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September 10, 2012.

**CERTIFIED MAIL-RETURNED RECEIPT REQUESTED**

TO: NOTICE OF THE HEARING OF THE FOLLOWING  
NEW MEXICO OIL CONSERVATION DIVISION CASE:

Re: Case 14905: Application of Burlington Resources Oil & Gas Company  
for Compulsory Pooling (W/2 Section 9, T29N, R8W-Lively 3N Well)  
San Juan, New Mexico

Lively Exploration Company  
Attn: Adam Lively  
2450 Fondren Ste. 260  
Houston Texas 77063

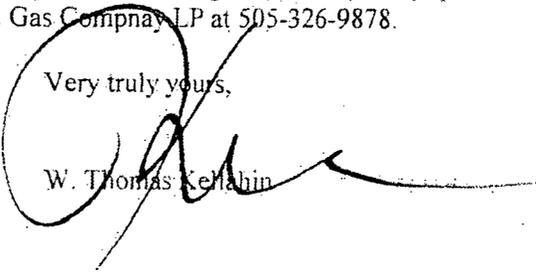
Dear Mr. Lively:

On behalf of Burlington Resources Oil & Gas Company, please find enclosed our application for the referenced case. The hearing for this case will be set on the New Mexico Oil Conservation Division Examiner's docket now scheduled for 8:15 am on October 4, 2012. The hearing will be held at the Division hearing room located at 1220 South Saint Francis Drive, Santa Fe, New Mexico, 87505. (Phone 505-476-3458, Fax 505-476-3462)

You are not required to attend this hearing, but as a party of interest affected by this application, we are notifying you of your right to appear at the hearing and participate in this case, including the right to present evidence either in support of or in opposition to the application. Failure to appear at the hearing may preclude you from any involvement in this case at a later date.

Pursuant Division Rule 1208.B, parties appearing in cases are required to file a Pre-Hearing Statement with the Division not later than 5:00 PM on Thursday, September 27, 2012, with a copy delivered to the undersigned. This statement must include: A concise statement of your position; the names of all witnesses the party will call to testify at the hearing; the approximate time of the party will need to present its case, and identification of any procedural matters that are to be resolved prior the hearing. Please direct any questions to Terry Simcoe of Burlington Resources Oil & Gas Company LP at 505-326-9878.

Very truly yours,

  
W. Thomas Kellahin

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

2012 SEP 10 A 11:34

**IN THE MATTER OF THE APPLICATION OF  
BURLINGTON RESOURCES OIL & GAS COMPANY LP  
FOR COMPULSORY POOLING  
(Lively 3N)  
SAN JUAN COUNTY, NEW MEXICO.**

**CASE NO. 14905**

**AMENDED APPLICATION**

Burlington Resources Oil & Gas Company LP ("Burlington"), a subsidiary of ConocoPhillips Company, by its attorneys, Kellahin & Kellahin, pursuant to NMSA 1978, Section 70-2-17.C, seeks an order pooling all mineral interests from top of the Mesaverde to the base of the Dakota formations underlying the W/2 of Section 9, T29N, R8W, NMPM, San Juan County, New Mexico, forming a standard 320-acre gas spacing and proration unit for the Mesaverde, Mancos and Dakota formation spaced on 320-acre spacing. This unit is to be dedicated to its Lively 3N Well (API # 30-045-35221) to be drilled and completed at a standard surface well in Unit N with a bottom hole location in Unit K and downhole commingled wellbore for production from Dakota, Mancos, and Mesaverde formations.

In addition, Burlington requests that the Division invoke the Division's authority to modify the terms of an existing Joint Operating Agreement, dated October 7, 1977, pursuant to NMSA 1978, Sec 70-2-17.E, to the extent necessary to comply with the current well spacing and density rules for the Blanco-Mesaverde Gas Pool. Order R-10987-A(1), effective December 2, 2002, for the Basin-Dakota Gas Pool. Order R-10981-B(1), effective January 29, 2002 and for the Basin-Mancos Gas Pool. Order R-12984 effective September 3, 2008. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the wells and, pursuant to Commission Order R-11992, a charge 200% charge for the risk involved in these wells.

