

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. 20370  
OPERATING, LLC FOR COMPULSORY  
POOLING, EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

April 5, 2019

Santa Fe, New Mexico

BEFORE:   MICHAEL McMILLAN, CHIEF EXAMINER  
          SUSAN SITA, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, Michael McMillan,  
Chief Examiner, and Susan Sita, Legal Examiner, on  
Friday, April 5, 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:

ADAM G. RANKIN, ESQ.  
HOLLAND & HART, LLC  
110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 87501  
(505) 988-4421  
agrarkin@hollandhart.com

# INDEX

PAGE

Case Number 20370 Called	3
Case Presented by Affidavit	3
Proceedings Conclude	15
Certificate of Court Reporter	16

# EXHIBITS OFFERED AND ADMITTED

Percussion Petroleum Operating, LLC Exhibit Numbers 1 through 3	13
--	----

1 (9:04 a.m.)

2 EXAMINER McMILLAN: Call Case Number 20370.  
3 Will this be combined with Case Number  
4 20372?

5 MR. RANKIN: Mr. Examiner, I'm happy to  
6 present them together. I actually prepared them  
7 separately.

8 EXAMINER McMILLAN: It doesn't matter.  
9 Whichever is easiest.

10 MR. RANKIN: I think in order to  
11 maintain -- avoid confusion, I'll do them separately.

12 EXAMINER McMILLAN: Okay. So I'd like to  
13 call Case Number 20370, application of Percussion  
14 Petroleum Operating, LLC for compulsory pooling, Eddy  
15 County, New Mexico.

16 Call for appearances.

17 MR. RANKIN: Mr. Examiner, Adam Rankin,  
18 with the Santa Fe office of Holland & Hart, here on  
19 behalf of the Applicant, Percussion Petroleum, LLC.

20 EXAMINER McMILLAN: Are there any other  
21 appearances?

22 Please proceed.

23 MR. RANKIN: Mr. Examiner, we'd like to  
24 present this case by affidavit. Before you is an  
25 exhibit packet containing the affidavits of Percussion's

1 landman and geologist, as well a notice affidavit  
2 prepared by my office.

3                   Taking the first exhibit in order, Exhibit  
4 Number 1 in your exhibit packet, is the affidavit of  
5 Mr. Joe Dichiaro. He's a landman with Percussion. He  
6 testifies that Percussion is seeking in this case an  
7 order pooling all uncommitted interests in the  
8 Atoka-Glorieta-Yeso pool, pool code 3250, from a  
9 depth -- this is a depth-severance case, so they're  
10 seeking to pool only from the depth of 3,201 feet within  
11 that pool to the base of the pool in a 200-acre  
12 horizontal spacing unit comprised of the north half of  
13 the south half of Section 28 and the northeast quarter  
14 of the southeast quarter of Section 29, Township 18  
15 South, Range 26 East, Eddy County, New Mexico.

16                   The proposed spacing unit comprised of that  
17 depth severance is to be dedicated to the following two  
18 wells, the Radiohead 3H well and the Radiohead 4H well,  
19 with the locations identified in Mr. Dichiaro's  
20 affidavit.

21                   Exhibit 1A is a copy of the C-102s for each  
22 of the proposed wells that will be -- are to be drilled  
23 in this spacing unit identifying the first and last take  
24 points and the footages reflecting that the locations  
25 for these intervals will be wholly within the required

1 setbacks of the statewide pool rules for -- statewide  
2 rules for offsets within gas pools -- I'm sorry -- oil  
3 pools.

4 I'm starting to run out of steam already.

5 So each of those locations will be  
6 standard.

7 Exhibit 1B is a copy of the land plat  
8 identifying each of the tracts of land that will  
9 comprise this 200-acre spacing unit. The land  
10 exhibit -- never mind. It's straightforward.

