

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:

CASE NO. 14163

APPLICATION OF MERRION OIL AND GAS
CORP. FOR COMPULSORY POOLING IN
SAN JUAN COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

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

August 21, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Legal Examiner, TERRY G. WARNELL, Technical Examiner, on Thursday, August 21, 2008, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

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

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FOR THE APPLICANT:

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1 MR. BROOKS: At this time, we'll call Case No. 14163,
2 the Application of Merrion Oil and Gas Corp. for Pooling in San
3 Juan County, New Mexico.

4 Call for appearances.

5 MR. ROBERTS: Mr. Examiner, my name is Tommy Roberts.
6 I'm an attorney in Farmington, New Mexico, and I'm appearing on
7 behalf of the applicant. I have two witnesses to be sworn.

8 MR. BROOKS: Okay. Witnesses will please stand and
9 identify themselves, and the court reporter will swear the
10 witnesses. Okay. Since these witnesses have already been
11 sworn, they do not need to be sworn again.

12 You may begin your presentation.

13 MR. ROBERTS: I call George Sharpe.

14 GEORGE SHARPE

15 after having been first duly sworn under oath,
16 was questioned and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. ROBERTS:

19 Q. Would you state your name and address for the
20 record, please.

21 A. George Sharpe, Farmington, New Mexico.

22 MR. ROBERTS: Mr. Examiner, I would just ask that you
23 take administrative notice of Mr. Sharpe's testimony in the
24 prior case, Case No. 14162, in which he described his
25 employment, job responsibilities, his previous testimony before

1 the OCD, and his acceptance of his credentials as an expert in
2 the field of petroleum engineering.

3 MR. BROOKS: Very well. Mr. Sharpe is so qualified.

4 Q. (By Mr. Roberts): Mr. Sharpe, are you familiar
5 with the application in this case?

6 A. Yes, I am.

7 Q. And have you prepared exhibits to be presented in
8 conjunction with you testimony?

9 A. I have.

10 Q. Briefly state the purpose of the application in
11 this case.

12 A. The application is to request compulsory pooling
13 of uncommitted interest owners in the N/2 of Section 18, 29
14 North, 13 West, San Juan County, as to the Basin Fruitland Coal
15 pool.

16 Q. And do you propose to drill two wells in this
17 single-spacing proration unit?

18 A. We do.

19 Q. And what are those wells?

20 A. Those wells are the Westland Park 1 and 2.

21 Q. Where will they be located?

22 A. They will be located on the same well pad in the
23 NW/4 of Section 18, and we will drill directionally to legal
24 location in the NE/4.

25 Q. Okay. Let's have you refer to Exhibit No. 1,

1 please, and will you identify that exhibit and explain its
2 relevance to the application?

3 A. Exhibit 1 is a locator map showing the entire San
4 Juan Basin, Fruitland Coal production bubbles indicate the
5 location of our wells near the City of Farmington, or inside
6 the City of Farmington city limits, are not in the
7 high-producing Fruitland Coal area.

8 Q. Just for purposes of clarity, these wells are
9 located within the City of Farmington?

10 A. Yes, they were.

11 Q. Let's refer to what's been marked as
12 Exhibit No. 2, please, and identify that exhibit.

13 A. Exhibit No. 2 is a topographic map showing the
14 surface location of the two wells and the N/2 spacing unit.
15 It's easier to tell from this map, but it is a -- it's not a
16 full 320-acre spacing unit. It's a slightly over 250-acre
17 spacing unit, and the NE/4 is a full 160 acres. So the well is
18 actually very near the line between the NE and the NW/4.

19 Q. When you say "the well," which well are you
20 referring to?

21 A. The well pad, the surface location identified as
22 the Westland Park No. 1 on this topographic map.

23 Q. Okay. Turn to Exhibit No. 3. Identify that
24 exhibit and explain its relevance to the application.

25 A. Exhibit No. 3 is C-102s that have been submitted

1 and approved for the two well locations. The round dot is the
2 surface location. We're actually drilling both of them
3 directionally to try to create some separation between the two,
4 and they both end up at legal locations in their respective
5 quarter sections.

6 Q. Is it your understanding that the approval of
7 these C-102 forms constitutes approval for the non-standard
8 spacing and proration unit?

