

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 LANCE OIL AND GAS )  
COMPANY, INC., FOR COMPULSORY POOLING, )  
SAN JUAN COUNTY, NEW MEXICO )

CASE NO. 13,437

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

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

April 7th, 2005

Santa Fe, New Mexico

2005 APR 21 AM 10 10

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, April 7th, 2005, 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

April 7th, 2005  
 Examiner Hearing  
 CASE NO. 13,437

	PAGE
EXHIBITS	3
APPEARANCES	4
APPLICANT'S WITNESS:	
<u>PAUL LEHRMAN</u> (Landman)	
Direct Examination by Mr. Kellahin	6
Cross-Examination by Mr. Robbins	28
Examination by Examiner Jones	29
Further Examination by Mr. Robbins	34
ROBBINS WITNESS:	
<u>JAMES T. ROBBINS</u> (Mineral Interest Owner)	
Direct Testimony by Mr. Robbins	36
Cross-Examination by Mr. Kellahin	38
REPORTER'S CERTIFICATE	41

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	8	27
Exhibit 2	9	27
Exhibit 3	10	27
Exhibit 4	11	27
Exhibit 5	13	27
Exhibit 6A	14	27
Exhibit 6B	17	27
Exhibit 7	18	27
Exhibit 8	-	27
Exhibit 9	-	27
Exhibit 10	-	27
Exhibit 11	-	27
Exhibit 12	-	27
Exhibit 13	-	27
Exhibit 14	-	27
Exhibit 15	-	27
Exhibit 16	-	27
Exhibit 17	20	27
Exhibit 18	-	27
Exhibit 19	25	27
Exhibit 20	27	27
Exhibit 21	27	27

\* \* \*

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

FOR THE APPLICANT:

KELLAHIN & KELLAHIN  
117 N. Guadalupe  
P.O. Box 2265  
Santa Fe, New Mexico 87504-2265  
By: W. THOMAS KELLAHIN

\* \* \*

ALSO PRESENT:

JAMES THOMAS ROBBINS  
Mineral Interest Owner

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2           9:22 a.m.:

3           EXAMINER JONES: At this time let's call Case  
4           13,437, Application of Lance Oil and Gas Company, Inc., for  
5           compulsory pooling, San Juan County, New Mexico.

6           Call for appearances.

7           MR. KELLAHIN: You want to do the Lance case now,  
8           Mr. Examiner? Lance?

9           Mr. Examiner, I'm Tom Kellahin of the Santa Fe  
10          law firm of Kellahin and Kellahin, appearing on behalf of  
11          the Applicant, and I have one witness to be sworn.

12          EXAMINER JONES: Any other appearances?

13          MR. ROBBINS: My name is James Thomas Robbins,  
14          I'm a mineral interest owner in this section.

15          EXAMINER JONES: Do you need Mr. Robbins to spell  
16          his name? Can you spell your name?

17          MR. ROBBINS: R-o-b-b-i-n-s.

18          EXAMINER JONES: And you're representing  
19          yourself?

20          MR. ROBBINS: Yes, I am.

21          EXAMINER JONES: Any other appearances?

22          Will the witness please to be sworn?

23          (Thereupon, the witness was sworn.)

24          MR. KELLAHIN: Mr. Examiner, this case was on the  
25          docket for March 3rd, and based upon a prehearing

1 conference that included Mr. Robbins, Mr. Brooks by  
2 agreement moved this case to today's docket, Mr. Examiner,  
3 and we're ready now to proceed.

4 EXAMINER JONES: Okay.

5 PAUL LEHRMAN,

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

8 DIRECT EXAMINATION

9 BY MR. KELLAHIN:

10 Q. Mr. Lehrman, for the record, sir, would you  
11 please state your name and occupation?

12 A. Paul Lehrman, I'm a senior landman with Lance Oil  
13 and Gas Company.

14 Q. And where do you reside, sir?

15 A. Farmington, New Mexico.

16 Q. On prior occasions have you testified before the  
17 New Mexico Oil Conservation Division and had your  
18 qualifications as a landman accepted as an expert witness?

19 A. Yes.

20 Q. Summarize for us generally your experience in the  
21 San Juan Basin as a landman.

22 A. I've been a landman off and on for 10, 15 years  
23 in the San Juan Basin, done right-of-way work, just general  
24 landman work for different companies.

25 Q. In preparation of the exhibits for today's

1 hearing, have you reviewed the files of Lance Oil and Gas  
2 Company?

3 A. Yes.

4 Q. In addition to attempting to consolidate  
5 uncommitted interest owners, have you also been involved in  
6 the location and the permitting of this well?

7 A. Yes.

8 Q. Can you summarize generally how long you have  
9 been involved in this particular area in consolidating  
10 interests for the drilling of these wells?

11 A. I was previously employed, before Lance, by a  
12 company, Richardson Operating Company, in Denver, Colorado,  
13 and I've been working on this general area for  
14 approximately two and a half to three years.

15 Q. Was it your responsibility to negotiate with Mr.  
16 Tommy Robbins concerning the commitment of his interests to  
17 this spacing unit?

