

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

IN THE MATTER OF THE HEARING CALLED BY )  
THE OIL CONSERVATION COMMISSION FOR THE )  
PURPOSE OF CONSIDERING: )  
APPLICATION OF LANCE OIL AND GAS )  
COMPANY FOR COMPULSORY POOLING, )  
SAN JUAN COUNTY, NEW MEXICO )

CASE NO. 13,437

2005 SEP 1 AM 7 35

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

ORIGINAL

BEFORE: MARK E. FESMIRE, CHAIRMAN  
JAMI BAILEY, COMMISSIONER  
FRANK T. CHAVEZ, COMMISSIONER

August 18th, 2005

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, August 18th, 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.

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## I N D E X

August 18th, 2005  
 Commission Hearing  
 CASE NO. 13,437

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| REPORTER'S CERTIFICATE | 15   |

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## E X H I B I T

| Applicant's | Identified | Admitted |
|-------------|------------|----------|
| Exhibit 1   | 9          | -        |

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

## FOR THE COMMISSION:

CAROL LEACH  
 General Counsel  
 Energy, Minerals and Natural Resources Department  
 1220 South Saint Francis Drive  
 Santa Fe, New Mexico 87505

## 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 9:02 a.m.:

3           CHAIRMAN FESMIRE: The next order of business  
4 before the Commission -- we're going to take them a little  
5 bit out of order. Mr. Robinson [sic], did I see you come  
6 in?

7           MR. ROBINSON: Yes.

8           CHAIRMAN FESMIRE: Okay. Would you mind if we  
9 take your case first?

10          MR. ROBINSON: No problem.

11          CHAIRMAN FESMIRE: Okay, at this time the  
12 Commission will call Case Number 13,437, continued from the  
13 July 7th, 2005, Commission meeting. It's the Application  
14 of Lance Oil and Gas Company for compulsory pooling in San  
15 Juan County, New Mexico.

16          I guess we'll start with the Applicant. Mr.  
17 Kellahin, you're representing the Applicant today?

18          MR. KELLAHIN: Mr. Chairman, that's correct.

19          CHAIRMAN FESMIRE: All right, do you have any  
20 witnesses today?

21          MR. KELLAHIN: No, sir. We're here to argue my  
22 motion on behalf of Lance to dismiss the Application.

23          CHAIRMAN FESMIRE: Okay.

24          MR. KELLAHIN: Mr. Chairman, members of the  
25 Commission, back on June 28th, on behalf of Lance I filed a

1 motion to dismiss this Application. This is for Case  
2 13,437, and the subject of that case has resulted in a  
3 pooling order which is Order R-12,339, which pooled the  
4 Pictured Cliff formation in the northwest quarter of  
5 Section 17.

6 If you give me a minute, I'll give you a copy of  
7 the motion and a copy of the locator map.

8 CHAIRMAN FESMIRE: I think we've got a copy of  
9 the motion, I'm not sure. And...

10 Florene, was a copy of the map attached to the --

11 MS. DAVIDSON: I don't think so.

12 CHAIRMAN FESMIRE: Mr. Kellahin?

13 MR. KELLAHIN: Would you like a copy of the  
14 locator map?

15 CHAIRMAN FESMIRE: Please, sir.

16 MR. KELLAHIN: Earlier this year, Lance began a  
17 project of drilling Pictured Cliff and Fruitland Coal gas  
18 wells in an area of the San Juan Basin that included among  
19 this well population some wells in Section 17.

20 If you'll look at the locator map, you'll find  
21 the north half of the section. Their strategy has been to  
22 pool the north-half spacing unit for the coal gas and then  
23 to drill a parent well. In this circumstance, the parent  
24 well is the well designated over in the northeast quarter  
25 of Section 17. That parent well was the subject of a

1 separate pooling application. It's the -38 case.

