

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

THE APPLICATION OF BURLINGTON RESOURCES  
OIL & GAS COMPANY, LP, TO VOID DIVISION ORDER R-8993  
INCLUDING AUTHORITY TO FILE AMENDED ACREAGE  
DEDICATION PLATS "C-102s" FOR CERTAIN FRUITLAND  
COAL GAS WELLBORES WITHIN SECTION 7 AND 8 OF  
TOWNSHIP 32 NORTH RANGE 6 WEST, ALL WITHIN  
THE ALLISON UNIT, SAN JUAN COUNTY, NEW MEXICO:

Case No. 14589

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

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

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January 20, 2011

Santa Fe, New Mexico

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 January 20,  
2011, at the New Mexico Energy, Minerals and Natural  
Resources Department, 1220 South St. Francis, Drive, Room  
102, Santa Fe, New Mexico.

REPORTED BY: Irene Delgado, NM CCR 253.  
Paul Baca Professional Court Reporters.  
500 Fourth Street, NW, Suite 105.  
Albuquerque, New Mexico 87102.

A P P E A R A N C E S

FOR THE APPLICANT:

1 W. THOMAS KELLAHIN  
2 KELLAHIN AND KELLAHIN  
3 706 Gonzales Road  
4 Santa Fe, New Mexico 87501

I N D E X

EXHIBITS (Referred to but not offered or admitted.)

- 8 01 Affidavit of Vanessa Thompson
- 9 02 Case No 9730 Order R-8993
- 10 03 Case No 9750 Order R-9014
- 11 04 Admin Order NSL 4460

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1 HEARING EXAMINER JONES: With that, let's call the  
2 first case. Case 14589, application of Burlington Resources  
3 Oil & Gas Company LP requesting an order voiding Division  
4 Order R-8993 including amended acreage dedication plats.  
5 Call for appearances.

6 MR. KELLAHIN: Mr. Examiner, my name is Tom  
7 Kellahin. I'm with the Santa Fe law firm of Kellahin and  
8 Kellahin, appearing this morning on behalf of the applicant,  
9 Burlington Resources. We are submitting this case, with your  
10 permission, by affidavit.

11 HEARING EXAMINER JONES: Any other appearances?  
12 (No response.)

13 MR. KELLAHIN: Mr. Examiner, there are four  
14 exhibits. The first one is the affidavit of Vanessa  
15 Thompson. Ms. Thompson is a professional landman, and she  
16 has prepared this detailed affidavit that outlines the  
17 sequence of events for which there are corresponding attached  
18 exhibits to the affidavit. The exhibits are lettered. As we  
19 go through the affidavit, then I can direct your attention to  
20 the highlights of Ms. Thompson's affidavit.

21 In addition, I have included, as additional support,  
22 three orders by the Division that further explain the  
23 circumstances why I'm appearing here today. And, with your  
24 permission, then I will summarize Ms. Thompson's affidavit.

25 If you will turn over past the written portion of

1 the affidavit and look at what is marked Exhibit Letter A, we  
2 are dealing with the Allison Unit. Its northern boundary  
3 crosses over into the southern portion of Colorado.

4 HEARING EXAMINER JONES: Okay.

5 MR. KELLAHIN: The area in question is going to be  
6 that portion of the Allison Unit that's identified by Section  
7 7, 8 and 9 up towards the top right. The Allison Unit is  
8 unusual in that they characterize it as a fixed interest  
9 unit. The circumstances are that, regardless of the  
10 orientation and configuration of the spacing units, the  
11 equities are the same for the working interest owners that ?  
12 overrides any royalties.

13 My understanding from Ms. Thompson is that  
14 originally the proven coal portion of the unitized interval  
15 was allocated on a surface relationship between surface  
16 acreage and lease acreage as opposed to reservoir conditions.  
17 And following that process, then she represents in her  
18 affidavit that any change in the spacing orientation does not  
19 alter the parties or the percentages in this case.

20 The next display is Exhibit B, and herein lies one  
21 of the problems. The Allison Unit Well 133 was approved some  
22 22 years ago for non-standard coal gas proration and spacing  
23 unit configured in the hatched area on the C-102 which is  
24 Exhibit B. You can see the northern portion of Section 7  
25 that spills over into the northwest corridor of 8. That

1 configuration then was approved by the Division here.

2 The hearing order that triggered all of that is one  
3 that Mr. Catanach entered back in August of 89, and it's  
4 attached as Exhibit Number 2. So when you come through the  
5 exhibits you will find Exhibit 2 then, and that, at that  
6 time, was Burlington's application for non-standard proration  
7 unit. Mr. Catanach approved Burlington's request for the  
8 configuration of the coal gas spacing unit as you are seeing  
9 it on the Exhibit B to the affidavit.