18 A. Yes, myself and a lady who works with me, Anne  
19 Jones.

20 MR. KELLAHIN: We tender Mr. Lehrman as an expert  
21 petroleum landman.

22 EXAMINER JONES: Mr. Lehrman -- Any objection?

23 MR. ROBBINS: (Shakes head)

24 EXAMINER JONES: Mr. Lehrman is qualified as an  
25 expert petroleum landman.

1 Q. (By Mr. Kellahin) Turn to the exhibit packages,  
2 if you will, Mr. Lehrman, and let's start with what's  
3 marked as Lance Exhibit Number 1.

4 Let me start by clearing up something. There are  
5 two different well names associated with this well, are  
6 there not?

7 A. Yes.

8 Q. What is the appropriate name at this point?

9 A. The appropriate name is the WF FRPC 17 Number 2  
10 well. The map is incorrect, it says WF ROPCO 17 2. It  
11 should be WF FRPC 17-2 . It's located in the northwest  
12 quarter of Section 17 on Exhibit Number 1.

13 Q. Regardless of the name, both of these wells have  
14 the same API number?

15 A. Yes.

16 Q. And they deal with the same well?

17 A. Yes.

18 Q. And they deal with the same well at the same  
19 location?

20 A. Yes.

21 Q. Describe for us, using Exhibit 1, what is the  
22 proposed spacing unit for this well?

23 A. It would be the northwest quarter of Section 17,  
24 Township 29 North, Range 14 West, San Juan County?

25 Q. What is the objective for this well?

1 A. The Twin Mounds-Pictured Cliffs.

2 Q. Would 160-acre spacing be the appropriate spacing  
3 unit size for a well at this depth?

4 A. Yes.

5 Q. Let's turn past Exhibit Number 1 and look at  
6 Exhibit Number 2. Would you identify and describe for us  
7 what this document is?

8 A. This is the New Mexico Oil Conservation Division  
9 Form C-101, which is the application for the permit to  
10 drill this particular well.

11 Q. This permit indicates the name of Richardson  
12 Operating Company?

13 A. Yes, it does.

14 Q. It was originally permitted for that company?

15 A. Yes.

16 Q. And did you do some of the permitting work for  
17 Richardson?

18 A. Yes, I permitted this well.

19 Q. And the interests that were formerly controlled  
20 by Richardson Operating have now been assigned to and  
21 transferred to Lance Oil and Gas Company?

22 A. Yes, in October of 2004, all of the leases and  
23 basically all the assets of this particular area were sold  
24 to Lance Oil and Gas.

25 Q. Do you have documentation in the exhibit book to

1 reflect that the APD expiration date has been extended?

2 A. Yes, I filed a Form C-103 with the NMOCD to  
3 extend the APD to January 27th of 2006.

4 Q. And that will be the second page behind Exhibit  
5 Number 2?

6 A. That's correct.

7 Q. Turn past the approval to extend the commencement  
8 date, and let's address the C-102. What does this  
9 represent, Mr. Lehrman?

10 A. It shows the proposed allocation for the Twin  
11 Mounds-Fruitland Sand-PC, which would be the northwest  
12 quarter of this particular section.

13 Q. Again, this document bears your signature?

14 A. Yes, it does.

15 Q. Are you aware that this location is an unorthodox  
16 well location for wells drilled and dedicated to the  
17 Pictured Cliff gas pool?

18 A. Yes.

19 Q. What did you do about that?

20 A. We filed an administrative application to the  
21 NMOCD for approval for this location.

22 Q. Would you turn the page and look at Exhibit  
23 Number 3? Does this exhibit represent the approval of this  
24 unorthodox well location?

25 A. Yes.

1 Q. Let's turn past Exhibit Number 3, Mr. Lehrman,  
2 and let's take a moment and orient the Examiner to how the  
3 various tracts are configured within the northwest quarter  
4 of the section. Can you identify for the Examiner how  
5 those tracts are configured on the two maps that are  
6 attached in the exhibit book a Exhibit 4, being two  
7 separate maps?

8 A. Well, basically both of these maps depict the  
9 surface ownership in the northwest quarter of Section 17.  
10 The names represent, you know, individual tracts that these  
11 owners own.

12 Q. Approximately how many different interest owners  
13 were originally involved in consolidating the interest for  
14 the spacing unit? Do you have a recollection?

15 A. I believe there was 40 or 50, quite a few.

16 Q. Does -- Represent for us where the approximate  
17 location of the well is to be.

18 A. The well is depicted on -- kind of in the  
19 southwest quarter of the northwest quarter, on property  
20 owned by a lady named Karen Brimhall. She lives in  
21 Kirtland, New Mexico.

22 Q. It's in the handwritten ink color, and it says  
23 "well", and an arrow?

24 A. Yes.

25 Q. Have you obtained the necessary approvals for

1 this lady for the surface use?

2 A. Yes.

3 Q. And what is the status of your efforts to drill  
4 the well at this location?

5 A. We've made the location for the well and are  
6 waiting for approval for the compulsory pooling before we  
7 commence operations.

8 Q. Can you demonstrate for us, using this exhibit as  
9 an illustration, where the approximate location of Mr.  
10 Robbins' property is?

11 A. I think on both maps Mr. Robbins' property is  
12 located basically right in the middle of this quarter  
13 section. It's kind of highlighted sort of in a dark --  
14 just south of County Road 6100 there.

