

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

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

7   APPLICATION OF CHISHOLM ENERGY                               CASE NO. 16365  
8   OPERATING, LLC FOR A NONSTANDARD  
9   SPACING AND PRORATION UNIT AND  
10   COMPULSORY POOLING, LEA COUNTY,  
11   NEW MEXICO.

Consolidated with

12   APPLICATION OF CHISHOLM ENERGY                               CASE NO. 16366  
13   OPERATING, LLC FOR A NONSTANDARD  
14   SPACING AND PRORATION UNIT, COMPULSORY  
15   POOLING, AND APPROVAL OF A NONSTANDARD  
16   WELL LOCATION, LEA COUNTY, NEW MEXICO.

17                               REPORTER'S TRANSCRIPT OF PROCEEDINGS

18                               EXAMINER HEARING

19                               August 23, 2018

20                               Santa Fe, New Mexico

21   BEFORE:   WILLIAM V. JONES, CHIEF EXAMINER  
22               DAVID K. BROOKS, LEGAL EXAMINER

23                               This matter came on for hearing before the  
24   New Mexico Oil Conservation Division, William V. Jones,  
25   Chief Examiner, and David K. Brooks, Legal Examiner, on  
26   Thursday, August 23, 2018, at the New Mexico Energy,  
27   Minerals and Natural Resources Department, Wendell Chino  
28   Building, 1220 South St. Francis Drive, Porter Hall,  
29   Room 102, Santa Fe, New Mexico.

30   REPORTED BY:   Mary C. Hankins, CCR, RPR  
31                               New Mexico CCR #20  
32                               Paul Baca Professional Court Reporters  
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35                               (505) 843-9241

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# APPEARANCES

FOR APPLICANT CHISHOLM ENERGY OPERATING, LLC:

JULIA BROGGI, ESQ.  
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Santa Fe, New Mexico 87501  
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1 (8:57 a.m.)

2 EXAMINER JONES: Case Numbers 16365 and  
3 16366.

4 MS. BROGGI: Again, Julia Broggi on behalf  
5 of Holland & Hart, on behalf of the Applicant, Chisholm  
6 Energy, LLC.

7 And, once again, I am presenting by  
8 affidavit. It's a very similar format. We have an  
9 affidavit again from Davis Armour, who is the landman.  
10 That's attached as Exhibit A.

11 Exhibit B is an affidavit from the  
12 geologist, Josh Kuhn.

13 And Exhibit D is an affidavit from myself  
14 addressing the notice issue, with the letters that were  
15 sent out and with the mailing addresses, as well as  
16 Notice of Publication. That was again done out of an  
17 abundance of caution.

18 In this case -- so there are two cases  
19 here. In Case 16365 -- and this is addressed in  
20 Mr. Armour's affidavit attached as Exhibit 1 -- Chisholm  
21 is seeking an order creating, if necessary, a roughly  
22 320-acre, more or less, oil spacing and proration unit,  
23 dedicating that spacing and proration unit to the  
24 proposed Stetson 13-24 Fed Com 1BS #6H well, and pooling  
25 all uncommitted interests in the Bone Spring Formation

1 underlying this acreage.

2 And in the companion Case, Case Number  
3 16366, Chisholm is seeking an order creating, if  
4 necessary, a roughly 320-acre oil spacing proration  
5 unit, dedicating that spacing and proration unit to the  
6 Stetson 13-24 Fed Com 3BS #5H well and pooling all  
7 uncommitted interests in the Bone Spring Formation.

8 This is just like the last case. This is  
9 all federal land.

10 Exhibit 1 and Exhibit 2 to Mr. Armour's  
11 affidavit are the C-102s that were filed with the  
12 Division -- with the OCD to get them approved.

13 Exhibits 3 and 4 shows, you know, the  
14 tracts of land and the ownership interest for each case  
15 and the highlighted names on the parties that Chisholm  
16 is seeking to pool.

17 And then Exhibits 6 and 7 are the  
18 well-proposal letters sent out to the working interest  
19 owners, along with an AFE.

20 And then for Mr. Kuhn's affidavit, there --  
21 Exhibit 7 is the subsea structure map for the first  
22 case, and the wells that were used for the cross section  
23 are denoted on the like, A to A prime.

24 Number 8 -- Exhibit Number 8 is the  
25 stratigraphic cross section. You can see the target

1 interval is marked and sort of highlighted in green, and  
2 it shows that it's fairly consistent in that area.

3 Exhibit 9 is the subsea structure map for  
4 the second case, Case 16366, and it similarly shows the  
5 four wells -- four representative wells that were used  
6 to create the stratigraphic cross section, which is  
7 Exhibit 10, which also shows, you know, it's consistent  
8 in thickness across the entire spacing and proration  
9 unit.

10 And Mr. Kuhn renders his opinion that  
11 drilling horizontal wells in each of these cases, in his  
12 opinion, is in the best interest of conservation, the  
13 prevention of waste and the protection of correlative  
14 rights.

