

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION  
STATE LAND OFFICE BLDG.  
SANTA FE, NEW MEXICO

25 May 1983

EXAMINER HEARING

IN THE MATTER OF:

Application of C & E Operators, Inc.  
for compulsory pooling, San Juan  
County, New Mexico.

CASE  
7889

BEFORE: Richard L. Stamets, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation  
Division:

W. Perry Pearce, Esq.  
Legal Counsel to the Division  
State Land Office Bldg.  
Santa Fe, New Mexico 87501

For the Applicant:

William F. Carr, Esq.  
CAMPBELL, BYRD, & BLACK P.A.  
Jefferson Place  
Santa Fe, New Mexico 87501

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

2

I N D E X

A. R. KENDRICK

Direct Examination by Mr. Carr

3

Cross Examination by Mr. Stamets

12

E X H I B I T S

Applicant Exhibit One, C-101 & C-102

7

Applicant Exhibit Two, Plat

9

Applicant Exhibit Three, Notices

10

MR. STAMETS: We'll call next Case 7889.

MR. PEARCE: That case is on the application of C & E Operators, Inc., for compulsory pooling, San Juan County, New Mexico.

MR. CARR: May it please the Examiner, my name is William F. Carr, with the law firm Campbell, Byrd, and Black, P. A., of Santa Fe, New Mexico, appearing on behalf of C & E Oil Operators.

I have one witness who needs to be sworn.

(Witness sworn.)

A. R. KENDRICK,  
being called as a witness and being duly sworn upon his oath,  
testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. CARR:

Q. Will you state your name?

A. A. R. Kendrick.

Q. By whom are you employed?

A. In this case by C & E Operators, Incorporated, as a consultant.

1  
2 Q Have you previously testified before this  
3 Commission?

4 A Yes, sir.

5 Q And at that time were your credentials ac-  
6 cepted and made a matter of record?

7 A Yes, sir.

8 Q Were you qualified as an engineer at that  
9 time?

10 A Yes.

11 Q Are you familiar with the application filed  
12 in this case for C & E Operators?

13 A Yes, sir.

14 Q Are you familiar with the subject area?

15 A Yes, sir.

16 Q And the proposed well?

17 A Yes.

18 MR. CARR: Are the witness' qualifica-  
19 tions acceptable?

20 A They are.

21 Q Mr. Kendrick, will you briefly summarize  
22 what C & E seeks with this application?

23 A C & E seeks to force pool the operating  
24 rights in the Mesaverde formation in the south half of Sec-  
25 tion 4, Township 30 North, Range 11 West.

At the time that the original well to the Mesaverde formation on this drill tract was drilled, there was no controversy on acreage ownership. There is now a controversy on the ownership of one of the leases in the southwest quarter of this Section 4. C & E has a signed operating agreement and a signed communitization agreement from the people who understood and thought that they owned the entire acreage in the south half and we'd like to force pool this south half to accomplish the drilling of an infill well, escrow the money attributable to the acreage under controversy, and go ahead and put the well into operation.

MR. CARR: I might also state, Mr. Stamets, that C & E has a one year lease, so they have to go forward with the well. There is a title dispute and if we look at Section 72-18-B there is a provision there that provides that if an operator fails to obtain voluntary pooling, or fails to apply for an order of the Division pooling lands in a spacing unit he may be subject to having to pay either the amount to which each interest would be entitled if the pooling had occurred, or the amount to which each interest is entitled in the absence of pooling, whichever is greater.

The only alternative to C & E is to come forward to protect themselves so that at the end of the title dispute they are not being penalized under this section of

1  
2 the statute.

3           They believe they have 100 percent of the  
4 interest, but they're in a situation where they can't come  
5 to you and pool someone to cover themselves in this position  
6 and also seek a penalty against those interests. So they're  
7 not seeking any risk penalty in this case whatsoever, and as  
8 Mr. Kendrick indicated, will, and would like the order to  
9 provide that the sums attributable to the 131.6 acres in  
10 question be escrowed in San Juan County, New Mexico, so at  
11 the end of the title dispute, when the title is resolved,  
12 whoever is ultimately the owner can in fact -- will in fact  
13 be entitled to those funds and they will be escrowed and  
14 available to that person.

15           MR. STAMETS: The title will be deter-  
16 mined by the courts.

17           MR. CARR: It's either going to be  
18 determined by the courts or by agreement between the parties,  
19 but that is going forward and we're only in a position where  
20 we need to drill a well and need to be certain that we have  
21 made proper application to you so that later there isn't an-  
22 other problem arising under 72-18.

23           Q.       Mr. Kendrick, will you please refer to what  
24 has been marked for identification as Applicant's Exhibit  
25 Number One?

1  
2 A. Exhibit Number One is a copy of the Notice  
3 of Intent to drill, Form C-101 and Form C-102, showing the  
4 intent of C & E Operators to drill the Fee 4-A Well in the  
5 southwest quarter of Section 4. The plat shows the dedication  
6 to be the entire south half of Section 4, and has indicated  
7 that at the time this was filed in January, or excuse me, in  
8 December, at the Aztec Office, that C & E Operators was of  
9 the opinion they owned 100 percent, or controlled 100 percent,  
10 of the acreage in the south half of Section 4.