15 Q. In ink there's written the word "Robbins"?

16 A. Yes.

17 Q. And an arrow?

18 A. Yes.

19 Q. And it's moving towards an area where there's two  
20 shaded tracts?

21 A. Yes.

22 Q. Are each of those Mr. Robbins' tracts, as you  
23 know them?

24 A. Yes.

25 Q. To the best of your knowledge, have you attempted

1 to determine the correct amount of acreage associated with  
2 his interest within the spacing unit?

3 A. Yes.

4 Q. Do you have an estimate of approximately how far  
5 this location is from Mr. Robbins' property?

6 A. We estimate it's approximately 1000 feet from Mr.  
7 Robbins' property to the well location.

8 Q. Let's turn past those and look at Exhibit Number  
9 5. When we look at this tabulation, what is represented on  
10 this exhibit, Mr. Lehrman?

11 A. This is a chart of the unleased mineral  
12 interests, with the net acres depicted in the first column  
13 and the percent of interest in the Pictured Cliffs  
14 formation in the second column, and the tabulation is at  
15 the bottom, total unleased acres, total percentage in the  
16 PC dedication.

17 Q. To the best of your knowledge, does Lance employ  
18 title attorneys and other experts to do the calculation and  
19 review of documents to determine to the best of your  
20 ability that you have the correct parties and their  
21 percentages within the spacing unit?

22 A. Yes.

23 Q. Was that done in this case?

24 A. Yes.

25 Q. When we look through the list of the parties

1 indicated on Exhibit 5, as of today, are there any of these  
2 that we can now delete because you've been successful in  
3 either obtaining a voluntary agreement, either by lease or  
4 joinder in the well?

5 A. No.

6 Q. These all remain parties that you seek to obtain  
7 a compulsory pooling order against?

8 A. That's correct.

9 Q. Does Lance's files contain a written proposal and  
10 an AFE that was sent by Lance to all the interest owners  
11 indicated on Exhibit Number 5?

12 A. Yes.

13 Q. When we turn to Exhibit Number 6A, is that the  
14 written effort we're talking about?

15 A. Yes.

16 Q. Describe generally what was Lance's procedure  
17 concerning trying to obtain leases from unleased mineral  
18 owners within the spacing unit?

19 A. Well, generally we employ a title attorney to  
20 write what we call a title opinion. He goes to the county  
21 records and determines the mineral ownership for the  
22 particular area we're interested in.

23 And then we write, you know, letters, certified  
24 letters, you know, proposing different things, you know,  
25 offer to lease, offer to join in the well. We also offered

1 an additional thing, which is to sell the mineral interest,  
2 you know, to Lance, and this is depicted on this letter.

3 Q. Let's look at the options. In sending this  
4 letter, is this the same type of letter that all the  
5 interest owners receive?

6 A. Yes.

7 Q. The fourth entry, you've afforded the opportunity  
8 to them to participate in the drilling of this well?

9 A. That's correct.

10 Q. And that would be accomplished by executing an  
11 AFE, an operating agreement, and paying their share?

12 A. Yes.

13 Q. Was that done for Mr. Robbins in this case?

14 A. He was offered that option, yes.

15 Q. Among other options offered, there was an offer  
16 to purchase his interest?

17 A. Yes.

18 Q. Do you have an estimate of how this particular  
19 value was arrived at for purchase of these interests?

20 A. That's a tough question. We've kind of just  
21 decided that, you know -- we've kind of come across a  
22 general figure for the lease offer, and then we, you know,  
23 increase that by a certain number for the actual offer to  
24 purchase the minerals. There's really no set formula. It  
25 really just depends on, you know, what the acreage is, you

1 know, leasing for in the area. We don't really expect  
2 anybody to sell their mineral interests, it's just an offer  
3 that we provide to people.

4 Q. In case they would?

5 A. Yes, we have --

6 Q. In this particular spacing --

7 A. -- had it come up, but --

8 Q. In this particular spacing unit, were there any  
9 interest owners that have sold their interest to you?

10 A. No.

11 Q. In offering them an opportunity to lease their  
12 interest, in item number 1 you set forth a basic term of  
13 offer of lease?

14 A. Yes.

15 Q. Describe for us the basic points of the lease  
16 offer.

17 A. It's an oil and gas lease that provides for a  
18 five-year primary term with a one-eighth royalty and a  
19 certain monetary amount based on their participation in the  
20 dedication unit.

21 Q. Is this the type of lease proposal that you've  
22 made to all the interest owners in the spacing unit?

23 A. Yes.

24 Q. And have you been successful in obtaining leases  
25 from other interest owners in the spacing unit under those

1 type of terms?

2 A. Quite a few, yes.

3 Q. When we turn to Exhibit 6B, identify this  
4 document for us.

5 A. This is the authorization for expenditure, which  
6 is an internal document that Lance generates for the actual  
7 drilling of this particular well, sets forth the costs that  
8 we envision for, you know, the total costs for the well,  
9 drilling and completion.

10 Q. And is this the type of document that's  
11 circulated with the previous letter to the interest owners  
12 should they desire to participate in the drilling?

13 A. Yes, we try to lay out what their interests and  
14 what their proportionate share of that well would be,  
15 should they decide to join in it.

