

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. 13,309

APPLICATION OF NADEL AND GUSSMAN )  
PERMIAN, L.L.C., FOR COMPULSORY POOLING, )  
CHAVES COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

July 22nd, 2004

Santa Fe, New Mexico

RECEIVED

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Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, July 22nd, 2004, 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

July 22nd, 2004  
 Examiner Hearing  
 CASE NO. 13,309

## PAGE

## APPLICANT'S WITNESS:

SAM H. JOLLIFFE, IV (Landman)

Direct Examination by Mr. Bruce  
 Examination by Examiner Stogner

4  
 10

## REPORTER'S CERTIFICATE

18

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	5	10
Exhibit 2	6	10
Exhibit 3	7	10
Exhibit 4	7	10
Exhibit 5	8	10
Exhibit 6	9	10

\* \* \*

## 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

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 9:05 a.m.:

3 EXAMINER STOGNER: This hearing will come to  
4 order. At this time I'll call Case Number 13,309. This is  
5 the Application of Nadel and Gussman Permian, L.L.C., for  
6 compulsory pooling, Chaves County, New Mexico.

7 Call for appearances.

8 MR. FELDEWERT: Mr. Examiner, if I may interrupt  
9 one minute --

10 EXAMINER STOGNER: Oh, I'm sorry.

11 MR. FELDEWERT: Before you go to that case, the  
12 last page of the docket, page 5, is Case Number 13,253,  
13 which is the Application of Yates Petroleum Corporation for  
14 an order authorizing the drilling of three wells in the  
15 potash area. I have been informed that that case can now  
16 be dismissed.

17 EXAMINER STOGNER: Okay, Case 13,253, which is  
18 the Application of Yates Petroleum Corporation for an order  
19 authorizing the drilling of three wells in the potash area,  
20 Eddy County, New Mexico, can now be dismissed.

21 MR. FELDEWERT: thank you, Mr. Examiner.

22 EXAMINER STOGNER: Thank you.

23 For clarification on the record, if I might, let  
24 me go back, and at this time I'll call Case Number 13,309,  
25 which is the Application of Nadel and Gussman Permian,

1 L.L.C., for compulsory pooling, Chaves County, New Mexico.

2 Call for appearances.

3 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
4 representing the Applicant. I have one witness.

5 EXAMINER STOGNER: Any other appearances?

6 Will the witness please stand to be sworn at this  
7 time?

8 (Thereupon, the witness was sworn.)

9 SAM H. JOLLIFFE, IV,

10 the witness herein, after having been first duly sworn upon  
11 his oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BRUCE:

14 Q. Would you please state your name for the record?

15 A. My name is Sam Jolliffe.

16 Q. Could you spell your last name for the Examiner,  
17 please?

18 A. Yes, Jolliffe.

19 Q. Where do you reside?

20 A. In Midland, Texas.

21 Q. Who do you work for and in what capacity?

22 A. I work for Nadel and Gussman Permian, LLC, in the  
23 capacity as land manager.

24 Q. Have you previously testified before the Division  
25 as a petroleum landman?

1 A. Yes, I have.

2 Q. And were your credentials as an expert accepted  
3 as a matter of record?

4 A. Yes, they were.

5 Q. Are you familiar with the land matters involved  
6 in this Application?

7 A. Yes, sir.

8 MR. BRUCE: Mr. Examiner, I'd tender Mr. Jolliffe  
9 as an expert petroleum landman.

10 EXAMINER STOGNER: Mr. Jolliffe is so qualified.

11 Q. (By Mr. Bruce) Mr. Jolliffe, could you identify  
12 Exhibit 1 and describe briefly what Nadel and Gussman seeks  
13 in this case?

14 A. Yes, Exhibit 1 is a land plat highlighting the  
15 west half of Section 23, Township 7 South, Range 26 East.  
16 We seek an order pooling all mineral interests from the  
17 surface to the base of the Montoya underlying the west half  
18 of Section 23. The unit will be dedicated to the Quick  
19 Draw Federal Well Number 1, which will be at an approximate  
20 location 990 feet from the north line and 660 feet from the  
21 west line.

22 EXAMINER STOGNER: I'm sorry, what was those  
23 footages again?

24 THE WITNESS: 990 from north, 660 from the west.

25 EXAMINER STOGNER: Thank you, sir.

1 Q. (By Mr. Bruce) Do you seek to pool any other  
2 well units, other than 320-acre units?

3 A. Yes, we do, we also seek to pool the northwest  
4 quarter of Section 23 for 160-acre units.

5 Q. Mr. Jolliffe, on Exhibit 1, although it's not  
6 shown on this land plat, it's basically two tracts, isn't  
7 it? The northwest quarter and the southwest quarter?