10 Now, if you will turn with me to what is marked as  
11 Exhibit C to the affidavit, it's a color display, if you look  
12 in the affidavit and thumb past until you get to -- this one  
13 is one by which I can explain the circumstances because they  
14 get more complicated.

15 First of all, on Exhibit C, in the blue crosshatched  
16 area, you see the Well 133. Correspondingly, that blue  
17 hatched area was the non-standard proration unit that  
18 Mr. Catanach approved. It spills over into Tract 3 of  
19 Section 8 which is crosshatched, but in the printout it turns  
20 into a yellow-green color. That is the NSL for the 133.

21 Moving over to the right, you are going to see a 135  
22 well in the area that's hatched with the red coloring. That  
23 was a compulsory pooling case. The case number for that was  
24 9750 and resulted in Order R-9014, and that I have attached  
25 as Exhibit Number 3 to the hearing today.

1           The original pooling application for the  
2 Burlington -- the Meridian pooling case was the crosshatched  
3 area. It spilled over from Section 9 and took in part of the  
4 eastern portion of 8, as you see. The party to be pooled was  
5 a company called Richmond. As a part of that disputed case,  
6 there was a settlement. And in the settlement what ended up  
7 happening is the pooling order as issued only pooled the west  
8 half of Section 9. It excluded that portion of 8 that's  
9 crosshatched in the red. That was left out.

10           So from the time the application was filed for the  
11 crosshatched area to issuance of the order, the configuration  
12 of the spacing unit changed. So the pooling order as you  
13 read it only addressed the west half of 9. Correspondingly,  
14 the solution was that Richmond would operate the east half of  
15 9, and it went along that way.

16           Then let's look at what is the east half of 8 and  
17 you will see the 155 well. The 155 well on this display was  
18 the subject of an administrative NSL application and order.

19           HEARING EXAMINER JONES: I'm sorry?

20           MR. KELLAHIN: You stay on the same exhibit with me.

21           HEARING EXAMINER JONES: 150?

22           MR. KELLAHIN: 150. It's sort of lost in the  
23 crosshatch. The 150 well, that was the subject of an NSL  
24 process, and the NSL order is NSL-4460, and that is attached  
25 as Exhibit Number 4. I have included the order and all the

1 filings with that. What that then did in May of 2000 was  
2 approve another coal gas well for the 150 dedicating and  
3 approving the east half of 8.

4 Things continue now for some 22 years, and during  
5 this period, additional coal gas wells were drilled. And in  
6 all instances, with the exception of the 135 laydown NSP in  
7 the northern portion of 7, they were stand-ups.

8 No one realized the discrepancy until they got over  
9 to Section 7 and they were getting ready to drill the  
10 horizontal wellbore, the 135H, which is not on the display,  
11 but very close to the 135. When that -- when that  
12 application was filed, someone in Aztec finally looked at the  
13 files, picked up the conflicting orientations and called time  
14 out.

15 HEARING EXAMINER JONES: Okay.

16 MR. KELLAHIN: Mrs. Thompson and I have searched for  
17 weeks through everything we can find, division records, my  
18 records, Burlington's records. We cannot explain how this  
19 did not get fixed. The end result is we are here to try to  
20 correct that.

21 If you will turn now to Exhibit D to the affidavit,  
22 here is another pictorial, you are looking at the west half  
23 of Section 9. In the red crosshatched, it's a little hard to  
24 see the 9, but that is the pool spacing unit that became the  
25 spacing unit for the 135 and 135S. Having done that, there

1 was the east half of the east half of 10 that was sort of  
2 no-man's land for a while.

3           And then the -- the 135 then -- I'm sorry -- the 150  
4 was approved for the east half and the yellow disappeared.  
5 If you go now to Exhibit E to the affidavit, here is another  
6 pictorial. As a result of the overlying and conflicting  
7 spacing units, Ms. Thompson and I collectively believe that  
8 the best solution would be to vacate the NSL order for the  
9 133, and to authorize us then to file three additional C-102s  
10 to correct the following wells.

11           You can see on Exhibit E that the 135 is a problem.  
12 I need though to vacate that order and refile a C-102. In  
13 addition, you will see over in Section 8 there is a 134S that  
14 also got captured by that NSL. So we will need authority to  
15 refile a new C-102 on the 133. It's going to be 133H, the  
16 133S, and now the new horizontal well, the 135H. To help you  
17 visualize this then we have attached to Mrs. Thompson's  
18 affidavit Exhibits F, G, and H.

19           And as you look through the affidavit, these are  
20 sample C-102s, and they are intended to replace the ones that  
21 are mistakenly in this file that there is population of  
22 almost 30 C-102s that we have looked through on these wells  
23 and various configurations, and the ones dealing with the  
24 coal gas out of this population, we think the easiest  
25 solution is to approve these three as depicted on Exhibit F,

1 G, and H and to vacate that non-standard proration unit order  
2 and that order being R-8993.

3 HEARING EXAMINER JONES: Okay.

4 MR. KELLAHIN: That's my understanding of the sum of  
5 Mrs. Thompson's affidavit, and she has taken care to sequence  
6 her written statements with the lettered exhibits that I have  
7 just described for you so that you can follow through what I  
8 have -- I did articulate this morning.