16 Q. And these estimated costs are the kinds of costs  
17 that Lance itself uses to pay their interest in this well?

18 A. That's correct.

19 Q. To the best of your knowledge, is this accurate  
20 and correct?

21 A. Yes.

22 Q. Have you received any objection from any of the  
23 interest owners to be pooled, including Mr. Robbins, as to  
24 these costs?

25 A. No.

1 Q. Let's turn more specifically, Mr. Lehrman, to  
2 Exhibit 7. Have you and Ms. Anne Jones prepared a  
3 chronology with regards to efforts associated with Mr.  
4 Robbins' interest?

5 A. Yes.

6 Q. To the best of your knowledge, is this chronology  
7 accurate?

8 A. Yes.

9 Q. Without reading it specifically, let's walk  
10 through how you have gone about trying to obtain either a  
11 lease or a joinder by Mr. Robbins for his interest.

12 A. Well, back in January we sent Mr. and Mrs.  
13 Robbins, you know, a lease offer, well proposal for this  
14 particular well, and sent certified mail, and I had several  
15 conversations with Mr. Robbins along with this time frame.

16 And then we met with Mr. Robbins back in March  
17 concerning his questions about the whole procedure,  
18 basically. And I think in the interim he's written some  
19 letters to Congressman Udall and had some phone  
20 conversations with people from the NMOCD concerning the  
21 procedures and what took place, et cetera.

22 Q. Let's go down to the end of it. When we get down  
23 after the prehearing conference with the Division, with Mr.  
24 Robbins, on February 28th, after that time did either you  
25 or anyone associated with Lance meet with Mr. Robbins?

1 A. Yes.

2 Q. And where did that meeting occur?

3 A. Anne Jones and I met with Mr. Robbins at his  
4 home.

5 Q. And when did that occur?

6 A. In March.

7 Q. What was the purpose of going to see Mr. Robbins?

8 A. I think to see -- you know, to meet him in person  
9 and see, you know, what his questions were about the whole  
10 procedure. He indicated some things to me on the phone.  
11 We wanted to try to answer those questions with him in  
12 person; it's a lot better way to do business than talk on  
13 the phone or do business by mail. I think we were over  
14 there about an hour.

15 Q. Summarize for us your recollection of the  
16 meeting.

17 A. It was a good meeting. I think Mr. Robbins, you  
18 know, had some -- his main focus seemed to be questions  
19 about the actual compulsory pooling procedure itself.

20 Q. Let's take it in parts. Did he express any  
21 concern about where the well was to be located?

22 A. Initially he did, but we indicated that we had  
23 made an agreement with Ms. Brimhall for several locations  
24 that I think at some point had been a question. He  
25 dismissed that and really focused on, you know, our offer

1 and what he thought maybe the procedure should be. And we  
2 indicated to him that, you know, we followed the NMOCD  
3 Rules as far as, you know, how we proceeded with our  
4 leasing efforts and what would happen at the hearing.

5 Q. Did you offer to Mr. Robbins a lease that  
6 included a non-surface use of his property?

7 A. Yes.

8 Q. Have you done that with others in the area?

9 A. Yes.

10 Q. What then transpired about the rest of the  
11 conversation about that meeting, other than surface issues?

12 A. Mr. Robbins indicated that he would, you know,  
13 confer with some people that he knew in the oil and gas  
14 industry and basically, you know, tell us what he thought  
15 would be an equitable offer. And he met Ms. Jones a letter  
16 with those terms, and we subsequently responded to that.

17 Q. Let's turn through the package of documents. Mr.  
18 Examiner, all the entries on Exhibit 7, there are  
19 associated exhibits that correspond to the numbered entries  
20 on Exhibit 7, and I would like to flip over, and let's move  
21 to Exhibit 17.

22 You referred to the fact that Mr. Robbins had  
23 written a letter to Lance proposing terms for a lease?

24 A. That's correct.

25 Q. And have you reviewed those terms?

1 A. Yes.

2 Q. Were they acceptable to Lance?

3 A. No.

4 Q. Describe for us what he was asking you to do?

5 A. He wanted a five-year -- basically what we would  
6 call a term oil and gas lease for a flat fee per month, not  
7 really based on any kind of interest in the well, just a  
8 flat fee, or he made us the -- or gave us the option to  
9 just purchase his minerals outright for a certain sum.

10 Q. In terms of his lease proposal, do you have any  
11 other working interest owners for which you have a lease of  
12 this type?

13 A. Yes.

14 Q. Are there any others in this spacing unit?

15 A. Yes.

16 Q. Do they provide for terms where you renegotiate  
17 this every five years?

18 A. No.

19 Q. None like that?

20 A. No.

21 Q. What would be the typical oil and gas lease that  
22 you would obtain? What would it provide?

23 A. For a five-year primary term for a one-eighth  
24 royalty.

25 Q. And then if you obtain production within the five

1 years, it's extended for the life of the production?

2 A. Yes.

3 Q. He's not proposing that here, it's something  
4 different, is it not?

5 A. Yes, it's just a term, per month, for a certain  
6 term, and then it would be renegotiated after that term.

7 Q. Is there any royalty associated with his  
8 proposal?

9 A. No.

10 Q. When we look at his proposal to have you buy his  
11 interest, when we go back and compare the \$57,000 proposal,  
12 what interest does he have in the spacing unit, when you go  
13 back and compare it to Exhibit 5?