8 A. That's correct, northwest quarter is HBP federal  
9 tract, the southwest quarter is fee.

10 Q. What interest owners do you seek to pool? And I  
11 refer you to Exhibit 2.

12 A. Right, Exhibit 2, we seek to pool everybody on  
13 there except Campbell Investment Company, so we thereby  
14 seek to pool Warren Resources; Pecos Production Company;  
15 Calto Oil Company; Robert Thornton; William Derrick,  
16 Trustee; Gruy, L.L.C.; John D. Cadigan; and Carrie Gray.

17 Q. Okay. And is Carrie Gray the only unleased  
18 mineral owner?

19 A. That is correct.

20 Q. Okay. And so they collectively own what,  
21 approximately 77 1/2 -- well, no --

22 A. No, about --

23 Q. -- Campbell investment is joining in, so --

24 A. Right, they collectively own about 52 percent.

25 Q. Okay. Now, let's discuss your efforts to obtain

1 the voluntary joinder of these interest owners. What are  
2 Exhibits 3 and 4?

3 A. Okay, Exhibit 3 is our proposal letter that went  
4 out May 18th, along with the AFE.

5 Exhibit 4 is a kind of memorandum summary sheet I  
6 have done as to conversations and/or correspondence with  
7 the people we are seeking to pool.

8 Q. Okay. And without going through it, a couple of  
9 things. As to the people you could locate, did you or a  
10 contract landman with whom you worked have conversations  
11 with these people?

12 A. Yes, I have had -- with the people we were able  
13 to locate, I have had a minimum of two conversations with  
14 each party.

15 Q. Okay. And again, Campbell Investment Company  
16 will participate with 5 percent --

17 A. Five percent and --

18 Q. It actually owns a larger interest, and the  
19 remainder is being assigned --

20 A. Assigned, term assignment --

21 Q. -- or farmed out --

22 A. -- to us, that is correct.

23 Q. Okay. Now, There was one party you mentioned,  
24 William Derrick, Trustee, as unlocatable. What efforts  
25 were made to locate Mr. Derrick?

1           A.    We've tried -- Of course we can't find any phone  
2 listing information for him, and we have also tried the  
3 Internet Search and just couldn't find it.

4           Q.    Okay. And did any mailings to him come back?

5           A.    Yes.

6           Q.    There was a last known address?

7           A.    Right, right, it did come back from El Paso.

8           Q.    Okay. In your opinion has Nadel and Gussman made  
9 a good-faith effort to obtain the voluntary joinder of the  
10 interest owners in the well?

11          A.    Yes.

12          Q.    Could you identify Exhibit 5 and discuss the cost  
13 of the well?

14          A.    Exhibit 5 is a copy of the AFE for the well. The  
15 well's proposed depth is approximately 6400 feet. It has  
16 an estimated dryhole cost of \$507,756 and a completed well  
17 cost of \$294,435.

18          Q.    And is this cost in line with the cost of other  
19 wells drilled to this depth --

20          A.    Yes.

21          Q.    -- in this area of New Mexico?

22          A.    Yes, sir.

23          Q.    Does Nadel and Gussman request that it be  
24 designated operator of the well?

25          A.    Yes, we do.



1 Q. And do you have a recommendation for the amounts  
2 which should be paid for supervision and administrative  
3 expenses?

4 A. Yes, we do, we request \$7000 a month for drilling  
5 well rate and \$700 a month for producing well rate.

6 Q. And are these amounts equivalent to those  
7 normally charged by Nadel and Gussman and other operators  
8 in this area for wells of this type?

9 A. Yes.

10 Q. Do you request that the rates be adjusted  
11 periodically as provided in the COPAS accounting procedure?

12 A. Yes, sir.

13 Q. And does Nadel and Gussman request the maximum  
14 cost-plus-200-percent risk charge as against nonconsenting  
15 interest owners?

16 A. Yes, we do.

17 Q. And finally, were all of the interest owners  
18 notified of this hearing?

19 A. Yes, Exhibit 6 is an affidavit of the notice.

20 Q. And Mr. Examiner, I would not on there, the final  
21 page of Exhibit 6 was the mailing -- no, second to the last  
22 page of Exhibit 6 is a mailing to William Derrick, Trustee,  
23 and that was refused. I don't know why, but that's what  
24 the post office wrote on the envelope.

25 A. I also got the same thing. I can't -- Ours, when

1 it came back it said "attempted, not known" --

2 Q. Okay --

3 A. -- whatever that means.

4 Q. -- when you sent the proposal letter to --

5 A. Right.

6 Q. Were Exhibits 1 through 6 prepared by you or  
7 under your supervision or compiled from company business  
8 records?