In support of its application Burlington states:

### BACKGROUND

1. There is no Joint Operating Agreement covering the Mesaverde and Mancos formations for this 320-acre spacing unit.
2. There is a vintage gas operating agreement for the Dakota formation dated October 7, 1977 between Lively Exploration Company and El Paso Natural Gas Company, predecessor in title to Burlington Resources Oil & Gas Company LP.
3. Lively Exploration Company, as subsequently designated operator, drilled and produced the Dakota formation from the Lively No. 003 Well (API # 30-045-21074) in Unit N. The current status of this wellbore is active. Lively Exploration Company also drilled the Lively No 003E Well (API # 30-045-23974) in Unit E. The current status of this wellbore is active
4. Burlington proposed that the parties enter into a new operating agreement for the Lively 3N. A new operating agreement is necessary because the existing operating agreement fails to address production from formations other than the Dakota or authorize commingling of production. Additionally, the 1977 operating agreement does not have provisions for "Subsequent Operations" including infill drilling.
5. Burlington proposed a new AAPL Form 610-1982 operating agreement which contained an accounting procedure and a gas balancing agreement, and was accompanied by a drilling proposal that contained the location for the well, both surface and bottom hole, depth to be drilled, and a complete cost estimate.
6. The Blanco-Mesaverde Gas Pool is currently governed by the "Special Rules and Regulations for the Blanco-Mesaverde Pool" set forth in Order R-10987-A effective February 1, 1999, in which the Commission again modified the well spacing program in the Mesaverde formation to authorize up to four wells within a standard 320-acre spacing unit.
7. The Basin-Dakota Gas Pool is currently governed by the "Special Rules and Regulations for the Basin-Dakota Pool" set forth in Order R-10981-B effective January 29, 2002, in which the Commission again modified the well spacing program in the Dakota formation to authorize up to four wells within a standard 320-acre spacing unit.

8. The Basin-Mancos Gas Pool is currently governed by the "Special Rules and Regulations for the Basin-Mancos Gas Pool" set forth in Order R-12984 effective September 2, 2008, in which the Division adopted a well spacing program for the Mancos that is consistent with those for the Dakota and Mesaverde formation that authorized up to four wells within a standard 320-acre spacing unit.
9. By letter dated July 10, 2012, Burlington, as the successor in interest to the original operator, circulated a Joint Operating Agreement, A.A.P.L. Form 610-1982 Model Form, dated July 10, 2012, to replace the 1977-JOA to now include the Mesaverde and Mancos formations and allow for additional Dakota wells.
10. This 2012-JOA provides for the drilling of Dakota, Mancos, and Mesaverde wellbores consistent with the current well spacing and density orders for these formations and also provides other contemporary provisions including those for cost allocation procedures, payment default provisions and future proposed operations.
11. By letter dated July 10, 2012, Burlington sent a written well proposal including AFE to Lively Exploration Company that included the Mesaverde, Dakota, and Mancos formations underlying the W/2 of Section 9, T29N, R8W, NMPM, San Juan County, New Mexico, forming a standard 320-acre gas spacing and proration unit for the Mesaverde, Mancos and Dakota formations spaced on 320-acre spacing. This unit is to be dedicated to its Lively 3N Well (API # 30-045-35221) to be drilled and completed at a standard surface well in Unit N with a bottom hole location in Unit K and downhole commingled wellbore for production from Dakota, Mesaverde, and Mancos formations. [See form C-102 attached as Exhibit "A"]
12. As of August 10, 2012, Lively Exploration Company had failed to voluntarily join in this new 2011-JOA.

