

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. 13,206

APPLICATION OF MACK ENERGY CORPORATION )  
TO AMEND COMPULSORY POOLING ORDER NO. )  
R-12,006 TO INCLUDE ADDITIONAL OIL WELLS )  
FOR EXISTING 40-ACRE SPACING AND )  
PRORATION UNITS, LEA COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

RECEIVED

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

FEB 5 2004

January 22nd, 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, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, January 22nd, 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.

\* \* \*

## I N D E X

January 22nd, 2004  
 Examiner Hearing  
 CASE NO. 13,206

## PAGE

## APPLICANT'S WITNESS:

RONALD W. LANNING (Landman)

Direct Examination by Mr. Carr

5

Examination by Examiner Stogner

12

## REPORTER'S CERTIFICATE

16

\* \* \*

## E X H I B I T S

## Applicant's

## Identified

## Admitted

Exhibit 1

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Exhibit 2

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Exhibit 3

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Exhibit 4

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Exhibit 5

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## A P P E A R A N C E S

## FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
 110 N. Guadalupe, Suite 1  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: WILLIAM F. CARR

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   9:20 a.m.:

3           EXAMINER STOGNER: At this time I'll call Case  
4   Number 13,206, this is the Application of Mack Energy  
5   Corporation to amend compulsory pooling Order No. R-12,006  
6   to include additional oil wells for existing 80-acre [sic]  
7   spacing and proration units, Lea County, New Mexico.

8           Call for appearances.

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

13          EXAMINER STOGNER: Any other appearances?

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

16          (Thereupon, the witness was sworn.)

17          MR. CARR: May it please the Examiner, Mack  
18   Energy Corporation is here today to amend a compulsory  
19   pooling order that was issued in August of last year, as  
20   the ad indicates, to add two wells. We are pooling one  
21   party who a year ago when the property was originally  
22   pooled stated they were reorganizing their trust and were  
23   unable at that time to participate. That is the situation  
24   we have here today.

25          So what our presentation is going to do is --

1 more than anything else, is supplement to the record that  
2 was made.

3 EXAMINER STOGNER: And this was a force pooling  
4 order for -- essentially four force pooling orders in one;  
5 is that correct?

6 MR. CARR: That is correct.

7 EXAMINER STOGNER: And have all the wells been  
8 drilled?

9 MR. CARR: Two of the wells have been drilled.  
10 We're adding wells to two spacing units -- or three of the  
11 wells have been drilled, and we're adding wells to two of  
12 the spacing units on which oil wells have already been  
13 drilled and completed.

14 EXAMINER STOGNER: Okay, and there's one that  
15 just faded away, no longer --

16 MR. CARR: I will ask the witness.

17 EXAMINER STOGNER: Oh, well, I'm getting ahead of  
18 myself here. All right.

19 MR. CARR: I don't know on that.

20 EXAMINER STOGNER: I haven't seen a compulsory  
21 pooling order like this in quite some time, and even then  
22 there were time issues involved. I believe that was a Mr.  
23 Sprinkle. I guess I'm not that -- it goes that far back.  
24 So this is something new, so -- Okay --

25 MR. CARR: Yes, sir.

1 EXAMINER STOGNER: -- please continue.

2 RONALD W. LANNING,

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

5 DIRECT EXAMINATION

6 BY MR. CARR:

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

8 A. Ronald W. Lanning.

9 Q. Mr. Lanning, where do you reside?

10 A. Artesia.

11 Q. By whom are you employed?

12 A. Mack Energy Corporation.

13 Q. And what is your position with Mack Energy  
14 Corporation?

15 A. Land Manager.

16 Q. Have you previously testified before the Oil  
17 Conservation Division?

18 A. Yes, sir.

19 Q. At the time of that testimony were your  
20 credentials as an expert in petroleum land matters accepted  
21 and made a matter of record?