9 A. Yes, they were.

10 Q. And in your opinion is the granting of Nadel and  
11 Gussman's Application in the interests of conservation and  
12 the prevention of waste?

13 A. Yes, sir.

14 MR. BRUCE: Mr. Examiner, I'd move the admission  
15 of Nadel and Gussman Exhibits 1 through 6.

16 EXAMINER STOGNER: Exhibits 1 through 6 will be  
17 admitted into evidence at this time.

18 EXAMINATION

19 BY EXAMINER STOGNER:

20 Q. Mr. Jolliffe, I'm referring now to Exhibit Number  
21 1 --

22 A. Okay.

23 Q. -- and the northwest quarter, as I understand  
24 it --

25 A. Yes.

1 Q. -- is a federal lease --

2 A. Right.

3 Q. -- and the southwest quarter is a fee lease?

4 A. Right, we've got several fee leases in that  
5 southwest quarter.

6 Q. Okay. Now, you break out on Exhibit Number 2  
7 just the west half. Do you have a breakout on who is to be  
8 force pooled for the 160-acre northwest quarter?

9 A. It -- I do not, but it is the same parties, and I  
10 could tell you, Mr. Examiner, exactly -- There was one  
11 additional party in the northwest quarter that did not own  
12 in the southwest quarter, and we got a term assignment from  
13 him. He -- a gentleman named Bill Willard. We got 20 net  
14 acres from him, so that did give us an interest in that  
15 northwest quarter.

16 MR. BRUCE: Mr. Jolliffe, Carrie Gray, unleased  
17 mineral owner, she would not own in the federal tract?

18 THE WITNESS: That is correct. The northwest  
19 quarter is Pecos Production; Campbell Investment; Calto Oil  
20 Company; Robert Thornton; William Derrick, Trustee; Gruy,  
21 L.L.C.; and John D. Cadigan. So pretty much the same  
22 parties.

23 MR. BRUCE: Mr. Examiner, we could get a  
24 breakdown for you if you'd like that.

25 EXAMINER STOGNER: Why don't we supplement the

1 record with that at a later date? I think that would help  
2 at least make the record clear.

3 Q. (By Examiner Stogner) Now, Exhibit Number 1  
4 doesn't show me the leases. What's the extent of that  
5 federal lease up in the northwest quarter? Is it just with  
6 the northwest quarter, or does it also extend into any  
7 other acreage?

8 A. It does extend into other acreage. It extends  
9 into Sections 14 and the south half of 15.

10 Q. How about 23? Any more in Section --

11 A. Yes, it also covers the northeast quarter of 23.

12 Q. Okay. Now there's a -- this may be out of your  
13 line of expertise, but there's a producing well symbol over  
14 in the northeast quarter.

15 A. Right. I believe, Mr. Stogner, that is an Abo  
16 well which is spaced on 160.

17 Q. What's the status of the APD?

18 A. We have not filed yet.

19 Q. Okay. Now, is it my understanding that the north  
20 half could consist of a fee lease, single fee lease?

21 A. No, no, it's all federal.

22 Q. I'm sorry, I thought -- back up, let me rephrase  
23 that -- that the north half could consist of a single  
24 federal lease?

25 A. Yes, and I'll tell you what we have done. We

1 have even contacted the BLM in Roswell, the lady that does  
2 the communitization agreements, and she said we could do a  
3 communitization with the northwest 23 Federal with the fee  
4 in the southwest. We did run that trap.

5 Q. And what constituted her saying that? It was my  
6 understanding if you can form a spacing unit on federal  
7 land using one single lease -- in fact, I think that's a  
8 rule, but there would have to be extenuating circumstances  
9 for a communitization agreement outside of that to exist.

10 A. Uh-huh.

11 Q. Did she elaborate, or do you know?

12 A. No, she did not elaborate, but we did give her  
13 the specific lease and acreage. In other words, we didn't  
14 talk to her just as a general principle. We did give her  
15 the specific tracts and lease and that kind of thing.

16 Q. Now, do you know if there's any other existing  
17 producing wells in Section 23, other than the Abo?

18 A. No, sir, I'm almost sure there is not.

19 Q. When does Nadel and Gussman intend to file an  
20 APD?

21 A. Very soon, very soon. We would probably like --  
22 Of course, we know we'd have to go through the pooling and  
23 do that and go through those particular clocks. But we  
24 would like to drill this well, I believe, late fall,  
25 probably before the first of the year. We think we've got

1 a real good shot at the Montoya in there, and we'd sure  
2 like to get after it, as well as good Abo bailout.

