

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

ORIGINAL

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING:

APPLICATION OF HUNT OIL COMPANY  
FOR COMPULSORY POOLING, RIO ARRIBA  
COUNTY, NEW MEXICO

Case 14924

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, Presiding Examiner  
DAVID K. BROOKS, Legal Examiner

November 1, 2012

Santa Fe, New Mexico

RECEIVED OOD  
2012 NOV 1 P 3:35

This matter came on for hearing before the  
New Mexico Oil Conservation Division, WILLIAM V. JONES,  
Presiding Examiner, and DAVID K. BROOKS, Legal Examiner,  
on Thursday, November 1, 2012, at the New Mexico Energy,  
Minerals and Natural Resources Department, 1220 South  
St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91  
Paul Baca Professional Court Reporters  
500 Fourth Street, N.W., Suite 105  
Albuquerque, NM 87103 505-843-9241

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

A P P E A R A N C E S

FOR THE APPLICANT:

JAMES BRUCE, ATTORNEY AT LAW  
P.O. Box 1056  
Santa Fe, New Mexico 87501  
(505)982-2043

WITNESSES: PAGE

John Michael Richardson:

Direct examination by Mr. Bruce 3  
Examination by Examiner Jones 8

INDEX PAGE

EXHIBITS 1, 2 and 3 WERE ADMITTED 8

REPORTER'S CERTIFICATE 14

1                   EXAMINER JONES: At this time let's call  
2 Case 14924, application of Hunt Oil Company for  
3 compulsory pooling in Rio Arriba County, New Mexico.  
4 Call for appearances.

5                   MR. BRUCE: Mr. Examiner, Jim Bruce, of  
6 Santa Fe, representing the applicant. I have one  
7 witness.

8                   EXAMINER JONES: Any other appearances?  
9 Will the witness please stand and state your  
10 name?

11                  MR. RICHARDSON: John Michael Richardson.

12                                 (One witness was sworn.)

13                  MR. BRUCE: Mr. Examiner, I think this is  
14 probably the first time a single examiner has had two  
15 cases in one day seeking to force pool simply for  
16 purposes of a com agreement, and that's what we're here  
17 for today.

18                                 JOHN MICHAEL RICHARDSON

19                  Having been first duly sworn, testified as follows:

20                                 DIRECT EXAMINATION

21 BY MR. BRUCE:

22                  Q.     Would you please state your name and city of  
23 residence?

24                  A.     John Michael Richardson, Stanley, New Mexico.

25                  Q.     What is your occupation?

1 A. I'm a petroleum landman.

2 Q. What is your relationship to Hunt Oil Company?

3 A. We provide contract land services to Hunt Oil  
4 Company.

5 Q. Have you previously testified before the  
6 Division?

7 A. I have.

8 Q. Were your credentials as an expert petroleum  
9 landman accepted as a matter of record?

10 A. Yes.

11 Q. Are you familiar with the land matters  
12 involved in this case?

13 A. I am.

14 MR. BRUCE: Mr. Examiner, I tender  
15 Mr. Richardson as an expert petroleum landman.

16 EXAMINER JONES: He is so qualified. I  
17 think I've seen you leasing some land in Roosevelt  
18 County.

19 THE WITNESS: Yes, we have.

20 Q. (By Mr. Bruce) Mr. Richardson, could you  
21 identify Exhibit 1 and describe what Hunt Oil Company  
22 seeks in this case?

23 A. Exhibit 1 is a plat showing Section 34  
24 southeast of 33 of Township 26 North, Range 2 West, Rio  
25 Arriba County, New Mexico. And Hunt is seeking an order

1 pooling all of Section 34 as to the Mancos formation.

2 Q. What is the name of the well?

3 A. The Elk Com 34 Number 1H. It's a horizontal  
4 well.

5 Q. And the surface location is in adjoining  
6 Section 33?

7 A. That's correct.

8 Q. Now, you're seeking to force pool the entire  
9 section. Did Hunt originally intend to drill this well  
10 with a south half well unit?

11 A. They did.

12 Q. But when you filed the APD with the Division,  
13 what happened?

14 A. They told us we were wrong, that it would be a  
15 640 spacing unit.

16 Q. Okay. There are Mancos pools in this area  
17 with 640-acre spacing?

18 A. That's correct.

19 Q. So the Division's well file reflects a C-102  
20 with a 640-acre well unit; correct?

21 A. That's correct.

22 Q. Who do you seek to pool in this case?

23 A. We seek to pool two overriding royalty  
24 interest owners, L.W. Wickes Agent Corp., and Cyprus  
25 Mines Corporation. Cyprus Mines is now part of

1 Freeport-McMoran.

2 Q. And why do you seek to pool these two  
3 companies?

4 A. We sent them a com agreement, and they did not  
5 sign it or refused to sign it.

6 Q. And do you need to get them committed to the  
7 com agreement so that they will receive their  
8 proportionate share of production?

