

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:

APPLICATION OF AMEREDEV OPERATING,                   CASE NO. 20719  
LLC FOR COMPULSORY POOLING, LEA  
COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

September 6, 2019

Santa Fe, New Mexico

BEFORE:   KATHLEEN MURPHY, CHIEF EXAMINER  
          MICHAEL McMILLAN, TECHNICAL EXAMINER  
          DYLAN ROSE-COSS, TECHNICAL EXAMINER  
          DANA Z. DAVID, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Kathleen Murphy, Chief Examiner; Michael McMillan and Dylan Rose-Coss, Technical Examiners; and Dana Z. David, Legal Examiner, on Friday, September 6, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

REPORTED BY:   Mary C. Hankins, CCR, RPR  
                  New Mexico CCR #20  
                  Paul Baca Professional Court Reporters  
                  500 4th Street, Northwest, Suite 105  
                  Albuquerque, New Mexico 87102  
                  (505) 843-9241

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APPEARANCES

FOR APPLICANT AMEREDEV OPERATING, LLC:

JULIA BROGGI, ESQ.  
HOLLAND & HART, LLP  
110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 87501  
(505) 988-4421  
jbroggi@hollandhart.com

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1 (9:04 a.m.)

2 EXAMINER MURPHY: Let's go on the record.

3 I'm Kathleen Murphy, and this is Dylan Coss  
4 and Mike McMillan.

5 EXAMINER McMILLAN: I'd like to make a  
6 comment. I'm glad that Rockcliff Operating is not here.  
7 And I've spoken to the attorney, and he has agreed not  
8 to take a picture of my attire.

9 Thank you.

10 (Laughter.)

11 EXAMINER MURPHY: I was going to comment on  
12 that, but I --

13 (Laughter.)

14 EXAMINER MURPHY: Our lawyer  
15 (indicating) -- Dana, I'm unclear of your last name.

16 EXAMINER DAVID: So am I, actually. Dana  
17 David.

18 EXAMINER MURPHY: Mary Hankins, our court  
19 reporter (indicating) and Marilyn Gruebel (indicating).

20 So I believe that we're on 15, is that  
21 correct, page 1 [sic], Marathon Oil Permian?

22 MR. HOUGH: I request the Marathon one be  
23 pushed back a bit. I know Deana is on her way.

24 EXAMINER MURPHY: At another time today?

25 MR. HOUGH: Yes.

1 EXAMINER MURPHY: So all of the Marathon?

2 MR. HOUGH: Yes.

3 EXAMINER MURPHY: Those are numbers 15  
4 through 20.

5 So we'll hear Case Number 20719, Ameredev  
6 Operating. Case 20719, application of Ameredev  
7 Operating, LLC for compulsory pooling, Lea County, New  
8 Mexico.

9 Call for appearances.

10 MS. BROGGI: Julia Broggi, with the Santa  
11 Fe office of Holland & Hart, on behalf of the Applicant,  
12 Ameredev Operating, LLC.

13 EXAMINER MURPHY: Are there any other  
14 appearances?

15 MS. BROGGI: Not that I am aware of. And  
16 we are presenting this case by affidavits.

17 EXAMINER MURPHY: Please proceed.

18 MS. BROGGI: Thank you.

19 So we are presenting them by affidavits in  
20 the format that you may have seen.

21 The first affidavit is Exhibit A, and it's  
22 the affidavit of the landman. And he testifies that in  
23 this case, Ameredev is seeking to pool all uncommitted  
24 interests in the Wolfcamp Formation underlying a  
25 standard 640-acre horizontal spacing unit comprised of

1 the west half-west half of Section 29, the east  
2 half-east half of Sections 30 and 31 and the west  
3 half-west half of Section 32, Township 25 South, Range  
4 36 East, N.M.P.M. Lea County, New Mexico. And Ameredev  
5 is seeking to dedicate this proposed spacing unit to the  
6 Redbud Fed Com 25 36 32 #121H well.

7 And Ameredev has prepared a Form C-102,  
8 which is attached as A1 to that affidavit. And when you  
9 include the proximity tracts, the completed interval  
10 complies with the Division setback requirements, and  
11 there are no depth severances in that formation.

