

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. 11,887

APPLICATION OF SANTA FE ENERGY)
RESOURCES, INC., FOR COMPULSORY POOLING)
AND A NONSTANDARD GAS SPACING AND)
PRORATION UNIT, LEA COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

January 22nd, 1998

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, 1998, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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Examiner Hearing
CASE NO. 11,887

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* * *

1 WHEREUPON, the following proceedings were had at
2 9:33 a.m.:

3 EXAMINER STOGNER: This hearing will come to
4 order. At this time I will call Case Number 11,887.

5 MR. CARROLL: Application of Santa Fe Energy
6 Resources, Inc., for compulsory pooling and a nonstandard
7 gas spacing and proration unit, Lea County, New Mexico.

8 EXAMINER STOGNER: I believe there's an
9 outstanding motion for dismissal by Phillips. At this time
10 I will call for appearances.

11 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
12 representing Santa Fe Energy Resources, Incorporated.

13 EXAMINER STOGNER: Other appearances?

14 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
15 the Santa Fe law firm of Kellahin and Kellahin. I'm
16 appearing today on behalf of Phillips Petroleum Company.

17 EXAMINER STOGNER: Other appearances?

18 MR. CARR: May it please the Examiner, my name is
19 William F. Carr with the Santa Fe law firm Campbell, Carr,
20 Berge and Sheridan. We are entering our appearance in this
21 matter for Nearburg Exploration Company, L.L.P.

22 EXAMINER STOGNER: Okay, let's see. Santa Fe
23 Resources filed the Application.

24 Mr. Kellahin, just as a matter of record, what's
25 Phillips' interest in this well -- or in this matter, I

1 should say?

2 MR. KELLAHIN: Mr. Examiner, I'll give you an
3 extra copy of the Motion to Dismiss in case you don't have
4 one.

5 If you'll turn to the last page, there's a map.

6 EXAMINER STOGNER: By the way, I've read the
7 Motion. I'm glad you brought this up, because we need to
8 clarify some descriptions, both your Motion and the
9 Rebuttal in this. So I want to make sure that the record
10 is clear when we're talking about this.

11 MR. KELLAHIN: This is an irregular section, Mr.
12 Examiner. Section 1 is shown on the C-102. It is divided
13 into lots. For simplicity, I will describe them to you as
14 if they were 160-acre quarter sections.

15 In the north half of the section, it is
16 subdivided into two leases, the northeast quarter and the
17 northwest quarter. Those are each State of New Mexico oil
18 and gas leases. The lessee is Phillips Petroleum Company.

19 In the south half, the southwest quarter is
20 controlled by Santa Fe.

21 I am not certain of the Nearburg interest. They
22 have an interest somewhere in the southeast quarter.

23 The issue is that Santa Fe has proposed a well on
24 Lot 11, and the dedication of the west half of the section
25 to a well to be located in that lot. Phillips has made the

1 decision that they want to go forward with the drilling of
2 a well on Lot 5 and the dedication of the north half to a
3 320 gas spacing unit.

4 Phillips has obtained from the Division an
5 approved APD, which is shown attached to the Motion, and is
6 proposing to commence operations to dedicate the north
7 half.

8 The issue before you is whether or not you can
9 advance a compulsory pooling application for the west half
10 that would include the northwest quarter, which is now
11 dedicated to an approved application for permit to drill,
12 and, if you do so, whether that is an appropriate decision,
13 policy or precedent you want to establish.

14 The past actions by the Division are that force
15 pooling cases are dismissed when they include an
16 orientation that is different from an approved APD, and
17 that's Phillips' position, that the force-pooling case
18 ought to be dismissed, and Phillips could go forward and
19 drill their well in the northwest quarter.

20 The issue for you, then, is to decide the Motion.
21 If you decide for the Motion, then Phillips has their
22 preferred location. That still leaves Santa Fe and
23 Nearburg free to form the south half of that section, and
24 they can drill the Santa Fe-preferred location.

25 If you take this to an evidentiary hearing and

1 deny my motion, then you'll get to decide who drills which
2 well, and only one well will be drilled. And that's the
3 situation.

4 We think that the development of the section
5 ought to be left to the parties, and we have a spacing
6 unit, we have formed and approved for the drilling of the
7 well, and we would like to go forward with that.

8 If you deny the Motion, then we'll be back before
9 you at an appropriate time, we'll put on our technical case
10 and Santa Fe will put on their technical case, and then you
11 can decide which of these wells gets drilled. We think
12 that's an unnecessary use of the compulsory pooling
13 provisions, and accordingly we would request that you
14 dismiss their case.

15 Thank you, Mr. Examiner.

16 EXAMINER STOGNER: Mr. Bruce, before we go any
17 further in this matter, I need to set the record straight.
18 We need to make sure this is one of these lots.

19 Just for the record, Section 1 is a large section
20 of irregular shape, a mile by a mile and a half. It has 24
21 -- It's cut up in 24 lots and/or quarter quarter sections,
22 Lot 1 through 4 being the uppermost tier, and then so on,
23 Lot 5, 6, 7 and 8.