9 A. That's correct.

10 Q. Will the BLM accept a force pooling order as  
11 signature on a com agreement?

12 A. Yes.

13 Q. What is Exhibit 2?

14 A. Exhibit 2 are our letters that we sent out to  
15 these two overriding royalty interest owners requesting  
16 that they execute the communitization agreement.

17 Q. I should have pointed out on Exhibit 1, in  
18 which tract do they own an interest?

19 A. In the northwest quarter.

20 Q. So they own an interest in 160 acres out of  
21 the 640 acres?

22 A. That's correct.

23 Q. And these addresses that you sent them to,  
24 they did receive these letters, did they not?

25 A. They did. I followed them up with telephone

1 calls to confirm that they had received them, and they  
2 both have.

3 Q. They've just never responded regarding  
4 ratifying or signing the com agreement?

5 A. That is correct.

6 Q. In your opinion, has Hunt made a good-faith  
7 effort to obtain the voluntary joinders of the interest  
8 owners in the well?

9 A. Yes, they have.

10 Q. And all other overriding royalty and working  
11 interest owners have voluntarily agreed to commit their  
12 interests in this well?

13 A. Yes.

14 Q. Do you request that Hunt be appointed operator  
15 of the well?

16 A. Yes.

17 Q. Were Cyprus Mines and L.W. Wickes Agent Corp.  
18 notified of this hearing?

19 A. Yes.

20 Q. And is that reflected in my affidavit of  
21 notice marked as Exhibit 3?

22 A. Correct.

23 Q. Were Exhibits 1 through 3 prepared by you or  
24 under your supervision or compiled from company business  
25 records?

1 A. Yes.

2 Q. In your opinion, is the granting of this  
3 application in the interest of conservation and the  
4 prevention of waste?

5 A. Yes, it is.

6 MR. BRUCE: Mr. Examiner, I would move the  
7 admission of Exhibits 1 through 3.

8 EXAMINER JONES: Exhibits 1, 2 and 3 will  
9 be admitted.

10 (Exhibits 1, 2 and 3 were admitted.)

11 MR. BRUCE: I have no further questions of  
12 the witness.

13 EXAMINATION

14 BY EXAMINER JONES:

15 Q. Mr. Richardson, the pool rules on the  
16 Gavilan-Mancos require 790-foot setbacks on Rule 4 from  
17 the lease line?

18 A. That's correct.

19 Q. Is that going to happen, or is that planned in  
20 this well?

21 A. Yes, it is.

22 MR. BRUCE: And Mr. Examiner, for some  
23 reason, my computer won't print it, but there is an APD  
24 in the Division's well file that shows that the setbacks  
25 are complied with.

1                   EXAMINER JONES:  There's also some kind of  
2 a deal with this Gavilan-Mancos pool as to whether it's  
3 close to the west Puerto Chiquito Mancos pool.  Is that  
4 the case here in this well?

5                   MR. BRUCE:  Mr. Examiner, I think  
6 Mr. Richardson can also answer.  I know we've both looked  
7 at that.  There are some odd pool rules in the Mancos out  
8 here, to say the least.

9                   And what's amazing is it's a 640-acre oil  
10 pool.  But I mean there's the west Puerto Chiquito, the  
11 east Puerto Chiquito, the Gavilan-Mancos.  And I forget  
12 what the Division placed it in, but as Mr. Richardson  
13 testified, the Division did require a single-section well  
14 unit.

15                   EXAMINER JONES:  Okay.

16                 Q.       (By Examiner Jones)  And it's basically a  
17 7,345-foot TVD well in the Niobrara?

18                 A.       Yes, sir.  That's what they tell me.

19                 Q.       I printed out the stuff from the well file,  
20 and it looks like it's -- I'm not sure -- the business  
21 about the -- these two parties do need to be pooled; is  
22 that correct?

23                   But I guess I don't understand.  The BLM will  
24 not form the unit unless the parties are pooled?  But we  
25 are not here to form the unit.  We're here to pool the

1 parties only?

2 A. That is correct. When the leases were  
3 assigned, they reserved an overriding royalty interest.  
4 And that reservation did not contain language that would  
5 permit pooling, so we had to get their permission.