12 Exhibit 2 is a land affidavit prepared by  
13 this landman, and it identifies the tracts of land and  
14 the ownership interest by tract and unit recapitulation.  
15 And you'll see on the last two pages of that exhibit,  
16 under that unit recapitulation, a list of the  
17 uncommitted parties that Ameredev is seeking to pool.

18 These are all unleased mineral interest  
19 owners and all owners of unmarketable title. And you'll  
20 see in paragraph 14 of the affidavit, the landman  
21 testifies that these unmarketable title owners are the  
22 result of unprobated estates in New Mexico and that  
23 they've made good-faith efforts to identify all unknown  
24 heirs, and they're seeking to pool all known and unknown  
25 heirs whatever their interest may be.

1                   And finally, Exhibit A3 is a well-proposal  
2 letter that was sent to these parties, and an AFE is  
3 included with that well-proposal letter. And Ameredev  
4 asks that overhead and administrative costs of 7,000 a  
5 month while drilling and 700 a month while producing be  
6 incorporated into any order issued by this Division.

7                   Do you have a question?

8                   EXAMINER COSS: I don't have a question.

9                   EXAMINER MURPHY: I do. Let me take a  
10 second here.

11                   So there are eight -- ten tracts, and  
12 Ameredev has really the bulk of the ownership. And is  
13 it -- are these -- they're unleased or they're leased?

14                   MS. BROGGI: They're unleased, and they are  
15 unmarketable title holders. So they sent a  
16 well-proposal letter with an offer to lease.

17                   EXAMINER MURPHY: Is it federal mineral  
18 leases, or is it state?

19                   MS. BROGGI: In paragraph ten of the  
20 affidavit, the landman testifies it's both federal,  
21 state and fee land, so all three of them.

22                   EXAMINER MURPHY: And so the -- is 2 the  
23 fee tract and -- it is -- would that be the fee tract?

24                   MS. BROGGI: You know, I can't really  
25 testify to that. I'm not sure that it's marked on that

1 Exhibit A2. But I do know from his testimony that it's  
2 all federal, state and fee comprised --

3 EXAMINER MURPHY: Tract 2 has all the  
4 individual names. That's why I think that's the fee.

5 MS. BROGGI: I think that's a good  
6 assumption, but I can't exactly testify to that. But I  
7 think that that is correct, and that was my  
8 understanding as well.

9 EXAMINER MURPHY: And so have you -- on  
10 Tract 2, there is, what, 20 names at least. You've  
11 noticed in the paper, but you've also tried to track all  
12 of them down?

13 MS. BROGGI: Yes. We have sent  
14 well-proposal letters, and we provided notice to the  
15 heirs that we're aware of.

16 EXAMINER MURPHY: That you're aware of.

17 MS. BROGGI: And we also published notice  
18 by publication in the Hobbs -- it's called the "Hobbs  
19 Sun," and that is attached in the notice publication.

20 EXAMINER MURPHY: So did the letters get  
21 delivered?

22 MS. BROGGI: Yes. They were delivered.  
23 You'll find that in this packet as Exhibit C, which is  
24 an affidavit from myself showing that we provided notice  
25 of this hearing by U.S. mail.

1 EXAMINER MURPHY: Okay. I have no further  
2 comments.

3 EXAMINER McMILLAN: I cannot clearly tell  
4 the first and last take point. I want an email that  
5 states that.

6 MS. BROGGI: An email? Sure.

7 EXAMINER McMILLAN: Yeah, using proximity  
8 tracts. We have to know the first take point and the  
9 last take point.

10 MS. BROGGI: And you don't believe it's  
11 clearly marked on Exhibit A1?

12 EXAMINER McMILLAN: Actually -- yeah. Just  
13 send an email to -- I mean --

14 MS. BROGGI: Just to clarify?

15 EXAMINER McMILLAN: Yeah, just to clarify  
16 it.

17 MS. BROGGI: Yes. We can do that.

18 So if there are no further questions about  
19 the landman's affidavit, we can turn to Exhibit B, which  
20 is the affidavit from the geologist.

21 EXAMINER MURPHY: Please proceed.

22 MS. BROGGI: And attached to the affidavit  
23 of the geologist as Exhibit B1 is a locator map showing  
24 the proposed wellbore for the proposed well.

