

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. 13,314

APPLICATION OF BURLINGTON OIL AND GAS)
COMPANY, L.P., FOR SURFACE COMMINGLING,)
SAN JUAN COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

September 2nd, 2004

Santa Fe, New Mexico

2004 SEP 16 PM 12 57

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, September 2nd, 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.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

I N D E X

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Examiner Hearing
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E X H I B I T S

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A P P E A R A N C E S

FOR THE DIVISION:

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FOR THE APPLICANT:

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Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

FOR CONOCOPHILLIPS:

MILLER, STRATVERT P.A.
150 Washington
Suite 300
Santa Fe, New Mexico 87501
By: J. SCOTT HALL

* * *

1 WHEREUPON, the following proceedings were had at
2 9:04 a.m.:

3 EXAMINER JONES: Call Case 13,314, which is
4 readvertised Application of Burlington Oil and Gas Company,
5 L.P., for surface commingling, San Juan County, New Mexico.
6 Call for appearances.

7 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
8 the Santa Fe law firm of Kellahin and Kellahin, appearing
9 today on behalf of the Applicant, Burlington Oil and Gas
10 Company, L.P.

11 EXAMINER JONES: Any other appearances?

12 MR. HALL: Mr. Examiner, Scott Hall, Miller
13 Stratvert, PA, Santa Fe, appearing on behalf of
14 ConocoPhillips Company. No witnesses.

15 EXAMINER JONES: I'm sorry, Mr. Kellahin, do you
16 have witnesses?

17 MR. KELLAHIN: No witnesses.

18 EXAMINER JONES: Okay.

19 MR. KELLAHIN: Mr. Examiner, back on August 7th
20 this case was presented to Examiner Catanach. Mr. Hall
21 appeared at that hearing. We presented one witness to Mr.
22 Catanach, an engineer by the name of Leonard Biemer.

23 At the conclusion of that case, Mr. Catanach
24 continued the case for two weeks for three additional
25 supplemental documents, and we have those to submit today.

1 First was the newspaper notification that I had completed
2 in Farmington, New Mexico, for the case.

3 Second is, Mr. Catanach wanted a written outline
4 of the allocation details so that he would have those
5 definitively in an exhibit. We've done that and given him
6 the various combinations of facts that would trigger the
7 allocation scenarios.

8 And then third, he wanted verification of how we
9 propose to handle notification. We're going to submit an
10 exhibit to you that shows the notice for allocation in
11 these type of cases would be done where we notify the
12 interest owners on our own initiative, and when the time is
13 expired and we have the notices and waivers and have
14 completed that process, then we go to the district,
15 identical to the downhole commingling procedures that
16 currently exist for all these pools.

17 I wanted to confirm that for Mr. Catanach, and we
18 have an Exhibit 8 to submit that shows him the Rule we
19 intend to comply with for purposes of this case and for
20 future cases.

21 EXAMINER JONES: Okay, these are just three
22 wells; is that correct?

23 MR. KELLAHIN: Right.

24 EXAMINER JONES: And six different pools -- or
25 no, five different pools and three different wells. And

1 obviously you have downhole commingles on these wells, some
2 of these wells.

3 MR. KELLAHIN: They do exist. There are
4 commingling orders for the downhole production in those
5 various wellbores --

6 EXAMINER JONES: Okay.

7 MR. KELLAHIN: -- and now we're going to surface
8 commingle that production as well, to minimize surface use
9 and the costs associated with surface facilities.

10 With your permission, Mr. Examiner, I have
11 Exhibits 7, 8 and 9. I've already provided Mr. Hall with
12 copies of those.

13 EXAMINER JONES: Thank you.

14 Your newspaper ad ran a month ago then, it looks
15 like?

16 MR. KELLAHIN: Yes, it did.

17 For your information, we have received no
18 additional appearances. Other than Mr. Hall's appearance,
19 there's been no other parties.

20 EXAMINER JONES: Okay, let's see here. So you
21 presented four different scenarios for the surface
22 commingling of oil?

23 MR. KELLAHIN: Yes, sir.

24 EXAMINER JONES: Is that the main contention in
25 the case, is oil commingling?

1 MR. KELLAHIN: Under the Rules, the gas
2 production is permitted to be commingled.

3 EXAMINER JONES: Oh, okay.

4 MR. KELLAHIN: And the oil commingling, if you
5 chart out your different options, when you get to the oil
6 portion and you have different ownership, you require
7 further orders from the Division.

8 EXAMINER JONES: Yeah.

9 MR. KELLAHIN: The plan, Mr. Jones, was to use
10 this as a type example so that for future comminglings,
11 that we could refer in our commingling application to this
12 order, to accomplish it without a hearing. To do that, Mr.
13 Catanach was concerned about what we do with notification,
14 and we were going to use, with his permission, the 303
15 Notice Rule, so that we could tell all these parties that
16 we're about to commingle on the surface.

17 EXAMINER JONES: So the notification would also
18 entail a letter to the Aztec Office that notification has
19 been given?

20 MR. KELLAHIN: That would be part of the
21 application when you file your form.

22 EXAMINER JONES: The Aztec Office, they would
23 have to be on the lookout for -- in case this was not --
24 was contested after your 20 -- within your 20 days.