14 A. His total net mineral acres is a little less than  
15 a half, and he has about a quarter of one percent of the  
16 actual proposed allocated spacing unit.

17 Q. Do you have an opinion as to whether his proposal  
18 to sell his interest for \$58,000 is fair and reasonable?

19 A. No, I don't think it's fair and reasonable. I'm  
20 not sure where he came up with the \$57,000. I really have  
21 no idea where he came up with that number, but that must be  
22 a number he feels is, you know, appropriate for the  
23 transaction he desires. But I don't think it's fair and  
24 equitable.

25 Q. What would be the range of reasonableness in an

1 offer to purchase on an acreage basis?

2 A. Well, again, as I said earlier, it would really  
3 depend on what we felt was -- you know, possibly maybe what  
4 the well would produce but, you know, what we had been  
5 offering, you know, other people in the area for oil and  
6 gas leases and then we have some kind of allocation factor  
7 based on, you know, what that might be for an outright  
8 purchase.

9 A lot of times in the industry, people will look  
10 at maybe three years of production. That has changed  
11 since, you know, prices have escalated. People are paying  
12 more. I'm not saying that's not a possibility, but it used  
13 to be kind of a general number about three times  
14 production.

15 Q. Can you give us a sense of what that might be in  
16 dollars for an interest in this spacing unit?

17 A. I couldn't right now, because I don't know what  
18 the well would produce. It's -- We won't know until we  
19 produce it.

20 Q. Was this letter reviewed by Lance Oil and Gas  
21 Corporation and the people that make decisions about  
22 purchasing interests?

23 A. Yes.

24 Q. And they chose not to accept that?

25 A. That's correct.

1 Q. In response to Mr. Robbins' proposal, did Lance  
2 send a letter to him advising him that they were declining  
3 his interest and again offering terms of lease?

4 A. Yes.

5 Q. And how was that done?

6 A. That was done by certified letter in March, Ms.  
7 Jones sent Mr. Robbins a response to his inquiry.

8 Q. What were the basic terms of your proposal to  
9 lease his interest?

10 A. Originally?

11 Q. No, at this point?

12 A. Again, you know, the terms we'd offered  
13 originally.

14 Q. At this point, Mr. Lehrman, have you been able to  
15 successfully enter into a voluntary agreement with Mr.  
16 Robbins and his wife concerning participation in the well?

17 A. No.

18 Q. Have you been able to lease their interest?

19 A. No.

20 Q. At this point is there anything further you think  
21 you could do in order to get a voluntary agreement from Mr.  
22 Robbins?

23 A. No.

24 Q. Do you desire the Examiner to issue a compulsory  
25 pooling order?

1 A. Yes.

2 Q. Let's turn to the subject of proposed overhead  
3 rates. Have you attached in the exhibit book as Exhibit 19  
4 the Ernst and Young tabulation of overhead charges?

5 A. Yes.

6 Q. Do you have a recommendation to the Examiner as  
7 to an overhead rate for a drilling well rate on a monthly  
8 basis and a producing well rate on a monthly basis for this  
9 well?

10 A. Yes, based on the projected depth, we would ask  
11 for a \$3500 monthly drilling well rate and a \$481 producing  
12 well rate.

13 Q. Is it your company's practice to escalate those  
14 charges in accordance with the COPAS escalation procedures?

15 A. Yes, that's done on a yearly basis.

16 Q. And would you ask the Division Examiner to  
17 include that option within the pooling order?

18 A. Yes.

19 Q. Pursuant to Division Rules for the implementation  
20 of a 200-percent risk factor penalty associated with pooled  
21 interest if they fail to join in the well, do you ask the  
22 Examiner to issue such a procedure where there's a 200-  
23 percent penalty associated?

24 A. Yes.

25 Q. And who is to be the operator?

1 A. Lance Oil and Gas Company.

2 Q. When we look at the interest owners in the  
3 spacing unit, are we dealing with any State of New Mexico  
4 minerals?

5 A. There's a small mineral interest owned by the  
6 State Highway Department from the State of New Mexico, but  
7 they have refused to sign oil and gas leases in the past.  
8 We've just gone through the compulsory pooling and gone  
9 through that procedure.

10 Q. And that procedure has been acceptable to the  
11 Highway Department for their interest, and that's how we've  
12 been doing those, right?

13 A. Yes.

14 Q. Are there any federal minerals associated with  
15 this spacing unit?

16 A. No.

17 Q. Except for the State interest in one of the  
18 tracts, the rest of these are fee owners?

19 A. Yes.

20 Q. Describe for us the general area within the 160-  
21 acre spacing unit. Where are we located within Farmington?

22 A. Well, it's actually west of Farmington. It's  
23 over to the east of the area known as Kirtland, New Mexico.  
24 It's not an incorporated part of San Juan County; there's  
25 no real town of Kirtland. It's basically an area west of

1 Farmington, but it's down close to the San Juan River and  
2 it's an area of agricultural -- you know, a lot of people  
3 raise alfalfa, a lot of trees, elms, et cetera.

4 Q. To the best of your knowledge, does your proposed  
5 location that you've staked and building satisfy all the  
6 regulatory requirements of the various regulatory entities?