9 A. Yes, it is. My understanding is that the acreage
10 and proration unit is greater than 70 percent of the standard
11 spacing unit and that the approval of the C-102 suffices as
12 approval of that spacing unit.

13 Q. Turn to Exhibit No. 4 and identify it, please.

14 A. Exhibit No. 4 is a production bubble map of the
15 Fruitland Coal. The size of the bubble depicts the cumulative
16 production from the Coal, and it shows that the Westland Park 1
17 and 2 will be drilled in a relatively undeveloped area,
18 relatively unproven, helping to justify a full risk factor
19 penalty assessment.

20 Q. All right. Identify Exhibit No. 5, please.

21 A. Exhibit No. 5 is two AFEs, authorization for
22 expenditures, that were submitted for the two wells, Westland
23 Park 1's estimated cost of \$377,000 dry hole, \$719,000 fully
24 completed well. Westland Park 2, \$420,000 dry hole and
25 \$797,000 completed.

1 Q. Is it your opinion that these estimated costs are
2 reasonable given the nature of the operation?

3 A. Yes, it is.

4 Q. And are they consistent with your experience
5 drilling these kinds of wells in the San Juan Basin?

6 A. Yes, they are.

7 Q. Were these authorization for expenditures -- were
8 these sent to all the interest owners?

9 A. Yes, they were.

10 Q. Refer to what's been marked as Exhibit No. 6 and
11 identify it, please?

12 A. Exhibit 6 is the APL form 610 1982 Model Form
13 Operating Agreement that was submitted to govern the operations
14 in the N/2 of Section 18.

15 Q. Has it been sent to all non-joining interest
16 owners?

17 A. Yes, it has.

18 Q. Any substantive changes to this model form?

19 A. No.

20 Q. Who do you propose be designated the operator of
21 the contract area?

22 A. Merrion Oil and Gas.

23 Q. Let's turn to what's been marked as
24 Exhibit No. 7, please.

25 A. Exhibit 7 is the overhead rates published by

1 Ernest and Young for 2007/2008 for the State of New Mexico. It
2 shows that Merrion's proposed overhead rates are slightly
3 higher than the median rates as published. We feel justified
4 by the complexity of the operations both drilling and operating
5 inside the city limits.

6 Q. What rates do you propose?

7 A. We propose \$5,000 per month for drilling and \$500
8 per month producing.

9 Q. In your testimony in Case No. 14162, you
10 described in more detail the process involved in obtaining
11 special use permits for the municipality and its reviewing
12 agencies. Are those the same processes involved in this case
13 as well?

14 A. Yes, they are.

15 Q. Let's have you refer -- let's see. Mr. Sharpe,
16 what risk factor do you propose be assessed to non-joining
17 interest owners?

18 A. We request the maximum risk factor assessed by
19 the State of New Mexico.

20 Q. Which you now understand to be 200 percent?

21 A. Yes, sir.

22 Q. Thank you. In your opinion, will the granting of
23 this application be in the interest of conservation, result in
24 the prevention of waste, and the protection of correlative
25 rights?

1 A. Yes, it will.

2 Q. Were Exhibit Nos. 1 through 7 either prepared by
3 your or at your direction or under your supervision?

4 A. Yes, they were.

5 MR. ROBERTS: Mr. Examiner, I move the admission of
6 Exhibit Nos. 1 through 7.

7 MR. BROOKS: Exhibits 1 through 7 are admitted.

8 [Applicant's Exhibits 1 through 7 admitted into
9 evidence.]

10 MR. ROBERTS: And I have no further questions for
11 this witness.

12 MR. BROOKS: I don't think I have any further
13 questions of this witness.

14 MR. WARNELL: No questions.

15 THE WITNESS: Thank you, sir.

16 MR. ROBERTS: I call Briana Campbell.

17 BRIANA CAMPBELL

18 after having been first duly sworn under oath,

19 was questioned and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ROBERTS:

22 Q. State your name and address for the record,
23 please.

24 A. Briana Campbell, 610 Reilly Avenue, Farmington,
25 New Mexico.

1 MR. ROBERTS: Mr. Examiner, I'd ask that you take
2 administrative notice of Ms. Campbell's testimony on Case No.
3 14162 where she described her prior work experience, her
4 current employment, education and the processes that she
5 followed in determining ownership of the interests in this
6 particular spacing proration unit.

