
24 and have common ownership of the full 320. But the  
25 complications of a nonstandard 320-acre Pictured Cliffs

1 proration unit and all the uproar that may create was  
2 deemed ill-advised.

3 Q. Right. How do you propose to allocate costs  
4 between the Pictured Cliffs and the Fruitland Coal?

5 A. They're both -- one sits right on top of the  
6 other. It's been proposed to split it fifty-fifty.

7 Q. All the costs and drilling, completion,  
8 production, will all be fifty-fifty?

9 A. The common costs will be fifty-fifty in terms  
10 of drilling the well, casing the well, surface  
11 facilities. The actual completion costs associated with  
12 each zone will be 100 percent to that zone. So whatever  
13 reason we do a bigger size frac on the Fruitland Coal  
14 than we do on the Pictured Cliffs, the Fruitland Coal  
15 pays for its frac, and --

16 Q. So all the drilling costs will be allocated  
17 fifty-fifty. Completion costs will be formation  
18 specific?

19 A. Yes, sir.

20 Q. And the surface equipment will be fifty-fifty?

21 A. Yes, sir.

22 Q. Cost of operation, fifty-fifty?

23 A. Yes.

24 Q. Okay. In your professional opinion as a  
25 drilling engineer, is that a reasonable means of cost

1 allocation in this situation?

2 A. It is in this case. They're virtually at the  
3 same depth. One sits right on top of the other.

4 Q. And you don't have any partners in this well,  
5 do you?

6 A. We do not have any other leasehold partners,  
7 no.

8 Q. But --

9 A. Well, except -- I say that. Except for the  
10 mineral interest owners that are choosing to participate.

11 Q. Would that formulation be in accordance with  
12 the way you would -- the kind of agreement you would  
13 expect to make if you were making the agreement on  
14 allocation with an --

15 A. Absolutely. It's identical to the one we're  
16 going to make where we do have an industry partner.

17 Q. What about the allocation of production? Are  
18 you going to do that on the basis of well tests, or are  
19 you going to do it on a formula?

20 A. We are proposing to do it on a formula. We  
21 have done type curves for the Pictured Cliffs and  
22 Fruitland Coal wells in the area. They are actually  
23 fairly similar in ultimate projected, ultimate reserves.  
24 And I believe the Pictured Cliffs gets 57 percent, and  
25 the Fruitland Coal, 43 percent of the allocated gas

1 production.

2 Q. But you're going to do that on a formula, not  
3 on well tests?

4 A. We're not going to do it on well tests.

5 Q. And do you have any of this set out in the  
6 exhibits that you've presented?

7 A. Yes. It is in the -- in the notification to  
8 the landowners, there is a copy of the application for  
9 commingling. And in that application, there's a copy of  
10 the proposed allocation and the justification behind it.

11 Q. Okay. You had, as you would expect to have  
12 with this number of owners, you had a number of people  
13 who you could not contact; is that correct?

14 A. Yes, sir.

15 Q. For whom you do not have valid addresses?

16 A. Yes.

17 Q. Have you made -- have your land staff made a  
18 reasonable and diligent effort to find the addresses?

19 A. Yes, they have. And again, I -- unfortunately  
20 I can't speak specifically to what they have done. But  
21 they've gone to the, my understanding, the credit bureau  
22 and some other business, personal thing, to try to locate  
23 those folks. And if there were names that we  
24 recognized -- I mean, this is Farmington and we live  
25 there, and so some of them are people that we know.

1 We've been able to try to get ahold of those folks.

2 EXAMINER BROOKS: I'm sorry. You're the  
3 attorney; right? I don't know your name.

4 MR. ROBERTS: My name is Tommy Roberts.

5 EXAMINER BROOKS: Mr. Roberts, good to  
6 meet you, sir. I believe you've been here before, but  
7 I'm so accustomed to these guys that come here --

8 MR. ROBERTS: I only come when Merrion  
9 comes. Ironically, it was two years ago on these same  
10 wells.

11 EXAMINER BROOKS: Well, Mr. Roberts, the  
12 thing that troubles me about this case is the notices  
13 that Mr. Jones referred to. And what I'm going to  
14 suggest is that we take this case under advisement and  
15 set it for the October 14th docket, and that you  
16 re-publish notice and put a list of all the people you  
17 haven't been able to serve in the notice.