7 A. Yes.

8 Q. If you turn to Exhibit 20, is Exhibit 20 the  
9 certificate of notification and the mailing certificates  
10 for this hearing?

11 A. Yes.

12 Q. And then following that, Exhibit 21 is the  
13 newspaper advertisement?

14 A. Yes.

15 MR. KELLAHIN: Mr. Examiner, that concludes my  
16 examination of Mr. Lehrman. We move the introduction of  
17 Exhibits 1 through 21.

18 EXAMINER JONES: Any objection?

19 MR. ROBBINS: No.

20 EXAMINER JONES: Okay, Exhibits 1 through 21 --

21 MR. KELLAHIN: Yes, sir. 21 will be the  
22 newspaper ad, very last page.

23 EXAMINER JONES: Okay. -- will be admitted to  
24 evidence in this case.

25 Mr. Robbins, are you going to testify as a

1 witness in this case, or are you just -- are you going to  
2 testify at all?

3 MR. ROBBINS: I guess I am.

4 EXAMINER JONES: Okay, well --

5 MR. ROBBINS: I've got some questions.

6 EXAMINER JONES: Okay. Well, if you're going to  
7 testify, we'll have you testify in a minute, but -- and --  
8 but you'll have to be sworn in and sit over there. And I  
9 will let you go ahead and ask Mr. Lehrman some questions --

10 MR. ROBBINS: Okay.

11 EXAMINER JONES: -- also at this time. Go ahead.

12 CROSS-EXAMINATION

13 BY MR. ROBBINS:

14 Q. Regarding my price for my mineral rights, did you  
15 say a while ago that most people didn't take what you had  
16 offered?

17 A. Are you talking about for the actual outright  
18 purchase?

19 Q. That's right?

20 A. I don't recall any people that have actually sold  
21 their minerals in that spacing unit to Lance.

22 Q. So possibly your prices are way too low and  
23 that's why nobody takes it?

24 A. It's possible, yes. We don't really expect  
25 anybody to sell their minerals. We put that as a third

1 option, but we -- you know, occasionally somebody will  
2 just, you know, check that off and send it back. I don't  
3 recall any Lance purchases. I know when I worked for  
4 Richardson we had very few people that would actually check  
5 that box, that would actually outright purchase the  
6 minerals in that drill block, but it's very rare. And I  
7 personally would talk people out of that option. We just  
8 put it in there for a third option.

9 MR. ROBBINS: That's all the questions I have.

10 EXAMINER JONES: Okay, thank you.

11 EXAMINATION

12 BY EXAMINER JONES:

13 Q. Mr. Lehrman, did you notice the State Highway  
14 Department? You said they don't normally participate, but  
15 did you send notice to them?

16 A. Well, if I may elaborate on that, we've had that  
17 question come up on numerous compulsory pooling  
18 applications.

19 We've talked to people at the NMDOT, and they  
20 feel like they don't have anybody who can sign for the  
21 proposal, so they've just taken the tack of just ignoring  
22 it and let us go through this compulsory pooling hearing  
23 and, you know, act like an interest owner that just doesn't  
24 want to deal with it. I'm not really sure why. We've  
25 talked to several people over there, over the course of

1 several years, and we prefer them to lease but they've just  
2 said that, you know, they don't have anybody that they feel  
3 can sign that lease in any kind of authoritative capacity,  
4 so they've just basically forgotten about it. It's kind of  
5 frustrating, actually, but that's kind of the tack they've  
6 taken.

7 Q. But did you notice them for this case?

8 A. Yes.

9 Q. Okay, that's -- And to go back to Mr. Robbins'  
10 question, do you think if you offered them a little more  
11 bonus they might -- more of these people sign up, or --

12 A. Those terms are really set forth by our  
13 management in Denver, as far as, you know, what we feel is  
14 appropriate in the area, economic in the area, and we've  
15 had really good success in leasing for, you know, certain  
16 bonus terms that have been offered to everybody, you know,  
17 up front, and so we feel like that's, you know, the way to  
18 go.

19 Q. Will there be any -- on Mr. Robbins' property  
20 will there be any surfaces damages --

21 A. No.

22 Q. -- that you know about?

23 A. No, no. No, Mr. Robbins' property won't be  
24 touched with any kind of facilities.

25 Q. No wells on it or no roads built through there --

1 A. No.

2 Q. -- or anything?

3 A. No, all the wells are located well away from the  
4 occupied dwellings.

5 Q. Is the well going to produce any H<sub>2</sub>S gas?

6 A. No, we don't anticipate any.

7 Q. Is he downwind of your well?

8 A. Well, the predominating winds in San Juan County  
9 are really westerly, southwesterly.

10 But Lance -- you know, we're pretty safety  
11 oriented, and most of the federal permits that I've applied  
12 for, we have contingencies in there for H<sub>2</sub>S. Most of our  
13 field people are all H<sub>2</sub>S-trained, and if we detect H<sub>2</sub>S, you  
14 know, we'll shut the well in and do the appropriate thing  
15 with the local NMOCD Office in Aztec, but we don't  
16 anticipate any H<sub>2</sub>S.