11 So each tract is identified on that land  
12 plat. It's surrounded in red -- highlighted in red  
13 showing the proposed spacing unit. The second page of  
14 that exhibit is the -- reflects the interest ownership  
15 for each of those tracts by depth. The parties that  
16 Percussion is seeking to pool within the depth  
17 severance -- portion of this pool are highlighted in  
18 green. Okay?

19 So we're on B -- sorry -- Exhibit 1B. So  
20 if you look, each tract is identified in a column. And  
21 then the pool -- the parties that they're seeking to  
22 pool are those that are highlighted in green. Okay?  
23 And this chart is broken up by -- the interest ownership  
24 is broken up by depth. So you'll see for Tract 21,  
25 which is the first tract to the west, the northeast

1 quarter of the southeast quarter, there are no depth  
2 severances in that tract.

3                   Going from west to east, the next tract,  
4 you'll see there is a different ownership from 3,101  
5 feet to 3,200 feet where EOG owns 100 percent of the  
6 working interest. And there is different ownership from  
7 3,201 feet down to the base of the Yeso. So Percussion  
8 has identified each of the different ownership interests  
9 for each tract by depth, and the parties they're seeking  
10 to pool, those are in green. Okay?

11                   Exhibit 1C is a copy of the well-proposal  
12 letters that were sent out to each of the working  
13 interest owners that Percussion is seeking to pool.  
14 Attached to each of the well-proposal letters is the AFE  
15 for each of the wells that they're proposing in this  
16 case.

17                   Mr. Dichiaro testifies that the costs  
18 identified in the estimate and the AFE are consistent  
19 with what other operators in the area have incurred for  
20 drilling similar wells in the area. The parties that  
21 Percussion is seeking to pool identified in that exhibit  
22 are overriding royalty interest owners. There are some  
23 unleased mineral interest owners, as well as working  
24 interest owners.

25                   Now, Percussion has previously proposed and

1 has presented a pooling case -- compulsory pooling case  
2 for the portion of this pool that is being excluded from  
3 this case. So in other words, Percussion is seeking to  
4 pool the entire pool, but because there are differences  
5 in ownership, they're having to do it on a depth-severed  
6 basis. Okay? So we've already presented the case for  
7 the shallower zone, and now we're presenting the case  
8 for the deeper zone.

9 Percussion has provided notice to all of  
10 the offsets, both -- the vertical offsets so that the  
11 parties who are being excluded from each of these cases  
12 have gotten notice that they're being excluded from the  
13 shallower zone or from the deeper zone.

14 EXAMINER McMILLAN: Okay. So what you're  
15 saying is everyone in the mineral estate within the  
16 horizontal limits of the proposed spacing units were  
17 notified?

18 MR. RANKIN: Correct, of the pooling and if  
19 they were excluded as well.

20 EXAMINER McMILLAN: Okay. Everyone in the  
21 mineral estate irrespective of whether or not they have  
22 an interest?

23 MR. RANKIN: I believe --

24 EXAMINER McMILLAN: That's what you're  
25 saying?

1                   MR. RANKIN: I believe we're on the same  
2 page. I believe that's what we're saying.

3                   EXAMINER McMILLAN: Okay.

4                   MR. RANKIN: So just as a matter of record,  
5 the shallower --

6                   EXAMINER McMILLAN: I'm making notes.

7                   MR. RANKIN: Yup.

8                   EXAMINER McMILLAN: Okay. Go ahead.

9                   MR. RANKIN: The other case that Percussion  
10 was seeking to pool the shallower interest, that was  
11 Case Number 20229. That was presented on March 7, and  
12 that's been taken under advisement by the Division.

13                   No interest owner that Percussion seeks to  
14 pool HAS indicated opposition to Percussion presenting  
15 this case by affidavit, nor have they received any  
16 objection to our pooling.