25 Exhibit B2 is the subsea structure map, and

1 it shows that the Wolfcamp is gently dipping to the  
2 southwest.

3 Exhibit B3 is the map that shows the wells  
4 that were used to do the stratigraphic cross section,  
5 which will be the last exhibit, Exhibit B4.

6 B4 is a stratigraphic cross section, which  
7 the geologist testifies he prepared displaying open-hole  
8 logs, run over the Wolfcamp from those three  
9 representative wells. And he testifies -- and the  
10 interval is also marked on that exhibit, and he  
11 testifies that the logs on the cross section demonstrate  
12 that the target interval is consistent in thickness  
13 across the entire proposed spacing unit.

14 And finally, he gives his opinion that the  
15 granting of the Ameredev's application in this case will  
16 be in the best interest of conservation, the prevention  
17 of waste and the protection of correlative rights.

18 And I already touched on this, but for  
19 completeness, the next exhibit is C. That is the  
20 affidavit from myself showing notice of the hearing  
21 provided by mail.

22 And then Exhibit D in that packet is the  
23 Notice of Publication -- the Affidavit of Notice of  
24 Publication for this hearing that was also provided.

25 EXAMINER MURPHY: A question on the subsea

1 map: Can they submit that with the contours more  
2 apparent? They're pretty light. I can barely see them.

3 MS. BROGGI: Yes.

4 EXAMINER MURPHY: Thank you.

5 I don't have any other questions.

6 EXAMINER COSS: I guess I would like an  
7 area map. I know I could look this up exactly where it  
8 is in the state, but -- and in relative sense of the  
9 basin, but -- that would be my question because I'm  
10 confused that the Wolfcamp is dipping to the west when  
11 they keep saying it's dipping to the east. So I don't  
12 know if that's a basin thing.

13 EXAMINER MURPHY: There is a GIS layer of  
14 the Capitan Reef, and I suspect all these geologists, if  
15 they put that on just kind of a more general map, we  
16 would know if it's closer to the Central Basin Platform,  
17 is it on the west or is it closer. I think we've seen  
18 that yesterday, too. We were a little confused  
19 geologically, and we don't like to be confused.

20 MS. BROGGI: And we don't want you to be  
21 confused.

22 So just to clarify, so you'd like an area  
23 map showing where this is -- in relation to the state or  
24 just in relation to the Permian?

25 EXAMINER MURPHY: Capitan Reef.

1 EXAMINER COSS: Yeah, in relation to the  
2 Capitan Reef and the Central Basin Platform.

3 EXAMINER MURPHY: There is a GIS layer, and  
4 if someone is having trouble locating that, they can  
5 email me because I do have it. And some of the exhibits  
6 do use that. You can probably find a couple of  
7 examples. But that at least lets us know are you close  
8 to the reef, are you in the deep basin, or are you by  
9 the Central Basin Platform.

10 MS. BROGGI: Thank you.

11 EXAMINER COSS: After having seen nine of  
12 these recently in exhibits, I think that's something we  
13 need going forward, too.

14 MS. BROGGI: Well, we will provide that  
15 information.

16 And if there are no other questions, we  
17 would just ask that Case Number 20719 --

18 EXAMINER DAVID: I still -- I'm sorry. I'm  
19 slow.

20 MS. BROGGI: Sorry.

21 EXAMINER DAVID: I'm curious about the list  
22 of -- how would you describe it -- the potential  
23 interest holders, and it was a Tract 2. So I haven't  
24 sat on that many cases, but I don't remember seeing a  
25 submittal that had so many in inchoate holders of

1 potential property interests listed on a notice  
2 document. So could you explain what -- what efforts you  
3 took to identify all these people?

4 MS. BROGGI: You know, I can't personally  
5 testify to that. I did speak with the landman, and they  
6 said they did make extensive efforts to locate, you  
7 know, who -- where -- the heirs under the unprobated  
8 estates. I think there is some testimony in here at  
9 paragraph 15 of them compiling addresses again for these  
10 interest owners that they were able to -- excuse me --  
11 the potential interest owners that they were able to  
12 find. At paragraph 16, they conducted a diligent search  
13 of all public records in the county where the proposed  
14 wells are located and the phone directory, including  
15 computer searches. So that shows the efforts they made  
16 to find addresses for the people that they were able to  
17 identify.