11 Q. Now, the well is to be drilled at a legal  
12 location, is it not?

13 A. Yes, at a legal location in the southwest  
14 quarter of the section.

15 Q. How much of the acreage is involved in this  
16 title dispute?

17 A. The title dispute involves a leasehold in-  
18 terest of 131.6602 acres in the southwest quarter.

19 Q. Will you now refer to -- first, what is the  
20 status of the acreage involved in the proposed spacing unit?

21 A. C&E Operators owns or -- C & E Operators  
22 or sister companies, own the leasehold interest in the south-  
23 east quarter of Section 4. In the southwest quarter of Sec-  
24 tion 4 there is a 27.14 acre Federal lease that is believed  
25 to be owned by Beta Development Company, and they have signed

1  
2 an operating agreement for this south half as a nonconsenting  
3 partner in the well because their finances do not allow them  
4 to have drilling funds in their company. So they've signed  
5 as a nonconsenting partner.

6 And the remaining 131.66 acres is the part  
7 that's in controversy. There are three parties who think  
8 they may own it, and until that's resolved elsewhere, we need  
9 the order from the Commission; however, all this acreage has  
10 been dedicated to the original well on the drill tract,  
11 drilled and actually first delivered on September the 16th,  
12 1980, and it, so far as I know, is still producing under nor-  
13 mal producing operations today under a Division order which  
14 was satisfactory to the El Paso Natural Gas Company when they  
15 tied the well in.

16 Q Now, there is another Mesaverde well on  
17 the spacing unit?

18 A Yes, the entire south half has been dedi-  
19 cated to an additional -- to a well that's currently pro-  
20 ducing.

21 Q So this is an infill well?

22 A Yes.

23 Q And C & E is the operator of the south  
24 half for the original well.

25 A That's true.



1  
2 Q And they are receiving payment for the  
3 production from the well?

4 A Yes.

5 Q And the acreage under the tract we are  
6 seeking to pool is either Federal or fee?

7 A It's fee.

8 Q And there is a Federal tract, also.

9 A Well, the Federal tract is committed as  
10 nonconsenting working interest in that the operator has agreed  
11 to an operating agreement.

12 Q Will you refer to Exhibit Number Two, Mr.  
13 Kendrick, and just review that briefly for Mr. Stamets?

14 A Exhibit Number Two is a plat of six sec-  
15 tions in Section 30 North, Range 11 West, being -- and showing  
16 on there the half section and quarter section Mesaverde pro-  
17 ration units currently undeveloped, which includes the south  
18 half of Section 4, and shows that it is totally surrounded by  
19 developed Mesaverde drill tracts, and inside of each of those  
20 drill tracts is the date of first production of the first  
21 well drilled in each drill tract.

22 Several of the tracts have infill wells  
23 currently producing, but this is the date of first production  
24 from each of those drill tracts.

25 Q Mr. Kendrick, has notice been given to the

1  
2 other two interest owners in the subject proration unit of  
3 today's hearing?

4 A. To the other people who contend that they  
5 own interest, in controversy, yes.

6 Q. And those are marked Exhibit Number Three?

7 A. Yes, copies of the notices to the other  
8 parties.

9 Q. What are the anticipated costs of drilling  
10 the proposed well?

11 A. The cost of drilling a dry hole on this  
12 location is estimated at \$120,400, and for a completed pro-  
13 ducable well, \$298,022.

14 Q. Are these figures in line with what's being  
15 charged by other operators in the area?

16 A. Yes.

17 Q. Are you prepared to make a recommendation  
18 to the Examiner as to the charges to be assessed for over-  
19 head and administration while drilling and producing the well?

20 A. Yes, during drilling we would recommend an  
21 overhead charge of \$2750 per month, and during production  
22 operations, \$275 after completion.

23 Q. Are these figures in line with what other  
24 operators in the area are charging?

25 A. Yes, and with what C & E is charging on

offset wells to this drill tract.

Q Do you recommend that these figures be incorporated into the order which results from this hearing?

A Yes, sir.

Q Does C & E request to be designated operator of the well?

A Yes, they'd like to remain operator of the entire south half, since they have the original well in the southeast quarter.

Q In your opinion will granting this application be in the best interest of conservation, the prevention of waste, and the protection of correlative rights?

A Yes, sir.

Q Were Exhibits One through Three either prepared by you or compiled under your direction and supervision?

A Yes.

MR. CARR: Mr. Stamets, at this time we would offer C & E Exhibits One through Three.

MR. STAMETS: These exhibits will be admitted.

MR. CARR: That concludes our direct case.

## CROSS EXAMINATION

BY MR. STAMETS:

Q. Mr. Kendrick, will you be sending copies of the AFE to any of the parties involved in the disputed acreage?

A. Yes, I think copies of the AFE will be sent to them under the operating agreement that was drawn up for the original well and C & E believes that that would be sufficient; however, there is a third party and we see no objection to sending them a copy of the AFE in case they are declared, or wind up being an interest owner in the well. Before a well is drilled they should be provided with a copy of the AFE so that they would have a chance to participate if they would like.

Q. If they send you money, that's fine, and if they don't, that's fine.

A. Well, there would be no request from anyone to put up money until an ownership determination is made.

Q. I see.

A. If, after a determination is made, then they could pay their interest without any penalty or problem upon being billed.

But if -- if the well is completed and starts production prior to the time that the lease ownership

question is settled, any funds received will be escrowed in San Juan County so that they will be available when the dispute is resolved.

Q: If they don't choose to put up their money at that time, then you would simply withhold their share from production until it was (inaudible).

A. Yes, because at the present time C & E feels that they do have control of all the interests.

MR. STAMETS: Any other questions of the witness? He may be excused.

Anything further in this case?

MR. CARR: Nothing further.

MR. STAMETS: The case will be taken under advisement and the hearing is adjourned.

(Hearing concluded.)

## C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case no. 7889 heard by me on 5/25/83.

Richard L. Lam, Examiner  
Oil Conservation Division