2 That case was filed, and contemporarily with  
3 filing that case there was another pooling case to pool the  
4 PC over in the northwest quarter. So when taken in  
5 combination, then, Lance would have the circumstance where  
6 they had the north-half pool for a parent well, and then  
7 they had each of the quarter sections pooled for the PC.  
8 And their strategy has been to make choices as they drill  
9 this, in order to have either a Coal infill well and a  
10 parent well, or two PC wells.

11 Both those cases were served on Mr. Robbins. He  
12 filed an entry of appearance only in the pooling case that  
13 affected the northwest quarter of the section.

14 As a result of a prehearing conference with Mr.  
15 Brooks of the Division and the Examiner and me and Mr.  
16 Robbins, at his request Mr. Robbins asked for a continuance  
17 of the case for the northwest quarter. That was bumped and  
18 finally went to hearing on April 7th, I believe.

19 In the interim, the other cases, a whole package  
20 of cases, had gone to hearings, including the one for the  
21 north half.

22 At the hearing, then, Examiner Jones was the  
23 Hearing Examiner that heard the hearing for the Case -37  
24 that's now the subject of this *de novo* Application. He  
25 heard all the facts and circumstances, heard from Mr.

1 Robbins that Mr. Robbins did not want to be pooled, he did  
2 not want to be involved in the spacing unit. In fact, he  
3 went to so far as to say that the well should not be  
4 drilled. And before and after that hearing we have not  
5 been able to come to a solution with Mr. Robbins.

6 So the pooling orders were issued. Mr. Robbins  
7 was given elections under the north-half pooling order for  
8 both the PC portions of each wellbore, and the prehearing  
9 statement will show that -- I mean the motion will show  
10 that there's a component to doing that, that those notice  
11 letters were sent to him on June 3rd, and to the best of my  
12 knowledge he made no election on either well.

13 When Lance drilled the well in the northwest  
14 quarter, they got down to the top of the PC and made the  
15 technical choice not to complete in the PC. And so they're  
16 prepared to abandon the order for the pooling of the PC.  
17 They then have come up slightly uphole, and I think they  
18 are now completing and have made a Coal well. And the Coal  
19 well, then, is the infill well to the parent spacing unit  
20 well over in the northeast quarter.

21 So it's our position that as a result of this  
22 sequence of events, Mr. Robbins' failure to take timely  
23 action, to enter an appearance and participate in the  
24 spacing of the north half for the two coal wells, has now  
25 lost the opportunity to further complain about that pooling

1 order. His complaint was as to the PC wellbore, and he  
2 made his appearance, participated in the hearing. He's  
3 unhappy with that result.

4 And rather than hear all that again, it is our  
5 position that by dismissing the pooling case for the zone  
6 that he's pooled in, which we're releasing, that there's no  
7 need for a *de novo* hearing on this matter. And that in  
8 substance is our position on the motion, and we would ask  
9 that the Commission grant the motion.

10 CHAIRMAN FESMIRE: Mr. Robbins?

11 MR. ROBBINS: All of that -- you know, if you're  
12 completing two wells in one hole, my objection to the thing  
13 was the hole itself. I don't care where you perf it, I  
14 don't care where you frac it. Splitting the wells out into  
15 two wells in one hole seems to me a legal move that, you  
16 know, I guess I don't understand why you would do that,  
17 except that you could do something like this.

18 I could, you know, not realize that this is not  
19 the -- they've flooded me with enough paperwork to do who  
20 knows what, so I can't -- I'm just a plain old common guy.  
21 I don't know, you know, this number, that number. I know  
22 that they want to put a hole, and I don't want to  
23 participate with Lance on it.

24 CHAIRMAN FESMIRE: Okay. Mr. Robbins, you own  
25 the surface and some of the minerals; is that correct?

1 MR. ROBBINS: Yes, I do, all the minerals.

2 CHAIRMAN FESMIRE: All the minerals. In the  
3 quarter section or in the half section?

4 MR. ROBBINS: In the half section, I believe.

5 CHAIRMAN FESMIRE: Okay.

6 MR. ROBBINS: And I've got -- you know, people --  
7 Mr. Kellahin has said, and Lance has said, that I have a  
8 small little piece. I own a half acre, is what I own. You  
9 know, the fact is, they can't -- you know, I'm not so  
10 insignificant there that they can't do the well without my  
11 participation.

