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

COPY

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

APPLICATION OF CONOCOPHILLIPS COMPANY CASE NO. 14248
FOR COMPULSORY POOLING, SAN JUAN
COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

2008 DEC 10 PM 4 11
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BEFORE: DAVID K. BROOKS, Legal Examiner
 WILLIAM V. JONES, Technical Examiner
 TERRY G. WARNELL, Technical Examiner

December 4, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico
Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,
WILLIAM V. JONES, Technical Examiner, and TERRY G. WARNELL,
Technical Examiner, on Thursday, December 4, 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
 Paul Baca Court Reporters
 500 Fourth Street, NW, Suite 105
 Albuquerque, New Mexico 87102

Will Jones 12/10/08

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CASE NO. 14248

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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

1 MR. JONES: Let's call Case 14248, Application of
2 ConocoPhillips Company for Compulsory Pooling, San Juan County,
3 New Mexico.

4 Call for appearances.

5 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin on
6 behalf of the law firm of Kellahin and Kellahin appearing on
7 behalf of the applicant, and I have one witness to be sworn.

8 MR. JONES: Any other appearances?

9 Will the witness please stand, state your name and be
10 sworn?

11 MR. DART: Brian Dart.

12 BRIAN DART

13 after having been first duly sworn under oath,

14 was questioned and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KELLAHIN:

17 Q. Mr. Dart, for the record, sir, would you please
18 state your name and occupation?

19 A. Brian Dart, landman.

20 Q. Where do you reside, sir?

21 A. Farmington, New Mexico.

22 Q. On previous occasions, have you qualified as an
23 expert petroleum landman before the Division?

24 A. No, I have not.

25 Q. Summarize for us your education.

1 A. I have a Bachelor's degree in business
2 administration from the University of Oklahoma obtained in May
3 of 2004.

4 Q. How long have you been employed by
5 ConocoPhillips/Burlington as a petroleum landman?

6 A. A little over two years now. Before that I was
7 in our land administration department for two years.

8 Q. With regards to the facts of this case, what has
9 been your responsibility?

10 A. I've been responsible for posing the project and
11 following up, trying to acquire Petrohawk's interest and
12 bringing this hearing before you all.

13 Q. At this point, have you and others on behalf of
14 ConocoPhillips consolidated on a voluntary basis the interest
15 owners in the two spacing units with the exception of one
16 party?

17 A. That is true.

18 Q. And what is that party?

19 A. Petrohawk Properties, LP.

20 Q. And has it been your responsibility to try to
21 reach a voluntary agreement with Petrohawk?

22 A. Yes, it has.

23 Q. We tender Mr. Dart as an expert petroleum
24 landman.

25 MR. JONES: Have we just had two Sooner landmen here

1 in the last hour?

2 THE WITNESS: Back to back.

3 MR. JONES: Congratulations on your football team.

4 THE WITNESS: Thank you.

5 MR. JONES: Mr. Dart qualifies as an expert as a
6 petroleum landman.

7 Q. (By Mr. Kellahin): Mr. Dart, let's turn to the
8 exhibit book. Behind Tab 1 is the application. At the end of
9 application, there's an additional insert. It's the last three
10 pages of Exhibit Tab No. 1, and it's my certificate of mailing,
11 the notice of hearing in this information. Have I utilized the
12 correct entity and the address for Petrohawk Energy
13 Corporation?

14 A. I believe record title shows in this as Petrohawk
15 Properties, LP, but they are doing business at the same
16 address. Actually, yes, I'm sorry. I see d/b/a here.

17 Q. So Petrohawk Energy Corporation d/b/a Petrohawk
18 Properties, that is the ownership company that you're aware of
19 that has the interest?

20 A. Yes.

21 Q. Let's turn past that to Exhibit No. 2. And let's
22 orient the Examiner as to where the project is. Starting with
23 the first display, identify this for us.

24 A. Okay. This is basically a locator map. In
25 green, we have our federal units in the San Juan Basin.

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1 Outlined in the purple color is the city boundary of
2 Farmington. The city of Aztec is in red, and Bloomfield is in
3 brown.

4 And you can see just east of Aztec, three townships
5 will be our well location in 30 North 8 West, Section 2.

6 Q. You're over in the area of the Navajo Reservoir?

7 A. Uh-huh.

8 Q. Let's turn to the second display behind this tab
9 and look more closely at the locator map.

10 A. This is simply a 9-section plat around Section 2,
11 and it further shows that our well location is in the SW/4 of
12 Section 2.