9 In addition, on Page 3 of her affidavit, under  
10 Paragraph 10, these were all the different spacing units that  
11 were out of sync with the original NSL filed for the 133, but  
12 as we worked through these -- these compounding filings, we  
13 believe the corrections are as I have represented.

14 That concludes my presentation, Mr. Examiner.

15 HEARING EXAMINER JONES: Okay. When you asked for  
16 vacating, does that effect any production allocation to any  
17 well, or do we just go forward from here.

18 MR. KELLAHIN: No. It won't effect any allocations  
19 for production. I think, for the most part, the reality is  
20 Burlington -- Meridian Burlington simply have disregarded the  
21 NSL that was approved. It got lost and it was never  
22 acknowledged.

23 HEARING EXAMINER JONES: Okay. That -- the fact  
24 that it was -- that controversial one.

25 MR. KELLAHIN: With Richardson?

1 HEARING EXAMINER JONES: Yes, Richardson. You  
2 said --

3 MR. KELLAHIN: Richmond Oil Company.

4 HEARING EXAMINER JONES: Richmond Oil Company.

5 MR. KELLAHIN: Richmond Oil Company.

6 HEARING EXAMINER JONES: I don't understand why that  
7 was contested if everything in this unit is the same owners,  
8 no matter where you're -- so ownership is out -- production  
9 is allocated by obviously spacing units, but you said leases  
10 and -- I guess the concept of fixed interest unit versus the  
11 other units, I probably should --

12 MR. KELLAHIN: It's an oddity, and the first  
13 question, if you go back to Exhibit A --

14 HEARING EXAMINER JONES: Okay.

15 MR. KELLAHIN: -- Exhibit A and look at Section 9,  
16 not all of Section 9 is within the unit. So you can see the  
17 portion of 9 in the unit, it does not have an equity problem.  
18 The only party to be pooled in 9 was Richmond Oil Company.

19 HEARING EXAMINER JONES: That was not in the unit?

20 MR. KELLAHIN: Right. And they had a tiny unit  
21 interest in non-unit acreage in the west half of 9. They  
22 also had most of the east half of 9. So the settlement with  
23 Richmond was they would acquiesce to the spacing unit in the  
24 west half of 9, stand that up with the Number 130, 135 well,  
25 and then they drill their own well in the east half, so

1 everybody was happy for a long time.

2 HEARING EXAMINER JONES: Okay. Okay. I better pass  
3 this to David.

4 HEARING EXAMINER BROOKS: Well, you know this is --  
5 that sounds like very complicated. Tell me about this fixed  
6 interest unit. What is that?

7 MR. KELLAHIN: I had never heard of one.

8 HEARING EXAMINER BROOKS: I haven't either, that's  
9 why I'm interested in your telling me about it.

10 MR. KELLAHIN: I have asked Ms. Williams half a  
11 dozen times to tell me this, and it is not easy to  
12 understand. The end result of the complicated conversations  
13 have been synthesized in the affidavit, and she assures me,  
14 as well as others at Burlington, that the equities  
15 established for the working interest, the royalty and  
16 overrides are not changed.

17 Apparently the concept is that in early on when they  
18 were deciding how to develop the coal gas, there was a lack  
19 of agreement among the working interest owners about the  
20 effect of the geology, and they simply reverted to the  
21 conventional exploratory unit concept of dividing things on  
22 straight acreage. So if you had a lease, that became your  
23 fractional share of the unit hole on a surface acreage basis.  
24 Despite the development, they continued to do all of those  
25 things that way. Somewhere in there, they told me that they

1 had participating areas.

2 HEARING EXAMINER BROOKS: That's what I was going to  
3 say, in federal territory you have participating areas.

4 MR. KELLAHIN: And they have said there are those.  
5 They assured me that the participating area for the coal gas  
6 is all of the Allison unit that's been expanded.

7 HEARING EXAMINER BROOKS: Okay. That makes it --  
8 that correlates it to something I understand.

9 HEARING EXAMINER JONES: Does she say that here in  
10 her affidavit?

11 MR. KELLAHIN: About the PA?

12 HEARING EXAMINER JONES: About the Fruitland coal  
13 covers the whole --

14 MR. KELLAHIN: I think she did. If she didn't, I  
15 will get her to give us a supplemental affidavit.

16 HEARING EXAMINER BROOKS: That would be helpful.

17 MR. KELLAHIN: And I must have asked this five times  
18 because it doesn't seem to fit my concept of the conventional  
19 PAs in these --

20 HEARING EXAMINER BROOKS: Right.

21 MR. KELLAHIN: -- undivided units. It doesn't fit  
22 with this fixed interest unit.

23 HEARING EXAMINER BROOKS: Right.

24 MR. KELLAHIN: I just couldn't make that work. I  
25 was separating my working interest from royalty overrides.

1 They've assured me as late as last night with various e-mails  
2 trying to explain to me that there was no equity problems in  
3 rearranging the spacing units because, at this point, all the  
4 production and everything has been allocated on a  
5 participation area that's basically the entire unit.