15 Oh, one thing I did want to point out in  
16 this case that's a little bit funny is Exhibits 1 and 2  
17 to Mr. Armour's affidavit are the C-102s, and when they  
18 initially filed it, you'll see that they wrote the 2nd  
19 Bone Spring, 2BS.

20 EXAMINER JONES: I was going to ask about  
21 that.

22 MS. BROGGI: Yes. And that one turned out  
23 to be 1BS. And then the same thing on the other one.  
24 And that was just at the time of filing. They weren't  
25 exactly sure where they were going to drill. And they

1 will amend it so it is accurate.

2 EXAMINER JONES: Okay. So the first, #6H,  
3 is in the 1st Bone Spring, and #5H is in the 3rd Bone  
4 Spring.

5 MS. BROGGI: 3rd Bone Spring.

6 EXAMINER JONES: Okay. Otherwise, the  
7 locations -- I guess they can take a look at that when  
8 they amend it, make sure the locations --

9 MS. BROGGI: I think it's the same because  
10 that's what they told me, but they will amend it to be  
11 accurate.

12 EXAMINER JONES: Again, these are federal  
13 wells that haven't been permitted, at least we don't  
14 have -- it hasn't been assigned an API number, and there  
15 are lot of parties being pooled in this case.

16 MS. BROGGI: There are. I know that for a  
17 lot of them, they do feel they're pretty close to it, at  
18 least on one of the cases. I'm not sure if it's both.  
19 But there is one case where they're very close to  
20 getting everything sorted out.

21 EXAMINER BROOKS: Is this one of those with  
22 real complicated titles? Is that why there are a lot of  
23 parties being pooled?

24 MS. BROGGI: I mean, I can't speak to that.  
25 I suppose so.

1 EXAMINER JONES: This is all federal  
2 acreage, so -- and I always hate to ask this question.  
3 There's -- there's no depth severances here?

4 MS. BROGGI: No, there aren't.

5 EXAMINER JONES: Thank you for saying that.

6 EXAMINER BROOKS: There can be depth  
7 severances of operating rights in federal lease titles.  
8 There can't be depth severances of record title. Record  
9 title -- the federal -- the federal requirement is  
10 that -- I have trouble remembering these things because  
11 the State Land Office and the BLM both have restrictions  
12 on what you can do with assignments, and they're not the  
13 same, and that makes it difficult to remember. But as I  
14 remember it, you cannot have depth severances of record  
15 title in a federal lease, but you can -- in assignment  
16 of a federal lease, but you can have depth severances of  
17 record title in a transfer of operating rights to a  
18 federal lease.

19 EXAMINER JONES: But she answered no to the  
20 question, so I'm real happy about that.

21 (Laughter.)

22 EXAMINER BROOKS: I will take her no. I'm  
23 not going to try to --

24 EXAMINER JONES: So overrides -- you can  
25 have depth severances for overrides?

1                   EXAMINER BROOKS: Well, yeah. You can --  
2 the Feds actually do have a requirement that you file  
3 copies of overrides, but since they don't have any --  
4 they don't have any restrictions on what you can do with  
5 overrides, they don't really enforce that.

6                   MS. BROGGI: Also speaking of overrides, we  
7 are seeking to pool both the working interest owners and  
8 the overriding royalty interest owners.

9                   EXAMINER BROOKS: And did you notify  
10 the overriding royalty interest owners?

11                  MS. BROGGI: Yes.

12                  EXAMINER BROOKS: I haven't been asking  
13 that question this morning, and I always ask that  
14 question, because I'm not sure -- our rules require  
15 notice to the override owners if they're not bound by a  
16 pooling clause, and since there aren't pooling clauses  
17 in federal leases, that means that they're not bound by  
18 a pooling clause in their assignment, because we never  
19 see the assignments. So that's up to the attorney  
20 that's preparing the case, to see whether that is the  
21 situation or not.

22                  MS. BROGGI: We provided notice to the  
23 overrides in all these cases.

24                  EXAMINER BROOKS: Well, if you provided  
25 notice, that covers it. We don't have to worry about



1 it.

2 EXAMINER JONES: Did you get green cards  
3 back from everybody? I didn't see a newspaper notice  
4 here.

5 MS. BROGGI: There were. We did notice by  
6 publication all three of the Chisholm cases, and it's  
7 buried here somewhere in Exhibit C. But in part of  
8 Exhibit C, you'll see the names and the addresses, and  
9 it does give kind of a status of whether the letters  
10 were, you know, received, delivered.

11 EXAMINER JONES: Okay. August 4th  
12 publication.

13 MS. BROGGI: There should be two of them.  
14 Maybe it's just one. Oh, no. Two. There are two.  
15 You'll see the first two letters, the -- to the pooled  
16 parties and then the offsets, and then behind that is an  
17 August 4th, 2016 Notice of Publication -- 2018, and then  
18 behind that is the same thing, the letter to the pooled  
19 parties and to the offset, as well as a second Notice of  
20 Publication, August 4th, 2018.

21 EXAMINER JONES: You actually noticed the  
22 offsets. But you really didn't need to after the new  
23 rule, right? Is that correct?

