

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 MYCO INDUSTRIES, INC., )  
FOR COMPULSORY POOLING, CHAVES COUNTY, )  
NEW MEXICO )

CASE NO. 13,854

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Hearing Examiner

January 18th, 2007

Santa Fe, New Mexico

2007 FEB 1 PM 9 27

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Hearing Examiner, on Thursday, January 18th, 2007, 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

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 Examiner Hearing  
 CASE NO. 13,854

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

## FOR THE APPLICANT:

JAMES G. BRUCE  
Attorney at Law  
P.O. Box 1056  
Santa Fe, New Mexico 87504

## FOR SPIRAL, INCORPORATED:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
110 N. Guadalupe, Suite 1  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: OCEAN MUNDS-DRY

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 2:53 p.m.:

3           EXAMINER BROOKS: Okay, at this time we'll call  
4 Case Number 13,854, Application of Myco Industries, Inc.,  
5 for compulsory pooling, Chaves County, New Mexico.

6           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
7 representing the Applicant. I'm submitting this case by  
8 affidavit.

9           MS. MUNDS-DRY: Mr. Examiner, Ocean Munds-Dry  
10 with the law firm of Holland and Hart, here representing  
11 Spiral, Incorporated. We have no witnesses. We are  
12 working on an agreement with Myco, just simply entering our  
13 appearance.

14           EXAMINER BROOKS: Very good, you may proceed.

15           MR. BRUCE: Well, Mr. Examiner, since Ms. Dry was  
16 talking about horizontal Wolfcamp wells, I'll continue the  
17 trend, because that's what this is about.

18           Submitted as Exhibit 1 is the statement of Shari  
19 Hodges who is a landman for Myco Industries. They are  
20 seeking to force pool the Wolfcamp formation underlying the  
21 south half of Section 32, 15 South, 25 East, to form a --  
22 this is supposed to be a gas well, and it would be a 320-  
23 acre spacing unit under Division Rules -- for its Alfalfa  
24 32 Fee Well Number 1. It is a horizontal well, as you can  
25 see from Exhibit A, attached to this exhibit.

1           The landman's statement of course requests the  
2 risk charge and sets forth the overhead charges.

3           EXAMINER BROOKS: Requesting unitization -- or  
4 pooling in the Wolfcamp only?

5           MR. BRUCE: Yes.

6           EXAMINER BROOKS: Okay.

7           MR. BRUCE: Exhibit B attached to the affidavit  
8 lists the people being pooled and their interests. You can  
9 see that less than four percent of the -- or approximately  
10 4 or 4 1/4 percent of the well unit is being pooled. There  
11 are dozens upon dozens of interest owners in this well  
12 unit, and they've tried to track them down. Some of them  
13 are unlocatable.

14           Exhibit --

15           EXAMINER BROOKS: It's an interesting name here,  
16 Margaret Old Carr.

17           MR. BRUCE: Yeah, maybe we ought to name Mr. Carr  
18 William Old Carr.

19           (Laughter)

20           EXAMINER BROOKS: We'll raise that next time we  
21 have the opportunity.

22           MR. BRUCE: Attached as Exhibit C is the  
23 correspondence that went to the locatable people. There's  
24 been contacts with these people.

25           And Exhibit D is the AFE for the well. Similar

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(505) 989-9317

23           Brister; Mitzi Brister; Raford Brister; and Western  
24 Commerce Bank, Trustee -- Elaine Flint, deceased, Western  
25 Commerce Bank, Trustee -- I was going to say, I wouldn't

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1 to the Parallel cases, this is about a 5200-foot well,  
2 4500, 5000 feet, and the AFE is about \$2.2 million.