22 A. They were.

23 Q. Are you familiar with the Application filed in  
24 this case on behalf of Mack Energy Corporation?

25 A. Yes.

1 MR. CARR: May it please the Examiner, are the  
2 witness's qualifications acceptable?

3 EXAMINER STOGNER: Mr. Lanning is so qualified.

4 Q. (By Mr. Carr) Mr. Lanning, would you briefly  
5 summarize for Mr. Stogner what it is that Mack Energy  
6 Corporation seeks with this Application?

7 A. We want to amend pooling Order Number R-12,006 to  
8 include additional oil wells for the northwest of the  
9 southwest quarter, which is Unit L, and the northeast of  
10 the southwest quarter, which is Unit Letter K, of Section  
11 31, 17 South, 32 East, Lea County.

12 Q. And what formations are the subject of these  
13 particular wells?

14 A. Grayburg, San Andres.

15 Q. Would you identify what has been marked for  
16 identification as Mack Energy Corporation Exhibit Number 1?

17 A. It's Order Number R-12,006.

18 Q. This order actually pooled 40-acre oil spacing  
19 units for four wells, correct?

20 A. That's correct.

21 Q. And which of these wells have been drilled to  
22 date?

23 A. The Panther Federals Number 1, 3 and 5 have been  
24 drilled.

25 Q. And which well has not?

1           A.    Number 6 has not been drilled.

2           Q.    And what are Mack Energy Corporation's plans for  
3 that particular well?

4           A.    The final decision has not been made yet, but we  
5 think it's probably too far downdip off the northwest shelf  
6 and will probably not be drilled.

7           Q.    Order Number R-12,006 designated Mack Energy  
8 Corporation as the operator of these spacing units; is that  
9 correct?

10          A.    Yes.

11          Q.    Identify the new wells that Mack is proposing to  
12 drill.

13          A.    Panther Federal Well Number 2 in the northwest  
14 southwest or Unit Letter L, at a standard location 2310  
15 from the south and 990 from the west, and Panther Federal  
16 Number 4 in the northeast of the southwest, Unit Letter K,  
17 at a standard location 2310 from the south and 2310 from  
18 the west.

19          Q.    Let's go to what has been marked for  
20 identification as Mack Energy Corporation Exhibit Number 2.  
21 On this lease map could you identify the wells that are the  
22 subject of today's hearing?

23          A.    In the southwest of -- This is shaded green and  
24 labeled Panther in red. It's the Panther 2 and the 4 in  
25 the northern part of the southwest quarter.

1 Q. And we're talking about Section 31?

2 A. Yes.

3 Q. What does the green indicate?

4 A. The green is leasehold owned by affiliates of  
5 Mack Energy.

6 Q. Now, the existing pooling order pooled the  
7 acreage that's the subject of this case; isn't that  
8 correct? It pooled the spacing unit?

9 A. Yes, sir.

10 Q. It did not address these two additional wells?

11 A. That's correct.

12 Q. And you plan to put two additional wells on these  
13 spacing units to go to the Maljamar-Grayburg-San Andres  
14 Pool?

15 A. Yes, sir.

16 Q. What interest is subject to this pooling case?

17 A. It's the same party as the original case, it's  
18 the Brooks Moleen Trust which owns 42.5 percent of the  
19 leasehold.

20 Q. And they were pooled in the prior order?

21 A. Yes, sir.

22 Q. The remaining 57.5 percent, what is the status of  
23 that?

24 A. It's leasehold owned by affiliates of Mack  
25 Energy.



1 Q. When did you first undertake efforts to contact  
2 the Brooks Moleen Trust and obtain their voluntary  
3 participation in this development program?

4 A. In 2002.

5 Q. And what was the position taken by the trust at  
6 that time?

7 A. The trust was in the process of being transferred  
8 to a successor trustee in El Paso, and that is still  
9 ongoing and has not been accomplished. And the bank that  
10 controls the trust at this time is unwilling to act.

