

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:

APPLICATION OF PERCUSSION PETROLEUM CASE NO. 20192
OPERATING, LLC FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

January 10th, 2019

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
KATHLEEN MURPHY, TECHNICAL EXAMINER
LEONARD LOWE, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner; Kathleen Murphy and Leonard Lowe, Technical Examiners; and David K. Brooks, Legal Examiner, on Thursday, January 10th, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

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

APPEARANCES

FOR APPLICANT PERCUSSION PETROLEUM OPERATING, LLC:

JORDAN L. KESSLER, ESQ.
HOLLAND & HART, LLP
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421
jlkessler@hollandhart.com

FOR INTERESTED PARTIES CONOCOPHILLIPS COMPANY and MRC
DELAWARE RESOURCES, LLC:

JAMES G. BRUCE, ESQ.
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043
jamesbruc@aol.com

INDEX

PAGE

Case Number 20192 Called	3
Case Presented by Affidavit	3
Proceedings Conclude	10
Certificate of Court Reporter	11

EXHIBITS OFFERED AND ADMITTED

Percussion Petroleum Operating, LLC Exhibit Numbers 1 through 3	7
--	---

1 (2:22 p.m.)

2 EXAMINER JONES: Call Case 20192,
3 application of Percussion.

4 Call for appearances.

5 MS. KESSLER: Jordan Kessler, from Holland
6 & Hart, on behalf of the Applicant.

7 EXAMINER JONES: Any other appearances? So
8 we do have another appearance?

9 MR. BRUCE: Yeah. Let me --
10 Mr. Examiner -- hold on, Mr. Examiner.

11 EXAMINER JONES: It's docket number 88 of
12 the new cases.

13 MR. BRUCE: Yeah. I showed it dismissed.
14 In 20192, I'm representing ConocoPhillips
15 Company and MRC Delaware Resources, LLC.

16 EXAMINER JONES: MRC Delaware?

17 MR. BRUCE: MRC Delaware Resources, LLC.

18 EXAMINER JONES: Okay. Mr. Bruce, did you
19 put something in the files on those, or are you going --

20 MR. BRUCE: Just here. I can, if you want.

21 EXAMINER JONES: Just as long as we know
22 the full names of those. That's the main thing, unless
23 Mr. Brooks here says differently.

24 EXAMINER BROOKS: What's the issue?

25 EXAMINER JONES: Appearances at hearing.

1 Usually Mary gets it right.

2 EXAMINER BROOKS: Yeah. You don't have to
3 have a written notice of appearance if you have appeared
4 on the record, unless you think she'll misstate your
5 client's name or your name.

6 MR. BRUCE: I would never think that.

7 EXAMINER BROOKS: And I think she knows you
8 very well.

9 MS. KESSLER: Okay. This case will be
10 presented by affidavit.

11 I'll note at the outset, Mr. Examiner,
12 Jalapeno Corporation entered an appearance and filed a
13 motion to dismiss. They then realized that they had
14 signed an election letter and an AFE. And contained as
15 Attachment D to Exhibit 1 is what we'll call a
16 settlement agreement, and that was submitted also to the
17 Division by Mr. Patrick Fort with Jalapeno stating that
18 he does not object to this case and that they do not
19 object to this case being presented by affidavit.

20 EXAMINER JONES: Yeah. I thought I
21 remember the email said that the case -- that the
22 settlement agreement -- that the case was dismissed, but
23 I must have read it too fast there.

24 MS. KESSLER: Yeah.

25 EXAMINER JONES: It's not like things

1 haven't been happening fast in the last couple of --

2 MS. KESSLER: Yeah. I understand the
3 confusion. That makes sense. They state in the
4 settlement agreement that it was dismissed as to them,
5 so they're not being compulsory pooled.

6 EXAMINER JONES: Oh, okay. I saw the word
7 "dismissed," and I jumped to conclusions.

8 MS. KESSLER: I understand.

9 Okay. So Exhibit 1 is an affidavit from
10 Mr. Joe Dichiaro with Percussion. It outlines his
11 credentials. And then in paragraph six, it states that
12 the proposed horizontal spacing unit is the north
13 half-north half of Section 28 in Township 17 South,
14 Range 28 East in Eddy County. Percussion is seeking to
15 compulsory pool all uncommitted interests in the
16 Artesia-Glorieta-Yeso Pool. And in order not to create
17 a depth severance where none existed, we are seeking to
18 compulsory the Artesia-Glorieta -- I'm sorry -- the
19 Glorieta-Yeso as opposed to just the Yeso.

20 Attachment A is the C-102 for the Welch RL
21 28 State #1H well. It's just a draft C-102, so the pool
22 and pool code is identified in the affidavit rather than
23 the attached -- in the C-102.

24 Attachment B is the ownership list by
25 tracked, and they seek to pool only the interest of

1 ConocoPhillips Company. That's highlighted in green.
2 So that would be the working interest owner. And then
3 they also seek to compulsory pooling a single overriding
4 royalty interest owner, and that's listed on the second
5 page of Exhibit B, Yates Brothers.