7 MR. BROOKS: Will do, and she is so qualified as a
8 land witness.

9 MR. ROBERTS: Thank you.

10 Q. (By Mr. Roberts): Ms. Campbell, are you familiar
11 with the application in this case?

12 A. Yes.

13 Q. And have you prepared exhibits to be presented in
14 conjunction with your testimony?

15 A. Yes.

16 Q. Identify Exhibit No. 8, please, and describe what
17 that exhibit contains?

18 A. Exhibit No. 8 is a leased ownership summary for
19 the unleased mineral owners, uncommitted working interest
20 owners, committed working interest owners in the N/2 of
21 Section 18.

22 Q. And this exhibit, again, appears to be identified
23 by tract and by name of owner?

24 A. Yes.

25 Q. Let's go to the second page of the exhibit and

1 have you refer to the subcategory entitled total uncommitted
2 minerals. Identify the amount of acres and the percentage that
3 number of acres bears to the total number of acres in the
4 spacing proration units?

5 A. Approximately 60 acres that are uncommitted --
6 almost 24 percent. 23.86 percent.

7 Q. The next subcategory is uncommitted lease holding
8 operating rights interests.

9 A. Yes.

10 Q. You identify Synergy Operating, LLC, as an owner.
11 Is it accurate to say that they own a lease or leases covering
12 minerals in this spacing proration unit?

13 A. Yes. They own a lease.

14 Q. What's the extent of that ownership?

15 A. It's ten acres -- a little over ten acres.

16 Q. And your exhibit indicates that that percentage,
17 the total is a little over 4 percent; is that correct?

18 A. Yes.

19 Q. And with respect to Synergy, you list them as
20 uncommitted. Have you had any communications with Synergy more
21 recent than the preparation of this exhibit?

22 A. Yes, we have.

23 Q. And what was the nature of that communication?

24 A. They are wanting to be a committed interest
25 owner. We're just working out a couple of things on the

1 operating agreement.

2 Q. Okay. The next subcategory you identify as
3 committed leasehold operating rights interest owners. Would
4 you identify those parties and the extent of their interests?

5 A. XTO Energy, they have a little over 85 acres,
6 approximately 34.12 percent; Merrion Oil and Gas has
7 85.25 acres, 34 percent; and Thriftway Marketing Corp., they
8 have almost ten acres at 3.86 percent.

9 Q. So to summarize the contents of this exhibit,
10 you're showing that approximately 76 percent of the interests
11 are now committed to the projects, and about 24 percent remain
12 uncommitted; is that correct?

13 A. Yes.

14 Q. And those who are uncommitted are unleased
15 mineral interest owners; is that correct?

16 A. Yes.

17 Q. Let me have you refer to what you've marked as
18 Exhibit No. 9 and would you identify that exhibit?

19 A. Exhibit No. 9 was sent out last August
20 15th, 2007, to mineral interest owners in the N/2 of
21 Section 18. It was an oil and gas -- a request for oil and gas
22 lease with the provisions to Merrion provided.

23 Q. And this simply is an effort to lease these
24 unleased mineral interest owners?

25 A. Yes.

1 Q. All right. And to whom did that letter go?

2 A. It went out to all unleased mineral owners in the
3 N/2 of Section 18.

4 Q. All right. Now, it appears there's another
5 component to Exhibit 9, a letter dated June 18th, 2008; is that
6 correct?

7 A. Yes.

8 Q. Please describe the contents of that letter.

9 A. It's a proposal to drill in the N/2 of
10 Section 18. It's Merrion Oil and Gas's letter to the unleased
11 mineral interest owners.

12 Q. So this was a follow-up to the August 15th
13 letter --

14 A. Ten months later, yes.

15 Q. -- and it contained more information for those
16 mineral interest owners to consider?

17 A. Yes.

18 Q. Briefly describe the options that you described
19 for them in that letter.

20 A. Option number one is listing if they want to
21 participate or not for the mineral interest owners; option
22 number two is to lease with Merrion Oil and Gas; option number
23 three is to sell for \$1500 -- \$1500 per net acre to Merrion Oil
24 and Gas; and option number four is force-pool.

