

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

APPLICATION OF BP AMERICA
PRODUCTION COMPANY FOR
COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

CASE NO. 13547

AFFIDAVIT OF TOM FURTWANGLER

STATE OF TEXAS)
) ss.
COUNTY OF HARRIS)

I, Tom Furtwangler, being first duly sworn on oath, states as follows:

1. My name is Tom Furtwangler. I reside in Harris County, Texas. I am the Landman employed by BP America Production Company ("BP") who is familiar with the status of the lands in Section 28, Township 17 South, Range 34 East, NMPM, Lea County, New Mexico.

2. BP seeks an order pooling the record title owner of State Lease B-1431-4 in the SE/4 SW/4 of Section 28 from the base of the Abo formation to the base of the Morrow formation to form a standard S/2 320-acre gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently includes but is not necessarily limited to the Undesignated Vacuum Morrow Gas Pool.

3. BP owns a working interest in the S/2 of Section 28 and has dedicated this proposed spacing unit to its existing Sunflower 28 State Well No. 1 (API 30-025-36695) located at a standard location in the NE/4 SE/4 (Unit I) of said Section 28 at a point 1460 from the South line and 660 feet from the East line at a depth sufficient to produce from the Morrow formation. Attachment A is a plat of the subject lands showing the proposed spacing unit and the well location.

4. The proposed Unit consists entirely of State of New Mexico oil and gas leases. Attachment B lists the nature and percentage of the ownership interests in the subject spacing and proration unit.

5. All mineral owners in the Unit have voluntarily agreed to pool their interests. This application has been instituted solely to pool the interest of the record title owner of State Lease B-1431-4 who retains no mineral interests.

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Case No. 13547 Exhibit No. 1
Submitted by:
BP America Production Company
Hearing Date: April 7, 2005

6. BP has conducted a diligent search to locate the record title owner of State Lease B-1431-4, Mr. Lamar Fleming Jr. The last known address listed with the New Mexico State Land Office for Mr. Fleming was the Amerada Hess Corporation office at P.O. Box 2040, Tulsa, Oklahoma 74102. Amerada Hess is the lessee of record for the vast majority of the base lease (B-1431). Letters and rental receipts, furnished to BP by an abstract company, indicate that Amerada Hess paid the rental for Mr. Fleming as early as 1977.

a. I contacted the Amerada Hess land department in an attempt to locate Mr. Fleming. According to their records, Amerada Hess does not bill for any rentals or make any disbursements to Mr. Fleming. The last known address for Mr. Fleming, d/b/a L.F. Oil Company, is 1528 Commerce Blvd., Houston, Texas. This address pre-dates zip codes and is similar to the address found on the Assignment of Oil and Gas Lease dated July 16, 1954 between Amerada Hess and Mr. Fleming.

b. I contacted Apache Corporation, owner of operating rights for Lease No. B-1431-4 and its land department has no address for Mr. Fleming or L.F. Oil Company.

c. I conducted a nationwide internet search to find a phone number for L.F. Oil Company, Lamar Fleming, Lamar Fleming, Jr. or Clare E. Fleming (Mr. Fleming's wife in 1954). However, I found no listing.

7. I have reviewed a title opinion for this acreage. It indicates Mr. Fleming conveyed all his interest (except record title) to Texam Oil and Gas Company by assignment dated November 8, 1954 and currently has no working interest, royalty or overriding royalty in said Section 28. Mr. Fleming is only the named owner of title to Lease B-1431-4.

9. I contacted Mr. Jeff Albers at the New Mexico State Land Office and was informed that for the Land Office to approve a communitization agreement, it would be necessary to have Mr. Fleming sign the agreement. Mr. Albers had the same address for Mr. Fleming in his records as listed above. I explained that BP has been unable to contact Mr. Fleming at that address. Mr. Albers suggested BP obtain a pooling order from the Oil Conservation Division.

10. As BP desires to communitize this state lease, BP requests that the record title owner be pooled and BP designated operator of the well and spacing unit.