6 Attachment C is the well-proposal letter to
7 ConocoPhillips sent back in October, and that includes
8 an AFE.

9 As I mentioned, Exhibit D is a copy of the
10 settlement agreement with Jalapeno.

11 Their requested rates are 7,000 per month
12 for drilling and 700 per month while producing.

13 Moving along to the affidavit of
14 Mr. Lipinski, the geologist, he has a location map that
15 he attaches to his exhibit, a structure map, a
16 cross-section location map and then finally the cross
17 section showing the proposed target with a yellow line
18 in the Yeso -- kind of middle to the top of the Yeso.

19 EXAMINER JONES: Thanks for putting that
20 email in there.

21 MS. KESSLER: Exhibit 3 is my affidavit for
22 notice.

23 And, once again, we'll continue this to
24 January 24th so notice can be perfected.

25 EXAMINER JONES: Any objection to

1 admitting --

2 MR. BRUCE: No.

3 EXAMINER JONES: -- the exhibits for Case
4 20192, which is -- Exhibits 1, 2 and 3 are admitted.

5 (Percussion Petroleum Operating, LLC
6 Exhibit Numbers 1 through 3 are offered and
7 admitted into evidence.)

8 EXAMINER JONES: And this case is being
9 continued to January 24th.

10 EXAMINER BROOKS: The well crosses the --
11 where is the well? Oh, it's in the north -- north half
12 of the north half, right?

13 MS. KESSLER: Yes.

14 EXAMINER BROOKS: And the spacing unit --
15 is this in the Purple Sage or --

16 MS. KESSLER: No. This is in the Yeso,
17 Mr. Examiner.

18 EXAMINER BROOKS: In the what?

19 MS. KESSLER: The Yeso.

20 EXAMINER BROOKS: Oh, the Yeso. So it's
21 uphole. But the spacing unit that you're drawing here
22 includes the entire north half of 27 and 28; is that
23 right?

24 MS. KESSLER: No. I think they didn't do a
25 very good job in showing what the dedicated acreage is

1 on this C-102.

2 EXAMINER BROOKS: Yeah, not on Exhibit A.
3 I was looking at Exhibit B, where you have a title box
4 for the south half of the north -- the south half of the
5 northeast quarter of 28 and northwest -- north half of
6 the northeast and the south half of the -- of the
7 northeast.

8 MS. KESSLER: Yeah. I assume that's a
9 mistake. What I'd like to do is confirm that ownership
10 is identical between the north half-north half and the
11 south half-north half. If it's not, then we'll
12 re-adjust this table and resubmit that, if that's okay,
13 by email.

14 EXAMINER BROOKS: Okay. So the spacing
15 unit is what then?

16 MS. KESSLER: North half-north half.

17 EXAMINER BROOKS: North half-north half.
18 Okay. When you say that ConocoPhillips is
19 the only party you're seeking to pool, is that
20 equivalent to saying the other parties are committed to
21 the well?

22 MS. KESSLER: They've signed an operating
23 agreement.

24 EXAMINER BROOKS: Okay. So they're
25 committed.

1 I have something of a problem squaring
2 the -- squaring the facts with our legal
3 responsibilities in those cases where an operator says,
4 "Well, this party is not committed, but we think they
5 will be, and we don't want to compulsory pool them,"
6 because the way we do it, we're going to end up
7 compulsory pooling them anyway. But then if you sign an
8 agreement with them, the voluntary agreement trumps the
9 compulsory pooling agreement. So that's just by way of
10 explanation.

11 EXAMINER JONES: Kathleen has a question.

12 EXAMINER MURPHY: On that map in B, how
13 come the surface is in northwest-northwest 27?

14 MS. KESSLER: Are you looking at the C-102?

15 EXAMINER MURPHY: No, the structure map --
16 Glorieta structure map.

17 MS. KESSLER: Oh, B for Exhibit 2?

18 EXAMINER MURPHY: 2B, yes.

19 MS. KESSLER: I'm showing the surface
20 location on the C-102 also being in the northwest
21 quarter -- northwest quarter-northwest quarter of
22 Section 27.

23 EXAMINER MURPHY: But it's not in the unit.

24 MS. KESSLER: It would just be an off-lease
25 surface location, and then the completed interval -- and

1 that's shown on the C-102.

2 EXAMINER MURPHY: It starts when it gets in
3 the unit; it will take place?

4 EXAMINER BROOKS: That's not unusual in the
5 horizontal well world.

6 EXAMINER MURPHY: Okay.

7 EXAMINER JONES: The State Land Office
8 likes to make money on things like that.

9 EXAMINER MURPHY: Okay. Thank you.

10 EXAMINER JONES: Okay. So I think we've
11 already said we've heard this case and continue it to
12 January 24th.

13 MS. KESSLER: And I'm going to email
14 confirming the north half-north half ownership.

15 EXAMINER JONES: Okay.

16 EXAMINER BROOKS: Okay.

17 EXAMINER JONES: That sounds good.

18 (Case Number 20192 concludes, 2:33 p.m.)

19

20

21

22

23

24

25

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20 DATED THIS 31st day of January 2019.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
Paul Baca Professional Court Reporters

25