24 MS. BROGGI: I think that's right, but  
25 that's something we've been struggling with in our

1 office, what to do and not to, in light of the new  
2 rules.

3 EXAMINER JONES: Just make sure it's not a  
4 nonstandard spacing unit. Otherwise, you do have to  
5 notify offsets.

6 EXAMINER BROOKS: Yeah. If it's not a  
7 nonstandard spacing unit, you're not required -- if it's  
8 a standard horizontal spacing unit, under the new rules,  
9 you're not required to notify offsets.

10 EXAMINER JONES: The publication that I see  
11 is just -- oh, yeah, because it should be one in each of  
12 these cases. It just says "Case Number 16366." 16365,  
13 I don't see it.

14 MS. BROGGI: Go three pages over. Do you  
15 see the second?

16 EXAMINER JONES: Actually, I only have one  
17 more page after that. Maybe Mr. Brooks has it.

18 MS. BROGGI: There may be a mistake with  
19 that. I don't know, but here is one.

20 EXAMINER JONES: This is more elaborate,  
21 which is more appropriate. Do you want this one back?

22 MS. BROGGI: Yeah. I apologize.

23 EXAMINER JONES: I have written on it, just  
24 on the Bone Spring.

25 MS. BROGGI: Do you want to keep it?

1 EXAMINER JONES: No, I don't.

2 MS. BROGGI: Okay. But as Jordan just  
3 reminded me, the concern in our office is if the rule  
4 were to be stayed, so I think we're just taking extra  
5 precautionary measures so we don't run into trouble  
6 later on.

7 EXAMINER JONES: Oh, yeah. You mean like  
8 when they open it up to change a few things maybe?

9 MS. BROGGI: (Indicating.)

10 EXAMINER JONES: Okay. So I have newspaper  
11 notices for both cases?

12 There it is. I see it.

13 MS. BROGGI: And so we'd ask that you  
14 accept these three affidavits and the exhibits and take  
15 the case under advisement -- the cases under advisement.

16 EXAMINER JONES: Cases 366 and -- actually,  
17 we'll take under advisement the cases, but before we do  
18 that, do you want to admit the exhibits presented by  
19 affidavit, which is Exhibits 1 through 10?

20 MS. BROGGI: Yes.

21 EXAMINER JONES: Exhibits 1 through 10 are  
22 admitted.

23 (Chisholm Energy Operating, LLC Exhibit  
24 Numbers 1 through 10 are offered and  
25 admitted into evidence.)

1 EXAMINER JONES: And we'll take Cases 16365  
2 and 16366 under advisement.

3 MS. BROGGI: It's 1 through 10, and then  
4 the notice documents are attached. They don't really  
5 have a formal exhibit number, which perhaps should be  
6 done.

7 EXAMINER JONES: Please forgive me. We're  
8 also admitting Exhibit C and Exhibit A and if there is  
9 probably an Exhibit B.

10 MS. BROGGI: And B is behind the six tab.

11 EXAMINER JONES: Thank you.

12 EXAMINER BROOKS: It's really the  
13 responsibility of the attorney to come up with an  
14 exhibit numbering system that makes sense. We don't  
15 have any stipulations or requirements as to how you  
16 number exhibits, but if you are going to be using  
17 letters, as you did, letters for the exhibits and  
18 numbers for the attachments to the exhibits. I gather  
19 that's the way yours was put together.

20 MS. BROGGI: Yes.

21 EXAMINER BROOKS: And that needs to be done  
22 consistently. And I'm not saying it wasn't in this case  
23 because I wasn't paying attention.

24 EXAMINER JONES: Well, they're not  
25 Gallagher & Kennedy. It was done pretty well.

1 EXAMINER BROOKS: Or Jim Bruce.

2 EXAMINER JONES: Jim puts a number on  
3 there, but you don't know if it's the right case number.

4 EXAMINER BROOKS: Jim tries to go too fast.

5 (Case Numbers 16365 and 16366 conclude,  
6 9:10 a.m.)

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25 STATE OF NEW MEXICO

1 COUNTY OF BERNALILLO

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3 CERTIFICATE OF COURT REPORTER

4 I, MARY C. HANKINS, Certified Court

5 Reporter, New Mexico Certified Court Reporter No. 20,

6 and Registered Professional Reporter, do hereby certify

7 that I reported the foregoing proceedings in

8 stenographic shorthand and that the foregoing pages are

9 a true and correct transcript of those proceedings that

10 were reduced to printed form by me to the best of my

11 ability.

12 I FURTHER CERTIFY that the Reporter's

13 Record of the proceedings truly and accurately reflects

14 the exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither

16 employed by nor related to any of the parties or

17 attorneys in this case and that I have no interest in

18 the final disposition of this case.

19 DATED THIS 23rd day of September 2018.

20

21

22 MARY C. HANKINS, CCR, RPR

23 Certified Court Reporter

24 New Mexico CCR No. 20

25 Date of CCR Expiration: 12/31/2018

Paul Baca Professional Court Reporters

24

25