

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

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:  
CASE NO. 14118  
APPLICATION OF XTO ENERGY, INC. FOR  
COMPULSORY POOLING, SAN JUAN COUNTY,  
NEW MEXICO

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Legal Examiner  
TERRY G. WARNELL, Technical Examiner  
RICHARD EZEANYIM, Technical Examiner

May 15, 2008

Santa Fe, New Mexico

This matter came for hearing before the New Mexico Oil  
Conservation Division, DAVID K. BROOKS, Legal Examiner, and  
TERRY G. WARNELL, Technical Examiner, and RICHARD EZEANYIM,  
Technical Examiner, on May 15, 2008, at the New Mexico Energy,  
Minerals and Natural Resources Department, 1220 South  
St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: JOYCE D. CALVERT, P-03  
Paul Baca Court Reporters  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102

RECEIVED  
2008 MAY 28 PM 4 44

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:

W. Thomas Kellahin, Esq.  
KELLAHIN AND KELLAHIN  
706 Gonzales Road  
Santa Fe, New Mexico 87501

PAGE

EXHIBITS 1 - 5 ADMITTED

7

1 MR. WARNELL: Case No. 14118. Call for appearances.  
2 Mr. Kellahin.

3 MR. KELLAHIN: Good morning, Mr. Examiner.

4 MR. WARNELL: Any witnesses?

5 MR. KELLAHIN: Mr. Examiner, we're presenting this by  
6 affidavit.

7 MR. WARNELL: Any other appearances?

8 MR. KELLAHIN: Not that I'm aware of, Mr. Examiner.

9 MR. WARNELL: Okay.

10 MR. KELLAHIN: With your permission, Mr. Examiner,  
11 I'll distribute the exhibits.

12 MR. WARNELL: Please.

13 MR. EZEANYIM: Thank you.

14 MR. KELLAHIN: Mr. Examiner, with your permission,  
15 I'll commence the presentation on behalf of the applicant.

16 We are processing this compulsory pooling case  
17 pursuant to the alternative pooling procedure set forth in  
18 Rule 1210, which allows us to do this by affidavit.

19 The affidavit you're about to see has been complied  
20 with my assistance by Mr. Aaron Austin. Mr. Austin is a  
21 petroleum landman. The plat on the front is just simply to  
22 orient you to what we're trying to accomplish. This plat is of  
23 Section 28. The pool tract is to be the north half with the  
24 northeast quarter to be the dedication to the Pictured Cliffs.  
25 The north half would then be dedicated to Fruitland Coal gas

1 well.

2 This plat shows the existing wells that are in the  
3 Pictured Cliffs. The well in the northeast quarter, the  
4 Madsen GC-1 is a plugged well. So that leaves that spacing  
5 unit available for a Pictured Cliffs well.

6 If you'll turn to the affidavit, Mr. Examiner, I've  
7 marked this as applicant Exhibit No. 2. Mr. Austin has  
8 detailed with some specificity all the requirements of the  
9 rule. But if you'll turn with me to the attachments to the  
10 affidavit -- it's about the fifth page back -- you're going to  
11 see an exhibit marked A, and that is a tract map of the north  
12 half of Section 28 in which Mr. Austin has shown the  
13 subdivision of the spacing units.

14 The parties in question have interest in the  
15 southeast of the northeast. There's a number of names listed  
16 there showing various interests -- that 40-acre tract -- it's  
17 my understanding that all those individuals are either unknown  
18 or have chosen not to participate and, therefore, have asked to  
19 be pooled.

20 The well bore itself is going to be located in unit  
21 letter G, which puts it on a 40-acre tract in which XTO has  
22 100 percent control. The northwest quarter has a 40-acre tract  
23 that's controlled by Burlington. Burlington has agreed to  
24 participate.

25 So we're focussing on the ownership in the spacing

1 unit in so far as it's determined by the tract parties in the  
2 southeast of the northeast. If you turn to Exhibit B, there's  
3 a breakdown of those individuals. The affidavit from  
4 Mr. Austin will indicate there's an ownership interest in a  
5 Douglas Kenaston. Mr. Kenaston is not locatable. The only  
6 Mr. Kenastons that have responded either by phone or to the  
7 notices profess not to have any interest or knowledge about  
8 what this is about. So we've not been able to find the Douglas  
9 Kenaston that is the purported owner of the interest.

10 Later in the tabulation you'll see a reference to  
11 Burlington. They're agreeing the participate. And then you  
12 see four more entities. There's a Robert Helton and there's a  
13 CEDB Holding Company. And there's a Donda Morgan, and then  
14 there's the Wilkinson Trust and the Wilkinson Estate.

15 With the exception of the holding company, all notice  
16 has been provided according to the rule. We will need after  
17 the presentation to have you continue this case to the  
18 June 12th Docket in order to complete the notice of hearing  
19 process to the holding company.

20 The following Exhibit B is an Exhibit B-1, which  
21 details Mr. Austin's summary of how he's attempted to contact  
22 Mr. Kenaston. These are all the internet searches and all the  
23 rest to exhaust all opportunities to locate that individual.

24 Following that is a tabulation of letters under  
25 Exhibit C, and they are Pages 1 through 7. These represent the

1 documents that were sent to the parties to be pooled. After  
2 you get past the first letter, all you're looking at is the  
3 initial cover letter. In each instance Mr. Austin provided an  
4 AFE to these parties and we've not been able to get their  
5 participation.