17 Q. Are you drilling it with water?

18 A. Yeah, water and mud.

19 Q. Water/mud. No air drilling, no compressors will  
20 be out there --

21 A. No. No, we've indicated to everybody in the area  
22 that all our compression is in one central area that's  
23 probably about -- I don't know, what? About a mile, a mile  
24 and a half east of --

25 MR. ROBBINS: About a half a mile east of me.

1 THE WITNESS: Well, actually, we have one central  
2 -- right there at the Y, I don't know how far that is from  
3 you.

4 MR. ROBBINS: That's a mile.

5 THE WITNESS: Yeah, that's about a mile.

6 All the wells we're proposing in this area will  
7 be gathered and compressed at that facility and sent up to  
8 our San Juan plant, and also all the water too, so we're  
9 trying to eliminate any kind of water-trucking in the area.  
10 Basically, once the wells are drilled they'll just kind of  
11 do their thing, and we'll have an individual truck, you  
12 know, check on the well per day, but we won't have a lot of  
13 truck traffic in that area. There's already enough  
14 traffic, I think. We don't want to add to that.

15 Q. (By Examiner Jones) Okay, and you'll have to  
16 frac the PC, right?

17 A. Yes.

18 Q. The time it's going to take you to drill is about  
19 -- less than a month, right?

20 A. Oh, most of these wells are -- probably take less  
21 than a week.

22 Q. So but you do charge -- go ahead and charge a  
23 whole month for this, \$3500, you're requesting for the  
24 COPAS?

25 A. We could probably prorate that.

1 Q. But as a matter of --

2 A. Yes.

3 Q. -- practice --

4 A. Yes.

5 Q. -- you'd normally charge at least --

6 A. Right.

7 Q. -- one month? And if it goes over, you charge  
8 two months, right?

9 A. Right. These are generally -- I mean, I don't  
10 know what the depth is on this, I have to look. What is  
11 it, 1600 feet? 1800 feet?

12 1100 feet. You know, the Pictured Cliff, the  
13 Fruitland Coal is above that, so 1100 feet, you're looking  
14 at probably four days, five days with no problems.

15 EXAMINER JONES: Okay. Okay, that's all my  
16 questions. Thanks a lot, Mr. Lehrman.

17 Mr. Robbins, do you want to testify?

18 MR. ROBBINS: First I have a couple of questions.

19 On the notification list I was talking to my  
20 neighbors early this week, and two of them knew nothing  
21 about this hearing, two of them on this list. That would  
22 be -- well, Mr. Lobato for sure, and Mr. Youts didn't  
23 either.

24 EXAMINER JONES: Okay, I'll consider that a  
25 question to Mr. Lehrman, so Mr. Lehrman...

## FURTHER EXAMINATION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY MR. ROBBINS:

Q. Mr. Lehrman, did you get -- did you notify Sabiniano Lobato and an Alan Youts of this hearing? According to your returns back here, there's no signature on either one of theirs. Right before Exhibit 21, the page before that --

MR. KELLAHIN: Mr. Examiner, we'll check and make sure we have all the right owners either leased or notified of the hearing. However, it's not relevant to Mr. Robbins' problem.

EXAMINER JONES: The other owners are all -- But they haven't signed, though, have they --

MR. ROBBINS: No --

EXAMINER JONES: -- these people?

MR. ROBBINS: -- according to Mr. Brooks --

EXAMINER JONES: That's right, it's not relevant to your problem, but it --

MR. KELLAHIN: Well, I appreciate him sharing that with us, and we'll check on it.

EXAMINER JONES: Yeah, we'll have them definitely check on that.

MR. ROBBINS: Well, I know the Youtseses would have attended this hearing with me if they'd have been notified, so it is sort of relevant to my case, because Mr. --

1 EXAMINER JONES: Okay.

2 MR. ROBBINS: -- Kellahin said that I was the  
3 only one opposed to this well in one of his letters here.

4 EXAMINER JONES: Okay, how would you go about  
5 finding out if you did give notice to these people? I  
6 mean, how long would it take for you to find out?

7 MR. KELLAHIN: We'll have to check with the title  
8 attorneys and figure out where this interest was. Well,  
9 they had actual notice from Mr. Robbins, they should have  
10 come and told us they cared.

11 MR. ROBBINS: I told them yesterday, is when I  
12 talked to them.

13 EXAMINER JONES: They didn't notice the -- you  
14 have a notice in the paper also --

15 MR. KELLAHIN: Yes, we do.

16 EXAMINER JONES: -- newspaper, that -- legally,  
17 they should have -- It's hard to read all the notices in  
18 the newspaper.

19 MR. KELLAHIN: We'll deal with it accordingly,  
20 Mr. Examiner.

21 EXAMINER JONES: Okay, do you want to -- Do you  
22 have any more questions, Mr. Robbins?

23 MR. ROBBINS: No more questions, I guess.

24 EXAMINER JONES: For this witness?

25 MR. ROBBINS: No.

1 EXAMINER JONES: Okay. Thanks, Mr. Lehrman.

2 Mr. Robbins, do you want to provide some expert  
3 testimony?

4 MR. ROBBINS: I'd like to go over a few things.  
5 Do I need to come over there?

6 EXAMINER JONES: Yes. Okay, will you stand to be  
7 sworn?

8 (Thereupon, the witness was sworn.)