3 MR. BRUCE: Mr. Examiner, if I may, you are  
4 correct, there is a federal regulation that says something  
5 to the effect that if a single federal lease can form a  
6 spacing unit under applicable law, whether it's federal law  
7 or state law, that should form the well unit. But the BLM  
8 does have the discretion to grant exceptions to that, and  
9 they have in the past.

10 EXAMINER STOGNER: It's my understanding that  
11 they have granted those exceptions in the past for  
12 geological purposes. That's my understanding.

13 Now, this is the first time I have run across  
14 this instance where -- since we've had our rule change on  
15 compulsory pooling, where we used to take geological  
16 evidence into account. Now, this is an interesting  
17 situation here that I had voiced my concern earlier, but  
18 before the rule change.

19 I'm going to leave the record open in this  
20 instance, but I'd like some sort of written confirmation  
21 from Nadel and Gussman through you, with the BLM,  
22 addressing this --

23 MR. BRUCE: Sure.

24 EXAMINER STOGNER: -- particular instance and  
25 what circumstances exist that I'm not privy of. That way

1 we can -- One of the reasons I want to do that, I don't  
2 want the compulsory pooling order to be taken in to the  
3 BLM, using that as -- either as a -- well, here, we've  
4 already got approval, or is that the extenuating  
5 circumstances? I think there needs to be some cooperation  
6 between us and the BLM, and this -- well, some people saw  
7 it as an unforeseen deal --

8 MR. BRUCE: We'll take care of that --

9 EXAMINER STOGNER: -- others within the Division  
10 did not, I being one of them. But I'd like some  
11 confirmation on that.

12 MR. BRUCE: We'll do that.

13 EXAMINER STOGNER: So I'm going to leave the  
14 record open in this instance for that.

15 Q. (By Examiner Stogner) Are there any expiring  
16 leases --

17 A. No.

18 Q. -- that we need to be concerned with at this  
19 point?

20 A. No, sir.

21 EXAMINER STOGNER: Okay. Do you have any other  
22 questions?

23 MR. BRUCE: I have no further questions, Mr.  
24 Examiner.

25 EXAMINER STOGNER: Okay. Anything else we need

1 to cover in this instance? Did I make myself clear, or do  
2 you --

3 MR. BRUCE: Yes, yes.

4 EXAMINER STOGNER: -- have any additional things  
5 to address concerning this matter?

6 MR. BRUCE: I don't have anything further, but I  
7 understand what you are requesting, Mr. Examiner.

8 EXAMINER STOGNER: Okay. I'm going to leave the  
9 record open, like I said, in this instance, for that  
10 additional information, and at that time I'll either take  
11 it under advisement, or if I feel it necessary to reopen  
12 the case and to address that issue.

13 And I'm assuming the BLM office you're referring  
14 to is the Roswell BLM --

15 MR. BRUCE: Yes, sir.

16 EXAMINER STOGNER: -- correct?

17 Q. (By Examiner Stogner) Do you remember the lady's  
18 name you referenced?

19 A. Yes, sir, I believe, Mr. Examiner, it was Mary  
20 Lou Ormseth. The contract landman that works for me, that  
21 helps me out, both communitization agreements, is the one  
22 that actually talked to her. I believe that's who it was.

23 Q. Does she work for Armando Lopez or --

24 A. I don't know if she works with or for Armando.  
25 She's the one we always send our federal communitizations



1 to for approval.

2 EXAMINER STOGNER: Okay. I'm going to leave the  
3 record open, Mr. Bruce, and I'll let you handle that.

4 MR. BRUCE: Thank you, Mr. Examiner.

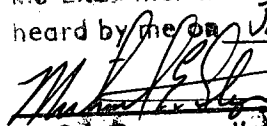
5 EXAMINER STOGNER: Okay, thank you.

6 THE WITNESS: Thank you.

7 (Thereupon, these proceedings were concluded at  
8 9:22 a.m.)

9 \* \* \*

10  
11  
12  
13 I do hereby certify that the foregoing is  
14 a complete record of the proceedings in  
the Examiner hearing of Case No. 13309,  
15 heard by me on July 22, 2004.

16  , Examiner  
Oil Conservation Division

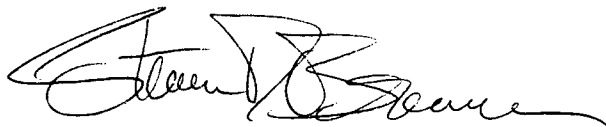
## CERTIFICATE OF REPORTER

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 July 23rd, 2004.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006