24 And what Mr. Kellahin is representing at this
25 point as the north half we will recognize as Lots 1 through

1 8. Using surveyor's terminology, this wouldn't be right.
2 But for our use now, we're going to assume that Lots 1
3 through 8 equates to the north half that is being talked
4 about.

5 At the same time, Mr. Bruce is going to refer to
6 the west half, and for the record that will include Lots 3,
7 4, 5, 6, 11, 12, 13 and 14.

8 There is a true south half to this, but when we
9 mention the south half it will not equate to those last
10 eight quarter quarter sections on the bottom of this.

11 I know that's confusing, but if one refers to the
12 map of this particular section, that way it will -- a
13 surveyor, an attorney, a geologist, an engineer, a landman
14 will be able to look at that and hopefully understand what
15 we're talking about. It is important in this matter, in
16 the way one looks at it.

17 Thank you, Mr. Kellahin.

18 Mr. Bruce?

19 MR. BRUCE: Mr. Examiner, I have a couple of
20 points to make and a little handout. I'm sorry I only have
21 one copy for it, but I'll get to that in a minute.

22 Mr. Kellahin says the north half of Section 1 is
23 subject to a voluntary agreement. Again, I understand that
24 we're talking lots here, and in essence Lots 1 through 8
25 Mr. Kellahin says are subject to a voluntary agreement.

1 But the standup unit proposed by Santa Fe is not.
2 Under the force-pooling statute, Santa Fe has the right to
3 seek a pooling of that standup unit.

4 Mr. Kellahin sat here two weeks ago and stated
5 that if a voluntary unit or a voluntary agreement did not
6 cover an entire well unit, then force-pooling is necessary
7 and proper.

8 In this case there is not a voluntary agreement
9 covering Lots 3 through 6 and 11 through 14, the standup
10 unit, unless Santa Fe Energy is entitled to a force-pooling
11 hearing.

12 As noted in my response, a compulsory pooling
13 order of the Division supersedes any voluntary agreement.
14 It has to be able to do that. Otherwise the Division
15 couldn't force pool a single lease, and its well-spacing
16 regulation would be invalid.

17 Mr. Examiner, I have a handout. It's a Midland
18 Map Company map. And this gets to my next point.

19 Santa Fe has been seeking the development of Lots
20 1 through 16, the north two-thirds of Section 1, for a year
21 and a half now. The correspondence from Santa Fe to
22 Phillips is attached as Exhibits A through F of my
23 response, and I won't go into those.

24 But if you'll look at that map, Phillips not only
25 owns Lots 1 through 8, it also has an interest in Lot 9,

1 and it also appears in Lots 10 and 15.

2 So if Santa Fe has to have a laydown unit, it
3 still has to go force pool Phillips, because Phillips
4 refuses to do anything with respect to the development up
5 in the north two-thirds of this section.

6 All Santa Fe wants to do is get a well drilled,
7 and we think force pooling the west half, so to speak, of
8 this Section 1 is a proper well unit, and the force pooling
9 of that standup unit is proper.

10 Although we didn't bring witnesses today, one
11 thing that Santa Fe will show at a hearing, that only
12 looking at Lots 3 through 6 and 11 through 14, what we are
13 calling the west half of this Section 1, Santa Fe will
14 present evidence that only one well is necessary in that
15 area.

16 I think the geology will show that essentially
17 Lots 1, 2, 7, 8, 9, 10, 15 and 16 are not prospective in
18 the Morrow, and no one's going to drill a well there.
19 You'll notice that Phillips' proposed well is only 1320
20 feet north of Santa Fe's proposed well. Only one well is
21 necessary to drain this west half.

22 We think by allowing Phillips' Motion, by, in
23 essence, mandating two laydown units and two wells to be
24 drilled, it will cause physical and economic waste, and
25 that will violate the duties of the Commission.

1 As a result, we ask you to deny the Motion.

2 EXAMINER STOGNER: Mr. Carr?

3 MR. CARR: Mr. Examiner, Nearburg is here today
4 in support of Santa Fe Energy Resources, Inc. Our
5 interests in this section are located in Lots -- I
6 understand to be located in Lots 11, 12, 13, 14 and 16.

7 Our real concern is that we think the acreage
8 ought to be developed, and for over a year and a half this
9 has been tied up.

10 We support Santa Fe in this matter. If you
11 should grant the Motion of Phillips, our interest still is
12 in getting the acreage developed, and we would hope that
13 Phillips would go forward in a timely fashion and actually
14 drill a well, and not just use this APD to continue to keep
15 the acreage locked up.

16 MR. CARROLL: Mr. Carr, I notice you filed an
17 amended entry of appearance. The first one said in
18 opposition to the case.