25 Q. Okay. And in this letter, did you -- or in

1 conjunction with this letter -- did you send along AFEs for the
2 two wells --

3 A. Yes.

4 Q. -- operating agreements for the two wells?

5 A. We did not send the operating agreement or lease,
6 but we provided the website available for them to print it out.

7 Q. On the second page of this particular letter,
8 dated June 18th, 2008 --

9 A. Yes.

10 Q. -- you indicate that Merrion has requested a
11 hearing before the Oil Conservation Division?

12 A. Yes.

13 Q. And that date is August 14th.

14 A. Yes.

15 Q. Can you explain why August 14th was identified as
16 the hearing date?

17 A. We were under the impression there was a hearing
18 for August 14th, but we later found out that there was not, so
19 we sent out another letter to change it to the August 7th date.

20 Q. Okay. And where is that letter in this?

21 A. It's attached at the back.

22 Q. And that's the June 14th, 2008, letter?

23 A. Yes.

24 Q. And it indicates on that letter that it was sent
25 certified with a return receipt requested. Did that, in fact,

1 occur?

2 A. Yes.

3 Q. And the original letter of June 18th, 2008,
4 indicates on its face that it was sent certified with a return
5 receipt requested. Did that, in fact, occur?

6 A. Yes.

7 Q. And in the June 18th, 2008, letter when you
8 advised of the hearing date being August 14th, did you advise
9 the interest owners of their opportunity to participate in the
10 hearing process?

11 A. Yes.

12 Q. Let's have you refer to what's been marked as
13 Exhibit No. 10, please. Would you identify that exhibit?

14 A. That is a proposal to drill letter to working
15 interest owners for the N/2 of Section 18.

16 Q. And it indicates that it was sent certified with
17 a return receipt requested. Did that, in fact, occur?

18 A. Yes.

19 Q. That letter went to XTO Energy --

20 A. Synergy.

21 Q. -- Synergy Operating, LLC --

22 A. And --

23 Q. Let me have you refer to what's been marked as
24 Exhibit No. 11, please, and identify that exhibit.

25 A. This is our attempt to contact -- our attempt to

1 locate all the mineral interest owners in Section 18.

2 Q. And owners are listed by name --

3 A. Yes.

4 Q. -- is that accurate?

5 A. Yes.

6 Q. And how do you indicate on this exhibit that you
7 received a return receipt indicating receipt of the letter?

8 A. There's a checkmark under "Return Certified."
9 That means that every mineral interest owner that has a
10 checkmark next to -- in that box -- received their letter.

11 Q. And then there's a column that's headed "Resent
12 Regular." What does that mean?

13 A. That means that the letters came back, and we
14 re-sent them regular mail.

15 Q. And did any of those come back that were resent?

16 A. No. And we contacted all owners successfully in
17 this section.

18 Q. Refer to Exhibit No. 12, please, and identify
19 that exhibit.

20 A. This is the copy of return receipts for
21 Exhibit No. 9.

22 Q. And there's a return receipt for every mineral
23 interest owner who received notice of their options in the
24 hearing process?

25 A. Yes.

1 Q. And there's a return receipt for each leasehold
2 interest owner who has not committed?

3 A. Yes.

4 Q. In your opinion, Ms. Campbell, were the notice
5 requirements of the New Mexico Oil Conservation Division
6 complied with?

7 A. In my opinion, yes.

8 Q. Were Exhibit Nos. 8 through 12 either prepared by
9 you or at your direction or under your supervision?

10 A. Yes.

11 MR. ROBERTS: We move the admission of Exhibit Nos. 8
12 through 12, Mr. Examiner.

13 MR. BROOKS: 8 through 12 are admitted.

14 [Applicant's Exhibits 8 through 12 admitted into
15 evidence.]

16 MR. ROBERTS: That's all I have on direct.

17 MR. BROOKS: Okay. I believe we have the same issue
18 we had with the previous case about the nature of the notice.
19 We'll probably take the same disposition.

20 EXAMINATION

21 BY MR. BROOKS:

22 Q. Looking at Exhibit No. 12, these people who you
23 did not receive return receipts for --

24 MR. WARNELL: Exhibit No. 11?

25 Q. (By Mr. Brooks): No. 11. I'm sorry. These

1 people that you didn't receive return receipts for, how do you
2 know those are valid addresses?