#### **REQUESTED RELIEF**

13. Burlington contends that the Division has the authority pursuant to the New Mexico Oil & Gas Act, specifically NMSA (1978) section 70-2-17-C and 70-2-17.E to issue a compulsory pooling for the top of the Mesaverde to the base of the Dakota and to modify the original 1977-JOA so that these new wells can be drilled because:
  - a. The 1977-JOA provides in Section 17 "Laws and Regulations. This agreement that shall be subject to all valid and applicable State and Federal laws, rules, regulations and orders, and the operations conducted hereunder shall be performed in accordance with said laws, rules, regulations and orders. In the event this Agreement or any provisions

Burlington Resources Oil & Gas Company  
NMOCD Application

hereof, is or the operations contemplated hereby are found to be inconsistent with or contrary to any such law, rule, regulations or order, the latter shall be deemed to control and this Agreement shall be regards, as modified according, and as so modified, shall continue in full force and effect.”

- b. There are no cost allocations or carrying provisions in the 1977-JOA
  - c. The 1977-JOA is limited such that no Dakota infill wells can be drilled and does not provide for the drilling of any Mancos or Mesaverde wells or the commingling of that production with the Dakota.
  - d. These new wells are necessary in order to recover Mancos, Mesaverde and Dakota Gas reserves, which will not otherwise be recovered.
  - e. Waste will occur in the event the Division fails to modify the 1977-JOA because of the lack of Dakota, Mancos and Mesaverde infill drilling provisions, subsequent operations, commingling of production and the lack of cost allocations provisions that currently preclude Burlington from drilling these wellbores.
  - f. The provisions of Section 70-2-17.E apply and the Division should modify the 1977-JOA to the extent necessary to prevent waste in accordance with these statutory provisions of the New Mexico Oil & Gas Act.
14. Burlington contends that compulsory pooling of the Mancos, Mesaverde and Dakota Gas formations is necessary.

#### **PARTY TO BE POOLED**

15. Burlington controls 100% of the Mesaverde and Mancos and ConocoPhillips controls 12.5% of the Dakota working interest and Lively Exploration Company has -0-% interest in the Mancos and Mesaverde and an 87.5% working interest in the Dakota formation.
16. The subject 320-acre spacing units are located within the Blanco-Mesaverde Gas Pool, the Basin-Dakota Gas Pool and Basin-Mancos Gas Pool.
17. Burlington despite reasonable effort has been unable to obtain the voluntary agreement of Lively Exploration Company in this spacing unit. Pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Burlington needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.

## NOTICE

18. In accordance with the Division's notice requirements, a copy of this application has been sent to the Lively Exploration Company, the party whose interests are to be pooled, notifying it of this case and of the applicant's request for a hearing of this matter before the Division on the next available Examiner's docket now scheduled for October 4, 2012.

WHEREFORE, Burlington, as applicant, requests that this application be set for hearing on October 4, 2012 before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interest described in the appropriate spacing unit for these wells at a standard well location upon terms and conditions which include:

1. Burlington Resources Oil & Gas Company LP be named operator;
2. Modification of the 1977 Joint Operating Agreement;
3. Provisions for applicant and all working interest owners to participate in the costs of drilling, completing, equipping and operating these wells;
4. In the event a mineral interest or working interest owner fails to elect to participate, then provision be made to recover out of production, the costs of the drilling, completing, equipping and operating the well, including a risk factor penalty of 200%; Provision for overhead rates per month drilling and per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;
5. provisions for subsequent operations
6. For such other and further relief as may be proper.

RESPECTFULLY SUBMITTED:

W. THOMAS KELLAHIN  
KELLAHIN & KELLAHIN  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
Ph 505-982-4285  
Fx 505-216-2780  
Email tkellahin@comcast.net

Burlington Resources Oil & Gas Company  
NMOCD Application

DISTRICT I  
1825 N. Franch Dr., Hobbs, N.M. 88240

State of New Mexico  
Energy, Minerals & Natural Resources Department

Form C-102  
Revised October 12, 2005

DISTRICT II  
1801 W. Grand Avenue, Artesia, N.M. 88210

Submit to Appropriate District Office  
State Lease - 4 Copies  
Fee Lease - 3 Copies

DISTRICT III  
1000 Rio Grande Rd., Artes, N.M. 87410

OIL CONSERVATION DIVISION  
1220 South St. Francis Dr.  
Santa Fe, NM 87505

DISTRICT IV  
1220 E. St. Francis Dr., Santa Fe, NM 87505

AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

API Number 30-045-35221		Pool Code 72319/71599/97232		Pool Name BLANCO MESAVERDE / BASIN DAKOTA / MANCOS		BASIN	
Property Code 18182		Property Name LIVELY				Well Number 3 N	
OGED No. 14538		Operator Name BURLINGTON RESOURCES OIL & GAS COMPANY LP				Elevation 6504'	