12 I have tried to negotiate with Lance, they  
13 refused to negotiate. They won't even hear anything about  
14 it. I believe compulsory pooling should -- you know,  
15 there's a need for it, just like on this same section the  
16 State owns seven acres, and the State won't make a decision  
17 on it, so they just let themselves be forced into  
18 compulsory pooling and then get paid.

19 I don't want to have Lance -- Lance put in a --  
20 just part of what Lance has done out there, they've put in  
21 a water-return line, and it tore up the road. I mean, it  
22 just tore up the road, all down -- it's solid mud. They  
23 have made no effort to fix that.

24 The other morning, Saturday morning, I woke up to  
25 the sound of a workover rig at 6:00 a.m. Saturday morning.



1 They're just irresponsible. They need to -- Having an  
2 industrial operation in my neighborhood lowers my property  
3 values, and I think Lance should compensate me for that.

4 CHAIRMAN FESMIRE: Commissioner Bailey, do you  
5 have any questions?

6 COMMISSIONER BAILEY: Is the wellbore on your  
7 property?

8 MR. ROBBINS: No, it's about a thousand feet to  
9 the west of me.

10 MR. KELLAHIN: If I may, Commissioner Bailey, I  
11 do have a map that will show you. This is taken from the  
12 Examiner transcript, it's Exhibit 4 [sic], and it shows a  
13 location for the well and approximately a thousand-foot  
14 distance over to Mr. Robinson's.

15 MR. ROBBINS: Incidentally, that well is 150 feet  
16 from a bald eagle nest that Lance never even bothered to  
17 investigate and find.

18 COMMISSIONER BAILEY: The negotiations that you  
19 tried to enter into with the company, did they have to do  
20 with money or with environmental effects?

21 MR. ROBBINS: Several things. My main opposition  
22 to this is the lifetime lease aspect of it. Once they get  
23 -- you know, once they get me into a pool or whatever, into  
24 their agreement then, you know, as long as their production  
25 or exploration, then they have it locked up. From the

1 experience I've had around oil companies, once they have  
2 that, then they just run rough-shod over everybody.

3 I think -- I would like to see a term lease with  
4 Lance and me, to keep them responsible for what they're  
5 doing, because they haven't been responsible so far.

6 CHAIRMAN FESMIRE: Mr. Robbins, can I clarify  
7 something? You have 100 percent of the minerals under your  
8 half-acre, right?

9 MR. ROBBINS: That's correct.

10 CHAIRMAN FESMIRE: Okay, but not under the half  
11 section?

12 MR. ROBBINS: No, that's right.

13 CHAIRMAN FESMIRE: Okay.

14 MR. ROBBINS: One other thing, in the order  
15 written up from the last hearing, they quoted, you know, as  
16 a big piece, that Tom Udall contacted James Kolocny, an  
17 attorney for Lance, and Lance's attorney is trying to  
18 counsel me on what's my best interest, and I disagree with  
19 that entirely.

20 CHAIRMAN FESMIRE: Okay, so you contacted  
21 Congressman Udall, and he --

22 MR. ROBBINS: He contacted Lance. And Lance,  
23 instead of putting him in touch with Mr. Kellahin, who's  
24 representing this case, put him in touch with some  
25 attorneys in Grand Junction, of all places. Just

1 circuitously, you know, leading around the bush.

2 CHAIRMAN FESMIRE: Okay. Anything else,  
3 Commissioner?

4 COMMISSIONER BAILEY: What is it that you want  
5 out of this deal? The well not to be drilled, or  
6 compensation or --

7 MR. ROBBINS: I want compensation, and I want a  
8 term lease, I want it where they can be held responsible  
9 for what they're doing in my neighborhood and not just have  
10 it for life.