18 Now, do our rules require that? They don't.  
19 But the rule on citation by publication in New Mexico  
20 Rules of Civil Procedure requires that. And where our  
21 rules are silent, I think there's a very good chance that  
22 the courts would hold if the issue were raised, that the  
23 Rules of Civil Procedures apply by analogy. And, anyway,  
24 there are constitutional issues that might be impacted.

25 MR. ROBERTS: We have no problem doing

1 that. Is that -- when we were doing these similar cases  
2 two years ago, I think our affidavit was not specific as  
3 to parties that --

4 EXAMINER BROOKS: We have allowed that to  
5 slough in the past. I've been trying to tighten up on  
6 that, because I think some day we're going to have  
7 somebody sue and claim that the compulsory pooling is not  
8 binding on them.

9 MR. ROBERTS: Obviously, it's a precaution  
10 that we're willing to take.

11 EXAMINER BROOKS: So I think that would  
12 probably be a good idea to do. I know it costs some  
13 money to get a long list. They charge by the line,  
14 but --

15 MR. ROBERTS: We can comply with that.

16 THE WITNESS: Mr. Examiner, my question  
17 would be in terms of -- and I have no problem doing that.  
18 I anticipate there being no issues with that. We're up  
19 in Farmington. The real significant expense would be  
20 coming back for that October 14th hearing. Can we do  
21 that by affidavit, saying that this has been submitted.  
22 Here's a copy of it.

23 EXAMINER BROOKS: I see no reason why not.

24 MR. ROBERTS: We did some follow-up  
25 noticing a couple of years ago.

1 EXAMINER BROOKS: We routinely accept  
2 supplementing the record without coming to hearing in  
3 cases where there's -- no other party appears. And  
4 nobody has, that I know of, in this case.

5 MR. ROBERTS: We'll, obviously, be  
6 checking with you to determine whether anybody has  
7 entered an appearance.

8 EXAMINER BROOKS: We will call the case at  
9 the October 14th hearing and take it under advisement on  
10 the basis of what we receive, just to keep our procedure  
11 in order. But it will not be necessary to appear if you  
12 file what we need to have by then.

13 That's all I have.

14 EXAMINER JONES: I'll go ahead --

15 THE WITNESS: Mr. Examiner, I guess,  
16 again, a question -- because we were looking at  
17 potentially starting to drill in mid to late October.  
18 The timing, then, of actually getting an order will be 30  
19 days subsequent to that, would be -- once you take it  
20 under advisement?

21 EXAMINER JONES: I don't think so. I  
22 think we can -- you can stay on top of it by having  
23 Mr. Roberts call us. But we'll try to get it out within  
24 a week after.

25 THE WITNESS: Great.

1 EXAMINER BROOKS: Of course, in the  
2 unlikely event that somebody reads this ad in the  
3 newspaper and shows up on the 14th, we'll have to  
4 continue it again and bring you back.

5 MR. ROBERTS: If they do that, if you  
6 could notify us.

7 EXAMINER BROOKS: We will notify you.

8 MR. ROBERTS: If you get an entry of  
9 appearance --

10 EXAMINER BROOKS: If we get anything  
11 filed, we'll let you know. What I'm thinking is if  
12 somebody walks in the door and says, "Hey, I came for the  
13 hearing."

14 THE WITNESS: We'll take that risk.

15 MR. ROBERTS: Thank you.

16 EXAMINER JONES: With that, we'll take  
17 Case 14540 under advisement.

18 EXAMINER BROOKS: No. We're going to  
19 continue it to October 14th.

20 EXAMINER JONES: I apologize. We'll  
21 continue it to October 14th.

22 MR. ROBERTS: Thank you, Mr. Examiner.

23 \* \* I do hereby certify that the foregoing is  
24 a complete record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_  
heard by me on 9/16/50

25  , Examiner  
Oil Conservation Division

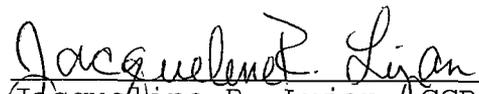
REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO  
HEREBY CERTIFY that on September 16, 2010, 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 September,  
2010.

  
Jacqueline R. Lujan, CCR #91  
Expires: 12/31/2010