13 Q. Okay. In Section 2, you have a combination of
14 two different orientations for the spacing unit, one for the
15 Dakota and one for the Mesaverde?

16 A. Correct.

17 Q. Starting off, tell us which one is which.

18 A. The Dakota is the W/2, and the Mesaverde is the
19 S/2.

20 Q. Let's look at the Dakota in the W/2. By these
21 color symbols, is there another Dakota well in the W/2 of
22 Section 2?

23 A. There is the State Com AM #37 in the NW/4.

24 Q. And how do we find that by the color code?

25 A. It is the square with the light blue. And it's

1 kind of got a little circle in the middle.

2 Q. So the subject well bore in the Dakota would be a
3 standup W/2 unit?

4 A. Uh-huh.

5 Q. And this would be the second well in the spacing
6 unit?

7 A. Correct.

8 Q. When we look at the S/2 of Section 2, then, we're
9 dealing with the Mesaverde spacing unit?

10 A. Correct.

11 Q. Is there another Mesaverde well in that spacing
12 unit?

13 A. There is. In the SE/4, there is the State
14 Com V18, and it is marked with the dark blue circle.

15 Q. Let's turn now to Exhibit Tab No. 3, and let's
16 look at how Section 2 is divided into the various tracks.

17 A. Basically, this is just a lease map, and it's
18 showing the State leases that comprise the two spacing units.
19 In yellow, we've indicated the leasehold in which
20 ConocoPhillips owns a full or partial working interest, and the
21 blue leasehold is where we do not yet -- we do not have the
22 working interest.

23 Q. The remaining party is Petrohawk. Do they have
24 any interest in the Mesaverde?

25 A. They do not.

1 Q. So their interest would, then, be confined just
2 to the Dakota?

3 A. True.

4 Q. And that interest is derived in which tracks in
5 the W/2 of Section 2?

6 A. It's in State lease E-5382, which is in the N/2,
7 NW and W/2, SW~~1/4~~

8 Q. As part of this consolidation, has ConocoPhillips
9 been able to reach a voluntary operating agreement with all the
10 other interest owners?

11 A. We have.

12 Q. As part of the agreement, have the parties agreed
13 how to allocate costs and production between the Dakota and the
14 Mesaverde?

15 A. They have.

16 Q. And what is that percentage?

17 A. For drilling, it's 40 percent in the Mesaverde
18 and 60 percent in the Dakota.

19 Q. Is that common in the San Juan Basin at this
20 time?

21 A. That is our standard cost of ^{ALL} ~~the~~ location basin-wide.

22 Q. And is that common for your company and other
23 companies?

24 A. To my knowledge, it is.

25 Q. Let's turn to the tabulation in Exhibit Tab 3.

1 Beyond the plat, there's a tabulation that says Exhibit A.
2 That's Exhibit A from what?

3 A. This is the Exhibit A to the Joint Operating
4 Agreement. It basically sets out the contract area, the
5 formations and the party's ownership in each spacing unit and
6 formation.

7 Q. Can the Examiner use this Exhibit A to show
8 himself all the interest owners in each of the spacing units?

9 A. Yes.

10 Q. And the percentages associated with those
11 interest owners?

12 A. Yes.

13 Q. And as you look down the tabulation, I see in the
14 approved column on the right "yes" to all these entities until
15 I got to a "no," and that corresponds to Petrohawk Properties.

16 A. True.

17 Q. To the best of your knowledge, is this
18 information accurate?

19 A. It is.

20 Q. Have you and others on behalf of ConocoPhillips
21 attempted to obtain a voluntary agreement from Petrohawk?

22 A. We have.

23 Q. Have you searched your files and prepared a
24 chronology of contacts?

25 A. We have.

1 Q. If we turn past Exhibit Tab No. 4, is this a
2 chronology that you prepared from your files?

3 A. It is.

4 Q. Give us the short version of the chronology.
5 What's the first contact with Petrohawk?

6 A. In early November 2005, Todd Thornburg, a
7 ConocoPhillips landman, sent a letter to all the working
8 interest owners proposing the operation -- proposing a new
9 Joint Operating Agreement. Since that time, they formally
10 closed the well and all but Petrohawk has executed a JOA and
11 agreed to the operations.