17                   Mr. Dichiarra testifies that in his opinion  
18 he has attempted to reach negotiation -- sorry -- that  
19 he has -- he's called or emailed each of the interest  
20 owners Percussion seeks to pool and he's attempted to  
21 reach an agreement with them, and, in his opinion, he's  
22 made a good-faith effort to reach agreement with each of  
23 the parties. The costs reflected in the AFE are  
24 consistent with what other operators have incurred for  
25 drilling similar wells in the area. In compiling these



1 lists of notice parties, Percussion has conducted a  
2 good-faith, diligent search of all public records in the  
3 county where the proposed wells are located, and all  
4 interest owners were locatable.

5 He testifies, as I just was explaining to  
6 you, Mr. Examiner, that he provided notice of these  
7 applications to the vertical offsets, so all the  
8 interest owners in the portions of the pool that would  
9 be excluded from this case. All parties received notice  
10 and did not object to Percussion's plan to pool a  
11 portion of the pool.

12 Percussion has estimated, also, the  
13 overhead and administrative costs for drilling and  
14 producing the proposed wells at \$7,000 per month while  
15 drilling and \$700 per month while producing. Those  
16 costs are consistent to what other operators in the area  
17 are charging for similar wells.

18 Do you have any questions about the land  
19 exhibits at this point?

20 EXAMINER McMILLAN: I have no questions.

21 MR. RANKIN: Okay. Exhibit 2,  
22 Mr. Examiner, is a copy of the affidavit of Percussion's  
23 geologist who conducted the geologic study of the area  
24 and the spacing unit here. He's previously testified  
25 before the Division and has had his expert credentials

1     accepted as a matter of record.   This is  
2     Mr. C.J. Lipinski.

3                 Attached to his affidavit as Exhibit 2A is  
4     a copy of a locator map that identifies the proposed  
5     spacing unit highlighted in red, as well as the proposed  
6     wells in the spacing unit -- and I'm going to call it  
7     orange and green -- of the two wells that are proposed.

8                 Exhibit 2B is a copy of the structure map  
9     that Mr. Lipinski prepared identifying the top of the  
10    Glorieta Formation.   Contour intervals are at 25 feet.  
11    The structure map shows the area is gently dipping to  
12    the southeast.   That's right.   He didn't observe any  
13    faulting or pinch-outs or other geologic impediments to  
14    developing the target area.

15                Exhibit 2C is a copy of a locator map  
16    imposed upon which is a -- is A to A prime wells that  
17    he's identified for a cross section.

18                Exhibit 2D is a copy of the structural  
19    cross section reflecting the well logs for those wells  
20    he's identified from A to A prime.   The five wells that  
21    comprise that cross section he's identified as being  
22    representative of the geology in the area.   Each of the  
23    well logs reflect gamma ray, resistivity and porosity.  
24    In addition, on that cross section, he identifies the  
25    proposed target interval for each well by name, and he

1 identifies as well the depth severance at 3,200 feet.

2                   Mr. Lipinski testifies he does not believe,  
3 based on the location of these wells, that the proposed  
4 wells will be draining from across the depth-severance  
5 line. But in addition, he notes, as I stated, that  
6 Percussion has simultaneously sought to drill wells and  
7 to pool that portion of the pool above that  
8 depth-severance line at the same time. Mr. Lipinski  
9 testifies that the proposed -- the target intervals are  
10 consistent and continuous throughout the entire spacing  
11 unit. He sees no impediments or pinch-outs or other  
12 horizontal -- geologic hazards to developing horizontal  
13 wells in the spacing unit. In his opinion, the  
14 orientation of the wells is appropriate and will result  
15 in the preferred orientation of the wells in the area.

16                   Let's see. It's his opinion that  
17 production from the -- each of the tracts will  
18 contribute more or less equally to production from the  
19 well within the spacing unit and that the granting of  
20 Percussion's application will be in the best interest of  
21 conservation, the prevention of waste and the protection  
22 of correlative rights. I think that's the last exhibit  
23 of the geology.