18 But you're right. There are a lot of  
19 unmarketable titleholders in this case. In fact, that's  
20 exclusively who we're seeking to pool here. But my  
21 understanding of the law is the burden is on them to  
22 sort of clear up that title if they believe that  
23 they're -- that they're the correct interest holders  
24 here. And, you know, to the extent that there is  
25 production and royalty on it -- I know this from having

1 spoken with the landman -- that that would be put in a  
2 suspense account until title is cleared up.

3 EXAMINER DAVID: Okay. Thank you very  
4 much.

5 EXAMINER McMILLAN: There really are not  
6 that many unlocatable interests.

7 MS. BROGGI: Say what?

8 EXAMINER McMILLAN: There are really not  
9 that many unlocatable interests. I've seen in Texas  
10 where there are a lot, lot more than this.

11 EXAMINER DAVID: Okay.

12 EXAMINER MURPHY: So that's 20 percent --  
13 or 30 percent just in Tract 2.

14 MS. BROGGI: In Tract 2, but as you had  
15 noted before, Ameredev owns the majority of the property  
16 in this proposed spacing unit.

17 EXAMINER MURPHY: And so all those other  
18 names -- 20 or so names, you at least got something  
19 delivered to them?

20 MS. BROGGI: Yes.

21 EXAMINER MURPHY: And so if there are  
22 unknown people, then the onus is on them, you're saying,  
23 to prove that --

24 MS. BROGGI: No. Actually -- I mean, this  
25 isn't just my understanding. But no, anybody who

1 believes that they are the correct interest owners and  
2 if there is production and royalty and they believe that  
3 they're entitled to that, they need to clear up that  
4 title in order to be able to start receiving that  
5 royalty. This is further down the road.

6 EXAMINER MURPHY: But you've found the 30  
7 percent, you believe, in this case?

8 MS. BROGGI: We don't know for certain they  
9 do have the correct interest here, but they're potential  
10 interest owners in this case. So out of an abundance of  
11 caution, because we need to under the law, we're  
12 providing everybody who may have an interest notice of  
13 this case and that we're proposing to do this here.

14 EXAMINER MURPHY: Thank you.

15 EXAMINER COSS: I think this is where a  
16 general area map might clear up a few questions for me.  
17 Because is this near a town, or is that like a  
18 neighborhood or something like that right there?

19 EXAMINER McMILLAN: I think it's on the  
20 Texas --

21 EXAMINER COSS: It's on the Texas border.  
22 Jal.

23 EXAMINER DAVID: It is 40 acres.

24 MS. BROGGI: The application -- usually the  
25 case -- the closest town.

1 EXAMINER McMILLAN: It's close to Jal.  
2 That's close enough, 20 miles west. That's close  
3 enough.

4 MS. BROGGI: Yeah. It's approximately 20  
5 miles west of Jal, New Mexico.

6 EXAMINER COSS: Okay.

7 EXAMINER MURPHY: Who's been to Jal?

8 EXAMINER COSS: I haven't.

9 (Laughter.)

10 MS. BROGGI: So if the examiners have no  
11 further questions, we will provide this information by  
12 email, but we would ask that Case Number 20719 --

13 EXAMINER DAVID: It might be good for the  
14 record if we have a motion to accept the exhibits.

15 MS. BROGGI: Oh, yes.

16 EXAMINER MURPHY: That's what I thought you  
17 were doing.

18 MS. BROGGI: Sorry. Madam Examiner, we  
19 would like to move for the admission of Exhibits A  
20 through D.

21 EXAMINER MURPHY: The exhibits are  
22 accepted.

23 (Ameredev Operating, LLC Exhibits A through  
24 D are offered and admitted into evidence.)

25 MS. BROGGI: And we'd ask the case be taken

1 under advisement.

2 EXAMINER MURPHY: Case 20719 will be taken  
3 under advisement.

4 (Case Number 20719 concludes, 9:23 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

13 I FURTHER CERTIFY that the Reporter's  
14 Record of the proceedings truly and accurately reflects  
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.

20 DATED THIS 6th day of October 2019.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2019  
Paul Baca Professional Court Reporters

25