12 Up until November of this year, we didn't have an
13 agreement with Petrohawk. We have a verbal agreement to farm
14 in their interest, and the ball is in their court in terms of
15 preparing that term assignment. They have yet to do so, and
16 we're skeptical that they will do so.

17 Q. From the chronology, it appears that your first
18 involvement was back in December of last year?

19 A. Uh-huh.

20 Q. That's when you picked up the project?

21 A. Uh-huh.

22 Q. And since then you have tabulated in the sheet
23 your various contacts with Petrohawk?

24 A. Right. We've sent a proposal out a few times to
25 all the parties. Petrohawk did not respond to any proposal

1 until we made mention of the fact that we would pursue
2 compulsory pooling. That kind of got them to try to want to
3 make a deal, per se.

4 Q. So they were offered the opportunity to
5 participate under the Joint Operating Agreement?

6 A. They were.

7 Q. They declined to do that?

8 A. Uh-huh.

9 Q. And as a substitute, they verbally agreed to farm
10 out their interest under certain terms?

11 A. Correct.

12 Q. And they have yet to provide those documents?

13 A. Correct.

14 Q. Let's turn to the specific wells -- letters that
15 were sent about this well. If you turn past the two-page
16 tabulation, there's a letter dated September 30th of this year.
17 What does this represent?

18 A. This is just a cover sheet to the new drill
19 proposal. And with that, we sent a copy of the Joint Operating
20 Agreement for their execution if they want to participate.

21 Q. When we turn past the first cover letter, there's
22 another letter dated September 30th. What does this represent?

23 A. This is just our standard ballot form, and it
24 sets out the project. And behind it we have our standard AFE.

25 Q. So with this letter, it's your intent to give

1 them an AFE and an opportunity to participate in the drilling
2 completion and production?

3 A. It is.

4 Q. What's the total estimated cost for the well?

5 A. It was about \$1.2 million.

6 Q. As part of your correspondence to Petrohawk, did
7 your letters include an itemized AFE?

8 A. It did.

9 Q. Do we find that here in this package?

10 A. It is. It's behind the ballot.

11 Q. So if we look behind the two-page ballot, there's
12 two sheets: One is the Dakota cost and the other is the
13 Mesaverde cost.

14 A. Uh-huh.

15 Q. How did you obtain the cost?

16 A. Our engineering department provided that.

17 Q. Is this done in the ordinary course of
18 ConocoPhillips' business in proposing these wells and
19 developing AFEs?

20 A. It is.

21 Q. Is there an allocation of the cost between the
22 two zones?

23 A. There is.

24 Q. And how was that done?

25 A. We used the allocation methodology provided for

1 in the Joint Operating Agreement; split the cost between the
2 two zones accordingly.

3 Q. Have any of the parties that have agreed to the
4 Joint Operating Agreement, have they objected to your costs?

5 A. No. Not that I'm aware of.

6 Q. Have they objected to the allocation of those
7 costs?

8 A. Not that I'm aware of.

9 Q. When we turn back past the AFE, then you have
10 your confirmation that Petrohawk actually received these
11 documents.

12 A. Yes.

13 Q. And then following that, you've got your list of
14 ownership addresses for the working interests?

15 A. Uh-huh.

16 Q. Turn now to Tab No. 5. Identify for us what
17 we're seeing here.

18 A. This is the Joint Operating Agreement in place
19 for the -- for all the Petrohawk.

20 Q. And this is the document that the other parties
21 have agreed to?

22 A. It is.

23 Q. It's buried in here, but help me find it; I think
24 if you turn past the document --

25 A. It's Exhibit C of the Joint Operating Agreement.

1 Q. If you look at Exhibit C of the Joint Operating
2 Agreement, and it's about the fourth page over --

3 A. It is.

4 Q. -- the COPAS instructions described them as
5 agreed upon drilling and producing rates for overhead?

6 A. Uh-huh.

7 Q. What are those rates?

8 A. It's 5,000 for the drilling rates and \$599 for
9 the producing rate.

10 Q. Is it ConocoPhillips' practice to escalate those
11 rates pursuant to COPAS procedures?

12 A. It is.

13 Q. What recommendation do you have for the Examiner
14 for the overhead rates to apply in the pooling order to be
15 issued that would pool the Petrohawk interest?