6           Following that is a reference to the Ernst & Young  
7 overhead rates survey. Unfortunately, this one is a little out  
8 of date. This one is '06. My understanding from Mr. Austin is  
9 a current search of those proposed well costs put XTO's  
10 proposed well costs for overhead rates in the following range:  
11 They would proposed \$5,000 a month drilling and an operating  
12 well rate of \$500 a month, and that's what they're seeking to  
13 have included in the order.

14           In addition, Mr. Austin would like to have to have  
15 the Copus escalation that the Division customarily puts in  
16 pooling orders so that our cost component for the pool costs  
17 contract what we use in our AFEs and we don't have to have  
18 separate accounting for those numbers.

19           There's two pages to the Ernst & Young document. And  
20 if you turn past those, you'll get to Exhibit E, and this is  
21 the C-102 that will specifically show you what the proposed  
22 permitted location is, and showing you that it falls as a  
23 standard location in Unit G.

24           Following that is the AFE that was circulated. To  
25 supplement the affidavit, Mr. Examiner, there is some

1 additional documentations. Exhibit No. 3 is the title opinion,  
2 drill site title opinion, that Michael Cunningham prepared for  
3 the applicant. And it shows specifically how these various  
4 interests show up and does the maps to show you the  
5 percentages, should you care to look for them. In the comments  
6 section he does summarize the difficulties with some of these  
7 changes of title and it can tract you back to how Mr. Austin  
8 has determined what parties to send notice to.

9 And, finally, there are two more exhibits. There is  
10 an Exhibit 4 which is my Affidavit of Mailing those of the  
11 hearing. It will reflect that despite the fact that we can't  
12 find Mr. Douglas Kenaston, we went ahead and sent notices to  
13 all 17 of those addresses and most of which have been returned  
14 to us.

15 And then, finally, because the opportunity exists  
16 that Mr. Kenaston cannot be located, we published notice  
17 pursuant to rule in the Farmington paper. And that Affidavit  
18 of Publication is shown as Exhibit No. 5.

19 With your permission, Mr. Examiner, we would move the  
20 introduction of applicant's Exhibits 1 through 5.

21 MR. WARNELL: So be it. We'll admit the Exhibits 1  
22 through 5.

23 MR. KELLAHIN: And I'll stand for questions, if you  
24 have any.

25 MR. WARNELL: Case No. 14118. Any questions?

1 MR. BROOKS: I don't think so. Straight forward  
2 presentation.

3 MR. WARNELL: Richard, arrested any questions?

4 MR. EZEANYIM: On your overhead rates.

5 MR. KELLAHIN: Yes, sir.

6 MR. EZEANYIM: I know you using Ernst & Young. How  
7 did you get this \$5,000 and \$500?

8 MR. KELLAHIN: That came from XTO's drilling  
9 department and through Mr. Austin. Apparently, it's their  
10 current rate being charged in the San Juan Basin for wells like  
11 this.

12 MR. EZEANYIM: And then what is the depth on this  
13 one?

14 MR. KELLAHIN: I think it's just short of 2,000 feet,  
15 if my recollection of the AFE is correct. We can look real  
16 quickly and see.

17 MR. EZEANYIM: For 2,000 feet?

18 MR. KELLAHIN: I think so.

19 MR. EZEANYIM: Have you submitted an APD for this  
20 well?

21 MR. KELLAHIN: No, it's not obtained yet.

22 MR. EZEANYIM: Are you location is standard?

23 MR. KELLAHIN: It's a standard location pursuant to  
24 that plat attached. That's the exact footages.

25 MR. EZEANYIM: That's all I have.



1 MR. WARNELL: Okay. Fine. I have no further  
2 questions.

3 We'll take this under advisement and we'll continue  
4 Case No. 14118 until June the 12th of 2008.

5 MR. KELLAHIN: Thank you, Mr. Examiner.

6 [Hearing concluded.]

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

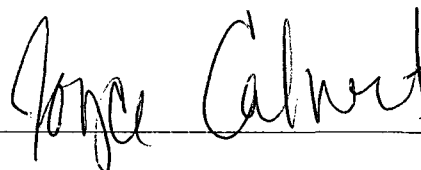
25

I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_  
heard by me on \_\_\_\_\_  
\_\_\_\_\_, Examiner  
Oil Conservation Division

## REPORTER'S CERTIFICATE

I, JOYCE D. CALVERT, Provisional Court Reporter for the State of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

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

A handwritten signature in cursive script, reading "Joyce Calvert", is written over a horizontal line.

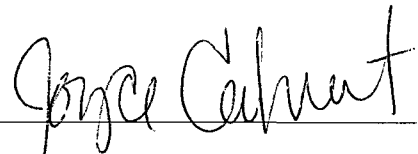
JOYCE D. CALVERT  
New Mexico P-03  
License Expires: 7/31/08

1 STATE OF NEW MEXICO )  
 )  
 2 COUNTY OF BERNALILLO )

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, JOYCE D. CALVERT, a New Mexico Provisional Reporter, working under the direction and direct supervision of Paul Baca, New Mexico CCR License Number 112, hereby certify that I reported the attached proceedings; that pages numbered 1-9 inclusive, are a true and correct transcript of my stenographic notes. On the date I reported these proceedings, I was the holder of Provisional License Number P-03.

Dated at Albuquerque, New Mexico, 15th day of May, 2008.



Joyce D. Calvert  
 Provisional License #P-03  
 License Expires: 7/31/08



Paul Baca, RPR  
 Certified Court Reporter #112  
 License Expires: 12/31/08