6 EXAMINER JONES: Okay. So are we allowed  
7 to pool something that the unit has not been formed yet?

8 EXAMINER BROOKS: We usually form the unit  
9 when we pool.

10 This is not a case where this party has  
11 retained record title; right?

12 THE WITNESS: That's correct.

13 EXAMINER BROOKS: They just have an  
14 override?

15 THE WITNESS: That is correct.

16 EXAMINER BROOKS: I'm not all that  
17 familiar with the terms that are included in federal  
18 leases. And I take it the federal lease, at least this  
19 federal lease, if not all federal leases, does not have a  
20 pooling provision that relates to royalties?

21 THE WITNESS: That I'm not sure of. I do  
22 know that the BLM required us to get everyone that did  
23 not have a pooling provision in their overriding royalty  
24 interests or their leases to execute the com agreement.

25 EXAMINER BROOKS: Ordinarily we assume

1 that overriding royalty interests are pooled, because  
2 there is authority, certainly in Texas, if not in New  
3 Mexico, that the overriding royalty interest is subject  
4 to any pooling clause that's in the lease to the same  
5 extent as the underlying royalty interests. And not  
6 being familiar with what's customarily included in  
7 federal leases, I hadn't really concerned myself with it  
8 before.

9 MR. BRUCE: Mr. Examiner, you're right.  
10 In a federal lease, there is no pooling clause, because  
11 you have to get subsequent authority from the BLM by  
12 means of a communitization agreement.

13 But in looking at the title, the assignments  
14 of overriding royalty or if it was an assignment of a  
15 working interest, with the reservation of an overriding  
16 royalty, does not, in these two instances, contain a  
17 pooling clause in favor of the working interest owners.

18 EXAMINER BROOKS: Is that customary, to  
19 put such provisions and assignments in federal oil and  
20 gas leases?

21 MR. BRUCE: Yes, that's correct. The  
22 original -- way back when, there were several common  
23 forms used by working interest owners assigning federal  
24 leases that were actually originally prepared by the old  
25 Hinkle Law Firm way back in '40s and '50s. And they

1 would specifically contain pooling provisions in a  
2 reservation of overriding royalty. These did not contain  
3 that.

4 And as you said, there are some states that  
5 say that the overriding royalty goes along with the  
6 federal royalty, but that's not set forth in New Mexico  
7 law. In New Mexico, I think the only way to be safe is  
8 you have to pool them one way or the other.

9 EXAMINER BROOKS: Right. And the BLM, I  
10 take it, requires that the overriding royalty owners join  
11 in the communitization agreement if they're not included  
12 by virtue of the provision in the assignment? Is that  
13 why we're here today?

14 MR. BRUCE: That's correct. Now, this  
15 case is a little different, if you look at Exhibit 1,  
16 because the override is not where the wellbore is  
17 located.

18 But there is a case in Wyoming where an  
19 interest owner owned an overriding royalty where the  
20 wellbore was located, but was never pooled --

21 EXAMINER BROOKS: On a federal lease?

22 MR. BRUCE: -- never communitized.

23 And the Court up there held that because they  
24 were never pooled, they got their full 5 percent  
25 overriding royalty in total production from the well,

1 rather than 5 percent divided by whatever, you know, the  
2 tract participation factor was.

3 EXAMINER BROOKS: I would expect that to  
4 be the result if you did not have a pooling clause. So  
5 that make sense.

6 Would you be so kind, when you get back to  
7 your office, to send me the citation for that case? I  
8 need it for my notebook.

9 MR. BRUCE: Yes.

10 EXAMINER BROOKS: Thank you.

11 EXAMINER JONES: Thank you Mr. Richardson.

12 With that, the hearing is concluded.

13 \* \* \*

14

15

16

I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 14924  
heard by me on 11-1-12

17

18

David K. Brooks Examiner  
Oil Conservation Division

19

20

21

22

23

24

25

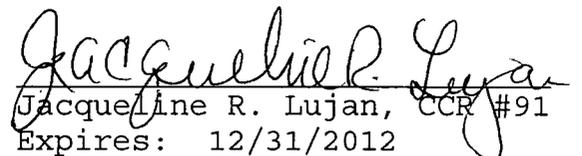
REPORTER'S CERTIFICATE

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

I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO  
HEREBY CERTIFY that on November 1, 2012, proceedings in  
the above captioned case were taken before me and that I  
did report in stenographic shorthand the proceedings set  
forth herein, and the foregoing pages are a true and  
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by  
nor related to nor contracted with any of the parties or  
attorneys in this case and that I have no interest  
whatsoever in the final disposition of this case in any  
court.

WITNESS MY HAND this 12th day of November,  
2012.

  
Jacqueline R. Lujan, CCR #91  
Expires: 12/31/2012