24                   Exhibit D is a copy of -- I'm sorry.

25                   Exhibit 3 is a copy of the affidavit

1 prepared by my office that we sent notice to each of the  
2 interest owners identified to us by Percussion,  
3 including the vertical offsets within the spacing unit.  
4 The second page of that exhibit is a copy of the letter  
5 that was sent to each of the interest owners giving them  
6 notice of today's hearing. The subsequent pages are a  
7 copy of the USPS postal service tracking information  
8 sheet reflecting each of those parties were sent a green  
9 card for -- rather, a notice by green card for each of  
10 these -- for this application. The last page, again,  
11 shows the status of those certified mailings. In some  
12 cases, they were received. In other cases, the USPS  
13 service has not yet reflected that they've been  
14 received, but they're still in transit. So, again,  
15 these addresses are, to our understanding, correct of  
16 record, but they just haven't been updated to show that  
17 they've actually received them at this time.

18 In addition, we published notice  
19 identifying each of these notice parties by name, giving  
20 them notice of today's hearing in a newspaper of that --  
21 of that county, and that's the last page of Exhibit C --  
22 or 3. Sorry.

23 With that, Mr. Examiner, I ask that  
24 Exhibits 1, 2 and 3 with their attachments be admitted  
25 into the record.

1 EXAMINER McMILLAN: Exhibits 1, 2 and 3  
2 will now be accepted as part of the record.

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

6 EXAMINER McMILLAN: What I'd like to do now  
7 is literally go to the -- let's go to the cross section,  
8 D. And what I like to see when you have depth  
9 severances --

10 MR. RANKIN: Okay. Let me get there real  
11 quick.

12 EXAMINER McMILLAN: So we're talking about  
13 the Mayer-Holt Well #1. What I like to see normally is  
14 essentially have a separate exhibit of the type log for  
15 the depth severance so anybody can look at it and know  
16 exactly. So what I'd like to see is, first of all, the  
17 blowup of the Mayer well, of that well, to clearly show  
18 where the Glorieta is, clearly show where the Yeso is,  
19 clearly show where the depth severance is, and you can  
20 show -- then show the target interval, and then show  
21 where the base of the Yeso is.

22 MR. RANKIN: Okay. So in Mr. Lipinski's  
23 affidavit, he does identify the depths.

24 EXAMINER McMILLAN: I understand that.

25 MR. RANKIN: But you still want to see --

1                   EXAMINER McMILLAN: But I like to see it  
2 because that way if someone else wants to see where the  
3 depth severance is, they don't have to squint and figure  
4 out where it is. It hits them in the face. That's what  
5 I want to see. Does that make sense?

6                   MR. RANKIN: Yeah.

7                   EXAMINER McMILLAN: Do you have any  
8 questions?

9                   MS. SITA: No.

10                  MR. RANKIN: I'll submit that. I'll do the  
11 do the same for the next case.

12                  EXAMINER McMILLAN: Yeah. And for the  
13 cross section, for the structure map, if you're going to  
14 use a color display through your horizontal spacing  
15 unit, use the color. Don't have a monochromatic color  
16 display through the horizontal spacing unit. So they  
17 can redo that.

18                  MR. RANKIN: Okay. You want them to redo  
19 it?

20                  EXAMINER McMILLAN: Yeah. Yes, because  
21 it's the same color through the horizontal spacing unit.

22                  MR. RANKIN: Yeah. I mean, it's --

23                  EXAMINER McMILLAN: I mean, they could put  
24 a little thought into it.

25                  Okay. So Case Number -- did you ask that

1     this case be taken under advisement?

2                     MR. RANKIN:   We'd ask that Case Number  
3     20370 be taken under advisement.

4                     EXAMINER McMILLAN:   Case Number 20370 will  
5     be taken under advisement.

6                     MR. RANKIN:   And, Mr. Examiner, and I will  
7     submit the exhibits you request.

8                     (Case Number 20370 concludes, 9:22 a.m.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
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 24th day of April 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