3 A. We looked up on the certified bureau of
4 Farmington and sent out the letters to the present addresses,
5 and we never received any notice that they came back.

6 Q. You did that -- you have "Sent to New Address" on
7 one, two, three of them?

8 A. Yes.

9 Q. So you sent them to a different address from the
10 one that you sent certified --

11 A. Yes.

12 Q. -- but the others you sent the regular notice
13 subsequently to the same address that you did to the certified?

14 A. When they came back we sent the same information
15 out to the new address.

16 Q. Well, what I'm trying to clarify -- in the last
17 column on the right, it says "Sent to New Address." That's
18 filled in on only three of them. That leaves one, two, three,
19 four, five, six for which there is no "Sent to New Address"
20 entry. Does that mean that you resent it regular to the same
21 address to which you previously sent the certified notice?

22 A. No, we sent it to a new address that we found.

23 Q. So even though there's not a date in the "Sent to
24 New Address" column, they were still sent to new addresses?

25 A. Yes.

1 Q. Okay. And there was no one for whom you were
2 unable to find what you believe to be a current correct
3 address?

4 A. Yes, sir.

5 Q. Okay. That's -- we'll need to be sending new
6 notices anyway, but you are, of course, aware that if there is
7 anyone for whom you do not have a correct address, then you're
8 required to do a public notice?

9 A. Yes.

10 Q. Okay.

11 MR. ROBERTS: Mr. Examiner, just for clarity
12 purposes, I don't think you're on the -- the two of you are on
13 the same page with your line of questioning. And your line of
14 questioning is certainly legitimate, but I just wanted to make
15 sure the witness understood the nature of the question. May I
16 pursue that just for --

17 MR. BROOKS: You may.

18 REDIRECT EXAMINATION

19 BY MR. ROBERTS:

20 Q. Ms. Campbell, I think what the Examiner was
21 talking about is if you look at Bonnie Frazer, for example,
22 under the name column --

23 A. Yes.

24 Q. -- you didn't get a return receipt from her for
25 your original mailing so you resent that communication to her

1 to the same address; is that correct?

2 A. We received it back, and yes, we sent it back to
3 her.

4 Q. So you received the letter back unclaimed?

5 A. Yes.

6 Q. So you sent it again to the same address, regular
7 mail?

8 A. Yes.

9 Q. And do you have any indication whether it was
10 received or not?

11 A. It was never returned to Merrion Oil and Gas, so
12 we are under the impression that it was received.

13 MR. ROBERTS: So, Mr. Examiner, I think that would be
14 the case for each one of those for which there's no entry under
15 the "Sent to New Address" column.

16 MR. BROOKS: Okay. Well, I think -- unless you have
17 other information to validate these addresses, I would think
18 that you should do a published notice on the re-notice to those
19 that you get returns from where you don't have another address,
20 because I think the unclaimed is kind of ambiguous. Of course,
21 they say not a valid address; that makes sense. But if you
22 receive a certified mail notice to somebody that you don't
23 know, you're probably not going to go to the post office to
24 claim it.

25 MR. ROBERTS: Yes. That certainly happens.

1 MR. BROOKS: Okay. We will accordingly continue Case
2 No. 14163 to September the 18th docket for purposes of
3 notification.

4 MR. ROBERTS: That's all I have, Mr. Examiner.

5 MR. BROOKS: Thank you, sir. You may be excused.
6 We'll take a ten-minute recess.

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17 I do hereby certify that the foregoing is
18 a complete record of the proceedings in
19 the Examiner hearing of Case No. 14163,
20 heard by me on Aug 21 2008.
21 David K. Brock Examiner
22 Oil Conservation Division
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1

2 **REPORTER'S CERTIFICATE**

3

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

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

14 DATED this 21st of August, 2008.

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22 New Mexico P-03
23 License Expires: 7/31/09
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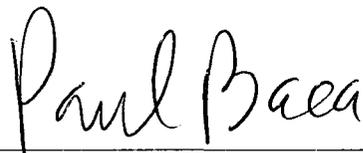
STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

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 1-22 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, 21st day of August, 2008.



Joyce D. Calvert
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