<sup>10</sup> Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
N	9	29N	BW		1179'	SOUTH	1776'	WEST	SAN JUAN

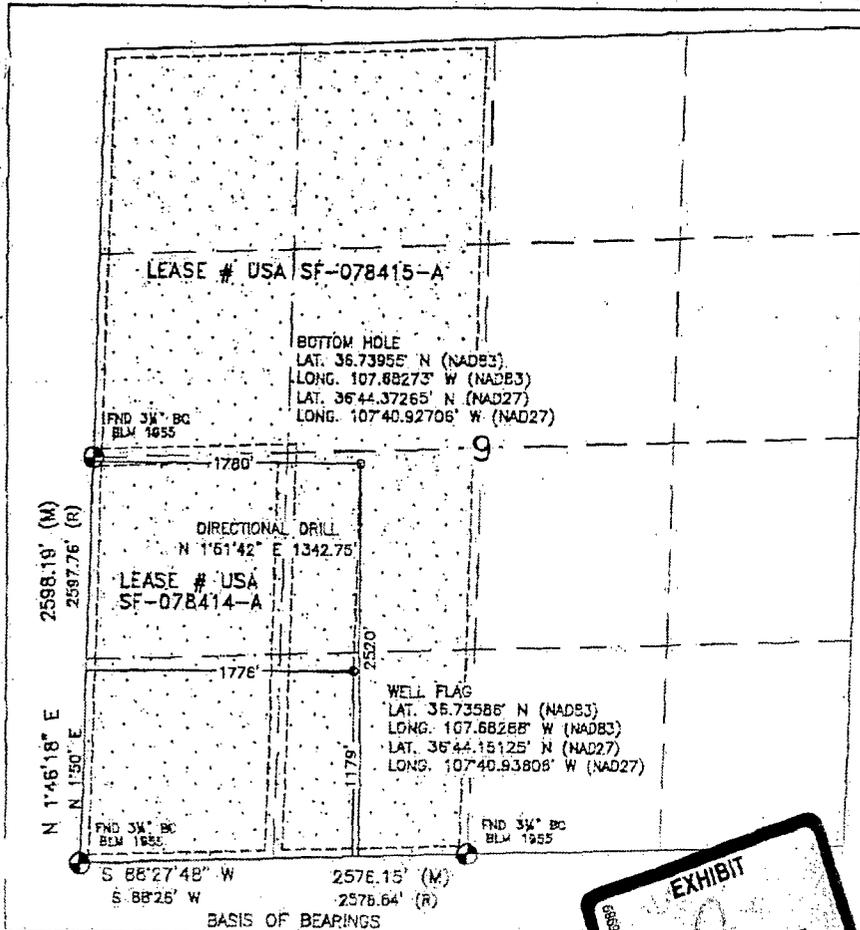
<sup>11</sup> Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
K	9	29N	BW		2520'	SOUTH	1780'	WEST	SAN JUAN

Dedicated Acres 320.00 ACRES - W/2		Joint or Infill		Consolidation Code		Order No.	
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NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION

18



<sup>17</sup> OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or undivided mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner or a compulsory pooling order heretofore entered by the division.

*Arleen Kellywood* 12/6/11  
Signature Date

Arleen Kellywood  
Printed Name

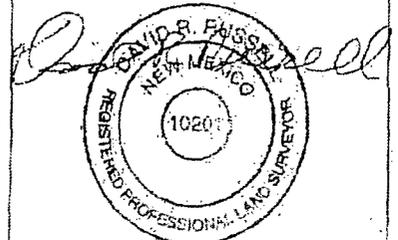
<sup>18</sup> SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

APRIL 27, 2010

Date of Survey

Signature and Seal of Professional Surveyor:



DAVID RUSSELL

Certificate Number

10201