11 Q. And they advised you that last year?

12 A. Yes, sir.

13 Q. Prior to proposing the two wells that are the  
14 subject of this hearing, did you again contact the bank?

15 A. Yes, sir, I did.

16 Q. And what were you advised about the status of the  
17 trust at that time?

18 A. That they were still in the process of  
19 transferring everything to a successor trustee and their  
20 position would remain the same.

21 Q. And did you advise them at that time that you  
22 would file a proposal and then have to take the matter to  
23 compulsory pooling?

24 A. Yes, sir.

25 Q. Would you identify what has been marked as Mack

1 Energy Exhibit Number 3?

2 A. That's my letter to the trustee in South  
3 Carolina, proposing wells -- inviting them to join us in  
4 the drilling of Panther Federal Wells Number 2 and 4 and  
5 telling them that if they did not wish to join we would  
6 file for compulsory pooling order as we did on Well Numbers  
7 1, 3, 5 and 6.

8 Q. Mr. Lanning, this letter was really a formality.  
9 You had already talked to them and they told you that they  
10 could not or would not participate; is that not true?

11 A. Yes, sir, that's correct.

12 Q. You attached to this letter AFEs for each well?

13 A. Yes, sir.

14 Q. Are copies of those AFEs marked Mack Energy  
15 Corporation Exhibit Number 4?

16 A. They are.

17 Q. Could you review those for the Examiner, please?

18 A. Dryhole costs \$232,910.93, and completed well  
19 costs of \$542,904.95, identical numbers for each well.

20 Q. And are these numbers based on the actual cost  
21 incurred in drilling the three wells which you have drilled  
22 this year on the spacing units covered by this order?

23 A. Yes, sir.

24 Q. Have you made an estimate of the overhead and  
25 administrative cost to be incurred while drilling the well

1 and also while producing the well if, in fact, it is  
2 successful?

3 A. Yes, sir, it's \$3500 a month for drilling and  
4 \$475 a month for producing.

5 Q. And how do these compare to the Ernst and Young  
6 figures for wells in the same area to this depth?

7 A. They're less than the Ernst and Young averages.

8 Q. Are these -- the overhead and administrative  
9 costs, are these the same figures that were included in the  
10 previous compulsory pooling order?

11 A. Yes.

12 Q. And do you recommend that these figures be  
13 incorporated into the amended order?

14 A. Yes.

15 Q. Does Mack Energy request that these overhead and  
16 administrative costs be adjusted in accordance with the  
17 COPAS accounting guidelines?

18 A. Yes.

19 Q. And that's also consistent with the prior pooling  
20 order, is it not?

21 A. Yes, sir.

22 Q. Does Mack Energy also request that a 200-percent  
23 charge for the risk associated with the drilling of these  
24 wells be established by the amended compulsory pooling  
25 order?

1 A. Yes.

2 Q. Is Mack Exhibit Number 5 an affidavit confirming  
3 that notice of today's hearing was sent by certified mail  
4 to the Moleen Trust?

5 A. It is.

6 Q. Were Exhibits 1 through 5 prepared by you or  
7 compiled under your direction?

8 A. Yes.

9 MR. CARR: May it please the Examiner, at this  
10 time we'd move the admission into evidence of Mack Energy  
11 Corporation Exhibits 1 through 5.

12 EXAMINER STOGNER: Exhibits 1 through 5 will be  
13 admitted into evidence at this time.

14 MR. CARR: And that concludes my direct  
15 examination of Mr. Lanning.

16 EXAMINATION

17 BY EXAMINER STOGNER:

18 Q. Mr. Lanning, as far as the drilling and timing of  
19 drilling of these wells is there a set time that you would  
20 like for both of them, or are they contingent on one or the  
21 other?

22 A. We'll drill both wells, because they're going to  
23 be updip from the 1 and 3.

24 EXAMINER STOGNER: At this point, Mr. Carr, I'd  
25 like for you to evaluate me or suggest something in this

1 instance. This is an amendment on a compulsory pooling  
2 order that at the time the original pooling order was  
3 written you had to justify the 200 percent.