19 MR. CARR: Because that was my error. I was not
20 in opposition, ever, to the case.

21 MR. CARROLL: Oh, okay.

22 MR. CARR: Okay.

23 MR. CARROLL: So there hasn't been a change in
24 position?

25 MR. CARR: No, there has not been.

1 MR. BRUCE: He used to be in opposition to me,
2 that's all.

3 EXAMINER STOGNER: We'll take that as a typo, Mr.
4 Carr.

5 Mr. Kellahin, has Phillips filed an APD on the --
6 for the north half of Lots 1 through 8?

7 MR. KELLAHIN: Yes, sir. If you'll turn to the
8 Motion to Dismiss, you'll find that just ahead of the
9 plat -- I discussed with you a while ago -- is the
10 Division-approved APD for this well.

11 MR. CARROLL: Mr. Kellahin, I believe you stated
12 it's OCD policy to dismiss any compulsory pooling
13 application if there's been acreage dedication just based
14 upon an APD, not a producing well, but an APD?

15 MR. KELLAHIN: That's my recollection, and I have
16 not been able to find it. Mr. Carr and I have talked about
17 that. He and I cannot specifically remember the case, but
18 I know there is a recent case where we've had this issue.

19 If you'll provide me the opportunity, I'd be
20 happy to search for it. I apologize for not having it here
21 today.

22 EXAMINER STOGNER: Okay, let's look at this APD
23 and the C-102. You're showing the proposed Lots 1 through
24 8 as the 320-acre dedicated acres; is that correct?

25 MR. KELLAHIN: Yes, sir.

1 EXAMINER STOGNER: Is that one lease, or would
2 that be a compound of acreage?

3 MR. KELLAHIN: It's going to be two leases, each
4 controlled by Phillips as the lessee. The northeast
5 quarter is a state lease, the northwest is a state lease,
6 and they're both held by Phillips.

7 EXAMINER STOGNER: I'm sorry, they're held by
8 what?

9 MR. KELLAHIN: They're both -- The lessee is
10 Phillips Petroleum Company, so there would be no other
11 working interest owner in that proposed spacing unit.

12 EXAMINER STOGNER: Would that necessitate a
13 communitization agreement from the Land Office?

14 MR. KELLAHIN: You would have to file one before
15 you could produce the well.

16 EXAMINER STOGNER: Has that been filed yet?

17 MR. KELLAHIN: No, sir, I have not done that yet.

18 EXAMINER STOGNER: Okay.

19 MR. CARROLL: Mr. Bruce, are there any other
20 working interest owners in the Lots 11, 12, 13, 14?

21 MR. BRUCE: As I understand -- I can get that
22 data for you, but I believe -- The only working interest
23 owners in the north two-thirds of this section, as I
24 understand it, are Nearburg, Santa Fe and Phillips. There
25 might be some small interest out there, but the only --

1 Those are the only ones I know of.

2 MR. CARROLL: So Phillips has the north half,
3 Santa Fe the southwest quarter and Nearburg the southeast
4 quarter?

5 MR. CARR: We have interests in Lots 11, 12, 13,
6 14 and 16.

7 MR. CARROLL: Okay.

8 MR. BRUCE: I believe Nearburg has undivided
9 interest in the Santa Fe acreage, Mr. Carroll.

10 MR. CARROLL: Mr. Bruce, you stated that only one
11 well is needed, that the only productive acreage should be
12 the west half and that the east half would be --

13 MR. BRUCE: That's what Santa Fe's geology would
14 show.

15 MR. CARROLL: Has there been any wells drilled in
16 the east half?

17 MR. BRUCE: No, there hasn't. I do not believe
18 there are any deep gas wells in section 1.

19 MR. CARROLL: Mr. Kellahin, what are Phillips'
20 plans to drill? When do they plan to drill this well?

21 MR. KELLAHIN: I have not been advised when they
22 will commence the well, Mr. Carroll.

23 EXAMINER STOGNER: At this time I'm ready to
24 recognize the filing of the APD and the C-102 by Phillips,
25 which they have every legal right to.

1 But at the same time, they must -- It does not
2 necessarily equate to the holding of that acreage. And
3 that's not done until the well is down and producing, that
4 a proration unit will exist.

5 So therefore, Santa Fe's right to seek compulsory
6 pooling, to file a -- to dedicate what we'll call the west
7 now, in this particular instance, being 320 acres, more or
8 less, should go forward. And Santa Fe and Phillips, if
9 Phillips so wishes, then they can come in and present
10 testimony otherwise, and I can rule on it at that time.

11 I propose at this time that we continue this
12 matter to the February 19th hearing, and also recognize,
13 Santa Fe, that Phillips has filed an APD, and everything is
14 legal, and if they get the well drilled and down, it could
15 necessitate the dismissal of your case.

16 Is there anything further at this time?

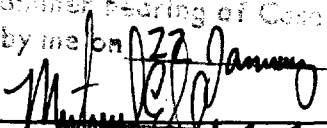
17 Okay, your dismissal is denied, and this case
18 will be continued to February 19th.

19 Thank you, gentlemen.

20 (Thereupon, these proceedings were concluded at
21 9:53 a.m.)

22 * * *

23 I do hereby certify that the foregoing is
24 a complete record of the proceedings in
the Examiner hearing of Case No. 11887,
heard by me on 17 January 1978.

25 
Oil Conservation Division, Examiner

STEVEN T. BRENNER, CCR
(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, 1998.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 1998