25 MR. KELLAHIN: You can correct me if I'm wrong,

1 but my understanding was that the applicant, before he
2 filed his notice to commingle on the surface -- downhole
3 commingling now --

4 EXAMINER JONES: Okay.

5 MR. KELLAHIN: -- would send the notice out, and
6 he would attest, that operator would attest, to the lack of
7 objection and the fact that he had complied.

8 They then go to Mr. Chavez and get the permit.
9 If they've misrepresented that fact and there's a protest,
10 then the approval will be set aside and there will be a
11 hearing set.

12 EXAMINER JONES: So which leases would this be a
13 precedent for? I mean, which -- just for Burlington's?

14 MR. KELLAHIN: No, it's intended for any
15 operator's use.

16 EXAMINER JONES: Any operator?

17 MR. KELLAHIN: Yeah. The plan is to have this
18 one approved, we're going to see if there's any glitches in
19 it, and then we'll come back in with a new application and
20 ask for it to be used by any operator in the Basin for any
21 formation, very much like we did originally for downhole
22 commingling, Mr. Jones.

23 EXAMINER JONES: Okay. That was the way the
24 procedure, the rule change, was arrived at, was a trial --

25 MR. KELLAHIN: -- for downhole commingling.

1 EXAMINER JONES: -- for downhole commingling.

2 MR. KELLAHIN: Yeah, it went through a series of
3 evolutions where originally for downhole commingling you
4 had to notify the world, and in a lot of these federal
5 units there were massive mailings.

6 EXAMINER JONES: Right.

7 MR. KELLAHIN: That evolved over time where you
8 now have the commingling Rule, and appended in the rulebook
9 are all these pre-approved pools, combinations, and the
10 plan would be, then, to utilize that concept not only for
11 the downhole commingling but the surface commingling of
12 that oil production.

13 EXAMINER JONES: Okay.

14 MR. KELLAHIN: We can do that now for the gas,
15 but we can't do it for the oil.

16 EXAMINER JONES: Okay. I know on some of the
17 units they've -- the operator came to hearing and got them
18 approved for commingling without notice to all of the
19 owners in the units.

20 MR. KELLAHIN: And that's part of this plan too,
21 is that Burlington, for all these big units, federal units
22 they operate, would come in and ask for blanket approval
23 for commingling those.

24 EXAMINER JONES: Okay, so they'll still have to
25 do that.

1 MR. KELLAHIN: At least for now.

2 EXAMINER JONES: At least for now, yeah.

3 MR. KELLAHIN: And that's what was done for this
4 particular application that you're looking at for this
5 spacing unit.

6 EXAMINER JONES: Okay.

7 MR. KELLAHIN: Have I confused you?

8 EXAMINER JONES: Reasonably.

9 MR. KELLAHIN: Thank you. I've succeeded once
10 again.

11 MS. MacQUESTEN: Mr. Kellahin --

12 MR. KELLAHIN: Yes, ma'am.

13 MS. MacQUESTEN: -- would you eventually like to
14 see this process put into a Division rule, rather than --

15 MR. KELLAHIN: And maybe that's the form it will
16 take, is, we'll ask to amend Rule 303 so that it's easy to
17 find in the book and everybody can use it.

18 EXAMINER JONES: We have very few operators that
19 come and have a -- down on commingling, like it says in the
20 Rule it can be done. Most of them go ahead and go through
21 the laborious process. They don't take advantage of that
22 like they should.

23 Mr. Hall, do you have any comments on these
24 exhibits, 7, 8 and 9?

25 MR. HALL: I don't, Mr. Examiner, and I certainly

1 don't object to their admission into evidence. I think
2 ConocoPhillips' interest in the Application now is
3 informational at this point. As Mr. Kellahin points out,
4 the way the order operate pursuant to their application is
5 like a reference order so that other operators in the basin
6 could cite to it for their own applications and authority
7 to commingle.

8 ConocoPhillips also operates a couple of the
9 large federal township units as well, so that's why they're
10 interested in this. It may be that ConocoPhillips would
11 like to have some input in the form of order that comes out
12 of this hearing; on the other hand, they may not. I don't
13 think there's any reason for delay by the Division's action
14 on the Application.

15 EXAMINER JONES: Okay.

16 MR. KELLAHIN: One last comment, Mr. Jones. Mr.
17 Catanach did ask for a draft order. I have not completed
18 that preparation. I'll share it with Mr. Hall, and then
19 we'll submit it to Mr. Catanach.

20 EXAMINER JONES: Okay. Do you move these
21 exhibits be admitted?

22 MR. KELLAHIN: Yes, sir, I do.

23 EXAMINER JONES: Let's admit into evidence
24 Exhibits 7, 8 and 9 in Case 13,314.

25 And anything else?

1 MR. HALL: No, sir.

2 MR. KELLAHIN: No, sir.

3 EXAMINER JONES: Okay. With that, let's take
4 Case 13,314 under advisement.

5 (Thereupon, these proceedings were concluded at
6 9:17 a.m.)

7 * * *

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10
11 I do hereby certify that the foregoing is
12 a complete record of the proceedings in
13 the Examiner hearing of Case No. _____
14 heard by me on _____, Examiner

15 ~~Office of Conservation Division~~
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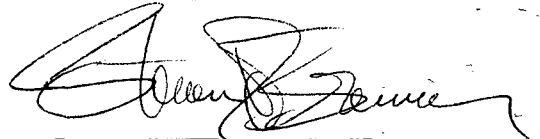
CERTIFICATE OF REPORTER

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 September 3rd, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006