4 MR. CARR: Yes.

5 EXAMINER STOGNER: That rule has been changed.

6 MR. CARR: Yes. Today --

7 EXAMINER STOGNER: Should this not be under the  
8 old order since it is an amendment?

9 MR. CARR: Mr. Stogner, you know, we're kind of  
10 caught on the cusp on this thing, and it would seem to me  
11 that we should incorporate into the record here the record  
12 that was made on May 22nd, 2003, because at that time there  
13 was a full presentation on the risk associated with these  
14 wells. And it would seem to me since we're amending the  
15 prior order, that it would be appropriate to incorporate  
16 that record in any purpose so that nothing in terms of just  
17 the technical way to present this case falls through the  
18 cracks.

19 EXAMINER STOGNER: Okay, I'll take administrative  
20 notice of the record in Case Number 13,070, in which I see  
21 at that time -- I believe a 200 percent was granted under  
22 the old rule. There again, the rule has changed since  
23 then. This is an infill well, an infill oil well, and  
24 perhaps under the old system it wouldn't get 200 percent  
25 automatically.

1 MR. CARR: Yeah.

2 EXAMINER STOGNER: So should this fall under the  
3 old --

4 MR. CARR: Well, I would think today --

5 EXAMINER STOGNER: -- rule or --

6 MR. CARR: Well, I would think today we're under  
7 the rule as it stands today, and although the acreage was  
8 pooled with our pooling for new wells, and it would seem to  
9 me that then the rule that applies today for the 200-  
10 percent penalty would be appropriate for each of these  
11 wells today.

12 You can see that even under the order itself,  
13 four wells were approved last time, and one of them is  
14 structurally in the position that they now know would not  
15 go. And so it seems to me that the risk has been assumed,  
16 and under current rule they'd be entitled to the full risk  
17 penalty.

18 EXAMINER STOGNER: So the Brooks Moleen Trust, if  
19 they had a problem with that, they could have been in today  
20 to object to it, according to the new rules?

21 MR. CARR: I think that's correct. And I would  
22 also just like to note that by incorporating the prior  
23 record there is also correspondence last year, dated March  
24 6th of 2003, where the trust, in fact, wrote to Mack Energy  
25 and stated that while they were in the process of

1 transferring the trust to a successor trustee, that they  
 2 were unable to pursue any action as to these properties.  
 3 And so we're stuck with that situation and Mack is out  
 4 there taking the risk. It's a substantial interest, and I  
 5 think under current rule it would be appropriate to assess  
 6 the 200-percent penalty.

7 Q. (By Examiner Stogner) Mr. Lanning, I missed  
 8 those numbers. You had mentioned something about what the  
 9 Brooks Moleen Trust -- what percentage they own underneath  
 10 these two units, or this lease, I should say.

11 A. 42.5 percent.

12 Q. And this is federal acreage, federal lease; is  
 13 that correct?

14 A. Yes.

15 EXAMINER STOGNER: I have no other questions of  
 16 Mr. Lanning.

17 Anything further, Mr. Carr?

18 MR. CARR: Mr. Stogner, that concludes our  
 19 presentation in this case.

20 EXAMINER STOGNER: Nothing further in Case  
 21 13,206, this matter will be taken under advisement.

22 Let's take a short 10-minute recess at this time.

23 (Thereupon, these proceedings were concluded at  
 24 9:34 a.m.)

I do hereby certify that the foregoing is  
 a complete record of the proceedings in  
 the Examiner hearing of Case No. 13206  
 \* \* \* heard by me on 22 January 2004

STEVEN T. BRENNER, CCB, Examiner  
 Conservation Division  
 (505) 989-9317

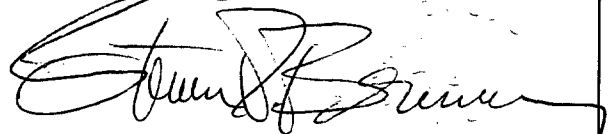
## CERTIFICATE OF REPORTER

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~~ 23rd, 2004.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006