6 HEARING EXAMINER BROOKS: The bottom line is that,  
7 regardless of how they -- what units the wells are assigned  
8 to, that the distribution interest would be identical?

9 MR. KELLAHIN: On everybody, that the distribution  
10 of proceeds from that production --

11 HEARING EXAMINER BROOKS: Right. Will be identical?

12 MR. KELLAHIN: Right.

13 HEARING EXAMINER JONES: So it's still --

14 HEARING EXAMINER BROOKS: Its' the same payout --

15 MR. KELLAHIN: Right.

16 HEARING EXAMINER BROOKS: -- to everybody.

17 MR. KELLAHIN: The net revenue interest did not  
18 change.

19 HEARING EXAMINER BROOKS: Well, I think you need to  
20 supplement that.

21 MR. KELLAHIN: I will do my best to do that.

22 HEARING EXAMINER JONES: So the lease, was anyone  
23 noticed on this case?

24 MR. KELLAHIN: We chose not to do so under this  
25 concept of no equities are changing hands, and that's why I

1 was so careful with her and the others at Burlington, to make  
2 sure that they represented to me that there were no parties  
3 affected either by percentage or identity to shifting and  
4 spacing. And with that assurance, then I went forward.

5 HEARING EXAMINER JONES: The asked-for realignment,  
6 will that involve anything outside of the unit itself? I  
7 mean, it won't involve any lands outside the unit?

8 MR. KELLAHIN: No. They will all be inside the  
9 Allison Unit, because Section 7 is in a different package. I  
10 just did that for historical purposes.

11 HEARING EXAMINER BROOKS: That Section 9 that's  
12 split is not going to affect anything you are asking for?

13 MR. KELLAHIN: The effects we are asking for occur  
14 in 7 and 8.

15 HEARING EXAMINER JONES: The latest unit expansion  
16 of the Allison unit, was that -- this is the latest unit for  
17 it?

18 MR. KELLAHIN: On Exhibit A, as I understand it,  
19 this is to be up to date. Although there is no date on here,  
20 it was represented to me to be current.

21 HEARING EXAMINER JONES: Okay. It's a state -- state  
22 form, a state unit as a state land office or is it federal?

23 MR. KELLAHIN: I will have to find out, Mr. Jones.  
24 I'm not sure. I know that there was federal. There may be  
25 some state. I will have to find out.

1 HEARING EXAMINER JONES: Would it be on the -- on  
2 some of the records I could find myself?

3 MR. KELLAHIN: Let me look it up for you and supply  
4 that to you.

5 HEARING EXAMINER JONES: Okay. That's good.

6 HEARING EXAMINER BROOKS: You know, it would  
7 probably be helpful, if your client has it available, if you  
8 could, with your supplemental affidavit, supply a copy of  
9 this unit agreement.

10 MR. KELLAHIN: I will look and see. This Allison  
11 Unit is very old. Let's see what they have in terms of  
12 updating your file.

13 HEARING EXAMINER BROOKS: They don't have files that  
14 old. That often happens.

15 MR. KELLAHIN: That's the problem with researching,  
16 it's so old it's hard to find the right C-102s.

17 HEARING EXAMINER BROOKS: Like the surety bonds that  
18 they get for well-plugging bonds, the sureties never can find  
19 their company's bonds.

20 MR. KELLAHIN: We will file a supplement affidavit  
21 with your permission, Mr. Examiner.

22 HEARING EXAMINER JONES: Thank you, Mr. Kellahin.  
23 With that, we'll take it under advisement.

24 HEARING EXAMINER BROOKS: Yes.

25 HEARING EXAMINER JONES: We will take 14589 under

1 advisement.

2 (Case 14589 concluded.)

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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. 14589,  
heard by me on Jan 20 2011

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David K. Booth Examiner  
Oil Conservation Division

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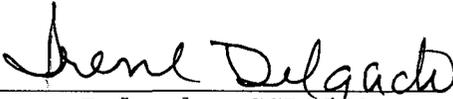
## REPORTER'S CERTIFICATE

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I, IRENE DELGADO, New Mexico CCR 253, DO HEREBY CERTIFY THAT ON January 20, 2011, 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 \_\_\_\_\_ day of February 2011.

  
Irene Delgado, CCR 253  
Expires: 12-31-2011