9 EXAMINER JONES: Okay, first of all, can we go  
10 over your background and qualify yourself as a --

11 MR. ROBBINS: -- mineral rights owner?

12 EXAMINER JONES: Yeah, there you go.

13 JAMES T. ROBBINS,

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

16 DIRECT TESTIMONY

17 BY MR. ROBBINS: My name is James Thomas Robbins,  
18 I'm a general contractor. I also do ski-guiding in the  
19 wintertime. I own the land -- my wife and I own the land  
20 at 3 County Road 6285, Kirtland, New Mexico.

21 I'm opposed to Lance leasing my mineral rights  
22 because they've had a history of not telling the truth  
23 about some things. In a letter here from Mr. Kellahin it  
24 said that I swore at Lance's representatives, and at that  
25 point in time I'd never even talked to them. Normally --

1 EXAMINER JONES: Okay, this letter is already in  
2 the --

3 MR. KELLAHIN: -- exhibit book, Mr. Examiner.

4 EXAMINER JONES: -- exhibits, so -- Okay, go  
5 ahead.

6 THE WITNESS: And then the first time I met with  
7 Lance, I offered them my mineral rights for a final refusal  
8 on well location, and they said that the only person that  
9 -- the only people -- the only agency that determined well  
10 location was OCD. And that's true to a point. You know,  
11 you can't drill within 200 feet of a house and that sort of  
12 thing. But Lance does have some say in where a well goes,  
13 and they -- Paul told me that they didn't have any say at  
14 all.

15 I don't like -- I wouldn't like to enter into  
16 essentially a lifetime contract, which is what these  
17 generally turn out to be with a company that a I can't  
18 trust. If they want to enter into a contract with me, I  
19 have made them an offer, and they chose to not even  
20 negotiate it. Their counter-offer was the same as the  
21 first offer they'd made me.

22 So I would just as soon not be compulsory pooled,  
23 and I would not like to be in any contract with Lance at  
24 all.

25 EXAMINER JONES: Okay, Mr. Kellahin, do you want

1 to ask Mr. Robbins any questions?

2 CROSS-EXAMINATION

3 BY MR. KELLAHIN:

4 Q. Well, for clarification, Mr. Robbins, what is it  
5 that you expect Mr. Jones to do, the Hearing Examiner?  
6 What do you want him to do?

7 A. I would like him not to put me in a compulsory  
8 pooling, I would like to exclude this section from  
9 drilling, or I would like to --

10 Q. You mean exclude your tract?

11 A. That would be fine, yeah.

12 Q. You want to opt out of this spacing unit?

13 A. I would like to, yeah.

14 Q. So what then happens to your interest?

15 A. I'd retain it.

16 Q. Well, how would you share in any production  
17 that's associated with the spacing unit in which your  
18 property has an interest?

19 A. There would be no drilling on my spacing unit.

20 Q. Well, there is not under this proposal.

21 A. Excuse me?

22 Q. Under this proposal the well is not to be located  
23 on your tract.

24 A. But it's in my drilling -- I own no interest in  
25 that drilling unit, that 160-acre drilling unit.

1 Q. I understand that, I understand that. It would  
2 not be drilled physically on your property.

3 A. And what difference does that make?

4 Q. We're trying to share the production with your  
5 tract. As the owner of the tract you're entitled, if you  
6 desire to have it, to have an opportunity to share in the  
7 production that's associated with your tract. Are you  
8 telling me you don't want to share?

9 A. I don't want to share -- I don't want to enter  
10 into any agreement with Lance, and I would like to see no  
11 wells drilled by Lance in that production unit. I have  
12 offers from two other drilling companies for my mineral  
13 rights at this time.

14 Q. What is the status of those offers? Have they  
15 executed those?

16 A. Pending this hearing.

17 Q. You realize that subsequent to the hearing you  
18 may still transfer your interest to another interest owner?

19 A. I understand that.

20 Q. And then have that party associated with this  
21 well deal with Lance under the terms that they choose to  
22 deal?

23 A. That still makes me involved with Lance.

24 MR. KELLAHIN: Well, no more questions, Mr.

25 Examiner.

1 EXAMINER JONES: Okay, I have no further  
2 questions for Mr. Robbins, but thank you for coming. And  
3 you may be excused.

4 So anything more in this case?

5 MR. KELLAHIN: Other than to respond to Mr.  
6 Robbins. It's our preference to have his interest pooled  
7 pursuant to the Oil Conservation Division pooling  
8 procedures. We have done our best to comply very carefully  
9 with that process, we have met with him, we're simply at a  
10 difference of opinion about what's to happen. And in this  
11 circumstance, then, the statute requires the Division to  
12 issue a pooling order, and we would like it done  
13 accordingly.

14 EXAMINER JONES: Okay, thank you --

15 MR. KELLAHIN: Thank you.

16 EXAMINER JONES: -- Mr. Kellahin, thank you, Mr.  
17 Robbins.

18 With that, we'll take Case 13,437 under  
19 advisement.

20 (Thereupon, these proceedings were concluded at  
21 9:55 a.m.)

22 I do hereby certify that the foregoing is  
\* \* \* complete record of the proceedings in  
23 the examiner hearing of Case No. \_\_\_\_\_  
heard by me on \_\_\_\_\_

24 \_\_\_\_\_, Examiner  
25 Oil Conservation Division

## 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 April 11th, 2005.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006