11 COMMISSIONER BAILEY: Okay, thank you. That's  
12 all I have.

13 CHAIRMAN FESMIRE: Commissioner Chavez?

14 COMMISSIONER CHAVEZ: Yes, this is starting to  
15 sound complicated to me as far as the process, Mr.  
16 Kellahin.

17 Basically, the order that was issued in the first  
18 hearing included a provision that drilling would continue  
19 and should continue due diligence to test the PC formation;  
20 and now that there's no intent to do that, does a case  
21 actually exist -- is this what you're trying to tell us? --  
22 because there's no longer an intent to do that, and this is  
23 a *de novo* application, or your Application has been brought  
24 *de novo*, there's no real case? Is this what you're trying  
25 to tell us?

1 MR. KELLAHIN: I think that's a fair way of  
2 saying what I'm trying to express for you, is, we pooled  
3 the northwest quarter for the PC interest, and because  
4 that's being abandoned, it's not to be completed in the PC,  
5 this matter is over.

6 COMMISSIONER CHAVEZ: Okay, and the Commission  
7 action to -- basically you're asking the Commission to just  
8 dismiss the Application entirely --

9 MR. KELLAHIN: Right.

10 COMMISSIONER CHAVEZ: -- and that vacates the  
11 previous order then?

12 MR. KELLAHIN: Yes.

13 COMMISSIONER CHAVEZ: Okay, just wanted to be  
14 clear. Thank you. That's all I have.

15 CHAIRMAN FESMIRE: Mr. Kellahin, will Mr. Robbins  
16 have any interest in the Number 2 well in the Coal? He  
17 won't, will he?

18 MR. KELLAHIN: Yes, he will.

19 CHAIRMAN FESMIRE: He will?

20 MR. KELLAHIN: He has an interest in both those  
21 wellbores, the parent well and the infill well, and is  
22 simply taking -- In the motion to dismiss it shows that  
23 there are about 15 percent of the PC spacing unit at the  
24 time of the pooling that had not been committed. They  
25 started with some 50 or 60 different owners. As you can

1 see from the map, it's spread out over a subdivision area  
2 where the owners of the surface and the subdivision lots  
3 also have their minerals.

4 When we came down to the pooling we had this  
5 short list. And of the list, then, Mr. Robbins and his  
6 wife, in the PC, have 0.293. Simply divide that in half,  
7 and then he has the component of participation in the  
8 production associated with the two Coal gas wells.

9 CHAIRMAN FESMIRE: Okay. It seems to me that the  
10 relief that Mr. Robbins is seeking is not within the  
11 purview of this Commission. I think our choice is either  
12 to grant the motion or not to grant the motion. You know,  
13 the decision that we would make today is probably not going  
14 to affect the claim that you're making, if you were to  
15 bring that claim in court. But I don't think that we have  
16 a choice other than to grant the motion.

17 Commissioner?

18 COMMISSIONER BAILEY: Yes, I agree.

19 COMMISSIONER CHAVEZ: I concur.

20 CHAIRMAN FESMIRE: Okay, and the Chair would  
21 entertain a motion to that effect.

22 COMMISSIONER BAILEY: I so move.

23 COMMISSIONER CHAVEZ: Second.

24 CHAIRMAN FESMIRE: All those in favor?

25 COMMISSIONER BAILEY: Aye.

1 COMMISSIONER CHAVEZ: Aye.

2 CHAIRMAN FESMIRE: Opposed?

3 We'll draft an order to that effect and rule that  
4 way, Mr. Robbins. I appreciate your time.

5 MR. ROBBINS: Thank you very much.

6 CHAIRMAN FESMIRE: You bet. Thank you, Mr.  
7 Kellahin.

8 MR. KELLAHIN: Thank you.

9 (Thereupon, these proceedings were concluded at  
10 9:20 a.m.)