3 EXAMINER BROOKS: And I'm sure it's fair and  
4 reasonable.

5 MR. BRUCE: I could retire on it.

6 And submitted as Exhibit 2 is my affidavit of  
7 notice to the locatable parties.

8 And then Exhibit 3 is an affidavit of  
9 publication. When you look at the affidavit of  
10 publication, there were -- there are a number of people on  
11 this list who we do not seek to force pool, people who were  
12 located -- and by the way, Parallel Petroleum is a working  
13 interest owner in this well and is taking part in the well.

14 The reason I overnoticed in the advertisement is,  
15 I never know anymore who's locatable and who's not when I  
16 file the Application, so I've started --

17 EXAMINER BROOKS: Yes.

18 MR. BRUCE: -- overnotifying by publication. But  
19 the unlocatables were mentioned in there.

20 EXAMINER BROOKS: Okay, you've got -- let's see,  
21 you've got Timothy Bayer; and you've got Dennis Colclough;  
22 and you've got NRLL, Inc.; you've got Don Darden; and Kerry  
23 Brister; Mitzi Brister; Raford Brister; and Western  
24 Commerce Bank, Trustee -- Elaine Flint, deceased, Western  
25 Commerce Bank, Trustee -- I was going to say, I wouldn't

1 expect to find a return receipt from somebody deceased --  
2 and Keith Darden, you didn't get a return --

3 MR. BRUCE: I did not. But Mr. Examiner, I'm  
4 glad you mention that. I did want to dismiss them. I  
5 think they've tracked -- Myco informed me they tracked them  
6 down and have reached agreement with them, so --

7 EXAMINER BROOKS: Okay.

8 MR. BRUCE: -- Keith Darden was...

9 EXAMINER BROOKS: And Joe Meers, not located?

10 MR. BRUCE: Well, he was locatable. As a matter  
11 of fact, the Exhibit 1 -- I think there's information in  
12 there that FedEx's were send to him, but he obviously  
13 didn't pick up his --

14 EXAMINER BROOKS: Yeah, you have these track-and-  
15 confirm notices --

16 MR. BRUCE: Yeah.

17 EXAMINER BROOKS: -- on Joe Meers and Rique  
18 Brister, and I'm not familiar with that procedure at the  
19 post office.

20 MR. BRUCE: It is simply going to the U.S. Postal  
21 Service website --

22 EXAMINER BROOKS: Okay.

23 MR. BRUCE: -- and you plug in the -- what is it?  
24 15-digit number, and it tells you. And eventually the  
25 green card shows up, and I'd be glad to submit those after

1 the hearing.

2 EXAMINER BROOKS: Okay.

3 MR. BRUCE: Getting these things back has been  
4 awfully slow.

5 EXAMINER BROOKS: Yeah, that would be helpful. I  
6 don't think we need to continue the case, I'll just --

7 MR. BRUCE: I will do that.

8 EXAMINER BROOKS: -- that you submit this.

9 I believe that you did not -- it looks like -- I  
10 assume this is a copy. The copy I have of your affidavit  
11 of notice is not signed.

12 MR. BRUCE: Oh, my god.

13 EXAMINER BROOKS: It's notarized but not signed.  
14 We'll agree not to take any proceedings against the notary.

15 (Laughter)

16 EXAMINER BROOKS: Would you like to sign it?

17 MR. BRUCE: Yes.

18 EXAMINER BROOKS: Sign the court reporter's copy.  
19 You have a copy?

20 COURT REPORTER: Yes, sir.

21 EXAMINER BROOKS: Okay.

22 MR. BRUCE: I must tell you, Mr. Examiner, I was  
23 doing these at 4:30 this morning.

24 EXAMINER BROOKS: Very good. Does that conclude  
25 your presentation?

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MR. BRUCE: That concludes my presentation.

EXAMINER BROOKS: Okay, Exhibit 1 and 2 will be admitted, and Case Number 13,854 will be taken under advisement.

(Thereupon, these proceedings were concluded at 3:00 p.m.)

\* \* \*

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 13854, heard by me on Jan 18 2007.  
*David K. Bustin* Examiner  
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 January 22nd, 2007.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2010