11. Attachment C is the letter giving proper notice of this hearing to the last known address for Mr. Fleming.

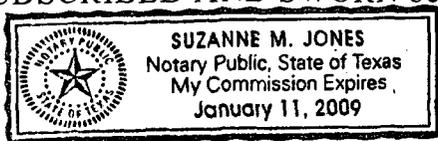
12. Approval of this application will avoid the drilling of unnecessary wells, will prevent waste, will protect correlative rights, and allow BP and the other interest

owners in the S/2 of Section 28 an opportunity to obtain their just and fair share of the oil and has underling the subject lands.

FURTHER AFFIANT SAYETH NOT.


TOM FURTWANGLER

SUBSCRIBED AND SWORN before me on this 5th day of April, 2005.




Notary Public

My Commission Expires:
1-11-09

ATTACHMENT "A"

Attached to and made a part of the certain Affidavit of Tom Furtwangler
dated April 5, 2005.

<p>GEODETIC COORDINATES NAD 27 NME</p> <p>Y=656521.9 N X=738037.0 E</p> <p>LAT.=32°48'08.90" N LONG.=103°33'31.13" W</p> <p>660'</p> <p>1460'</p>	OPERATOR CERTIFICATION <i>I hereby certify the the information contained herein is true and complete to the best of my knowledge and belief.</i>
	Signature _____
	Printed Name _____
	Title _____
Date _____	
	SURVEYOR CERTIFICATION <i>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.</i>
	APRIL 29, 2004
	Date Surveyed _____ LA
	Signature & Seal of Professional Surveyor <p>0411.0485</p>
	Certificate No. GARY EMSON 12641

SECTION 28, T17S, R34E,
LEA COUNTY, NEW MEXICO

ATTACHMENT "B"

Attached to and made a part of the certain Affidavit of Tom Furtwangler dated April 5, 2005.

Tract 1

Lessor: State of New Mexico acting by and through its
Commissioner of Public Lands

Lessee of Record: Lamar Fleming, Jr., d/b/a L. F. Oil Company
Serial No. of Lease: B-1431-4
Date of Lease: December 5, 1932
Description of Lands: SE/4SW/4 of Section 28, T17S, R34E
Number of Acres: 40.00

Tract 2

Lessor: State of New Mexico acting by and through its
Commissioner of Public Lands

Lessee of Record: BTA Oil Producers
Serial No. of Lease: B-1431-9
Date of Lease: December 5, 1932
Description of Lands: N/2SW/4 and SW/4SW/4 of Section 28, T17S, R34E
Number of Acres: 120.00

Tract 3

Lessor: State of New Mexico acting by and through its
Commissioner of Public Lands

Lessee of Record: C. Q. Acquisition Partners I, L.P.
Serial No. of Lease: E-8712
Date of Lease: December 21, 1954
Description of Lands: N/2SE/4 of Section 28, T17S, R34E
Number of Acres: 80.00

Tract 4

Lessor: State of New Mexico acting by and through its
Commissioner of Public Lands

Lessee of Record: Chevron U.S.A. Inc.
Serial No. of Lease: B-1030
Date of Lease: July 11, 1932
Description of Lands: S/2SE/4 of Section 28, T17S, R34E
Number of Acres: 80.00

RECAPITULATION

Tract Number	Number of Acres Committed	Percentage of Interest in Communitized Area
1	40.00	12.50%
2	120.00	37.50%
3	80.00	25.00%
4	<u>80.00</u>	<u>25.00%</u>
	320.00	100.00%

HOLLAND & HART^{LLP}



Michael H. Feldewert
Recognized Specialist in the Area of
Natural Resources - oil and gas law -
New Mexico Board of Legal
Specialization

mfeldewert@hollandhart.com

March 15, 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lamar Fleming
d/b/a L.F. Oil Company
Post Office Box 2040
Tulsa, Oklahoma 74102

**Re: Application of BP America Production Company for Compulsory
Pooling, Lea County, New Mexico**

Dear Mr. Fleming :

This letter is to advise you that BP America Production Company, has filed the enclosed application with the New Mexico Oil Conservation Division. This application has been set for hearing before a Division Examiner on April 7, 2005. You are not required to attend this hearing, but as an owner of interest in this property, you may appear and present testimony. Failure to appear at this hearing and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases are required by Division Rule 1208.B to file a Prehearing Statement three days in advance of the scheduled hearing. This statement must include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

Sincerely,

Michael H. Feldewert

MHF
Enclosure

ATTACHMENT C

Holland & Hart^{LLP}

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