16 A. We would prefer to have the same -- the same
17 rates here and allow for an escalation.

18 Q. Very good. Let's turn now to the documents for
19 approval of the well bore. If you'll turn to Exhibit Tab
20 No. 6, let's look at the first document we're seeing there.

21 A. This is simply the C-102, the first page.

22 Q. And to the best of your knowledge, this is a
23 standard well location?

24 A. It is.

25 Q. Has this APD been approved at this point, do you

1 know?

2 A. It has.

3 Q. And then the next two pages are other documents
4 out of the --

5 A. Well bore diagrams and Topo map and the surface
6 access.

7 Q. Okay.

8 MR. KELLAHIN: Mr. Examiner, that concludes my
9 examination of Mr. Dart. We move the introduction of his
10 Exhibits Tab No. 1 through No. 6.

11 MR. JONES: Exhibits 1 through 6 will be admitted.

12 [Applicant's Exhibits 1 through 6 admitted into
13 evidence.]

14 EXAMINATION

15 BY MR. JONES:

16 Q. Does it say 40 percent drilling allocation to the
17 Dakota?

18 A. To the Mesaverde.

19 Q. To the Mesaverde. And 60 percent to the Dakota?

20 A. Uh-huh.

21 Q. And Petrohawk hasn't addressed, or they haven't
22 expressly agreed to that either, have they?

23 A. No. That was one of their issues.

24 Q. That was one of their issues?

25 A. Yes.

1 Q. So that's why you're still asking for the order
2 to say pooling of the Mesaverde and the Dakota, even though the
3 Mesaverde is all -- everybody is signed up except Petrohawk has
4 not signed the allocation?

5 A. Right.

6 Q. Okay. And you would apply for a diverse
7 interest, downhole commingle after this; is that correct?

8 A. Uh-huh.

9 Q. And you'd have to turn around and notify
10 everybody again for that?

11 A. Right.

12 MR. JONES: I think I better pass it on to Mr. Brooks
13 here.

14 EXAMINATION

15 BY MR. BROOKS:

16 Q. So you're going to work out your allocation of
17 production when you do your downhole commingle application?

18 A. Well, the production will be allocated based on
19 the tests that we do in the well bore.

20 Q. That allocation will be approved -- will have to
21 be approved by the Division in your downhole commingle
22 application, right?

23 A. I believe so.

24 Q. Okay. I guess that covers it.
25

FURTHER EXAMINATION

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BY MR. JONES:

Q. Yeah, that would be sent to the district office because that's a pre-approved. But it would still be diverse interests, so you would still have to notify everybody.

A. We'll notify everybody, yes, all the parties.

Q. Is there any clouded title at all in the Mesaverde? I notice you didn't put 100 percent below all those percentages there.

A. I don't believe there's any clouded title. We have a producing Mesaverde well in the NW, and we're basically -- that's our ownership in this operation. So I don't believe there's any issues in the Mesaverde.

Q. Basically, these are the -- it is the second well in both?

A. It is.

Q. In both? But Petrohawk, how do you handle Petrohawk's interest on the first well in the Mesaverde?

A. Well, they just don't own an interest in the Mesaverde. Their ownership is limited to the Dakota.

Q. Okay. Yeah, yeah.

MR. WARNELL: No questions.

MR. JONES: That's all we got. Thank you very much.

And let's take this Case 14248 under advisement.

* * *

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 12/15/99

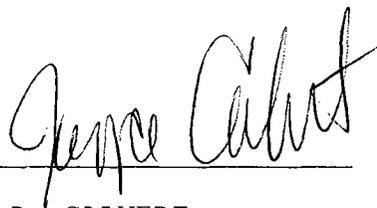
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REPORTER'S CERTIFICATE

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.

DATED this 4th day of December, 2008.



JOYCE D. CALVERT
New Mexico P-03
License Expires: 7/31/09

1 STATE OF NEW MEXICO)
 2 COUNTY OF BERNALILLO)

3
 4 I, JOYCE D. CALVERT, a New Mexico Provisional
 5 Reporter, working under the direction and direct supervision of
 6 Paul Baca, New Mexico CCR License Number 112, hereby certify
 7 that I reported the attached proceedings; that pages numbered
 8 1-18 inclusive, are a true and correct transcript of my
 9 stenographic notes. On the date I reported these proceedings,
 10 I was the holder of Provisional License Number P-03.

11 Dated at Albuquerque, New Mexico, 4th day of
 12 December, 2008.

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