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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 Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

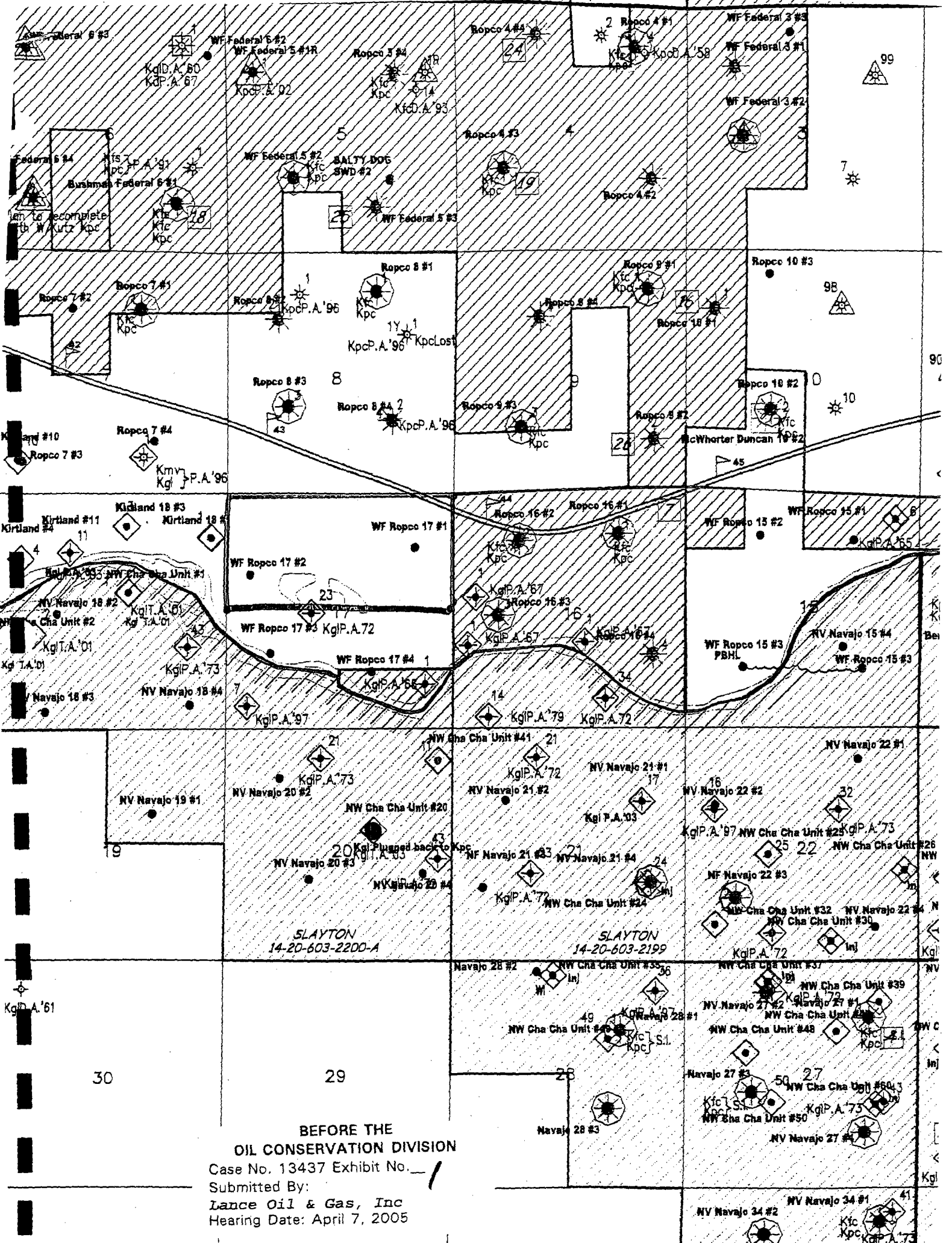
I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL August 19th, 2005.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006



BEFORE THE  
 OIL CONSERVATION DIVISION  
 Case No. 13437 Exhibit No. 1  
 Submitted By:  
 Lance Oil & Gas, Inc  
 Hearing Date: April 7, 2005