

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. 13,437

APPLICATION OF LANCE OIL AND GAS)
COMPANY, INC., FOR COMPULSORY POOLING,)
SAN JUAN COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

April 7th, 2005

Santa Fe, New Mexico

2005 APR 21 AM 10 10

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, April 7th, 2005, 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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Examiner Hearing
CASE NO. 13,437

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A P P E A R A N C E S

FOR THE APPLICANT:

KELLAHIN & KELLAHIN
117 N. Guadalupe
P.O. Box 2265
Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

* * *

ALSO PRESENT:

JAMES THOMAS ROBBINS
Mineral Interest Owner

* * *

1 WHEREUPON, the following proceedings were had at
2 9:22 a.m.:

3 EXAMINER JONES: At this time let's call Case
4 13,437, Application of Lance Oil and Gas Company, Inc., for
5 compulsory pooling, San Juan County, New Mexico.

6 Call for appearances.

7 MR. KELLAHIN: You want to do the Lance case now,
8 Mr. Examiner? Lance?

9 Mr. Examiner, I'm Tom Kellahin of the Santa Fe
10 law firm of Kellahin and Kellahin, appearing on behalf of
11 the Applicant, and I have one witness to be sworn.

12 EXAMINER JONES: Any other appearances?

13 MR. ROBBINS: My name is James Thomas Robbins,
14 I'm a mineral interest owner in this section.

15 EXAMINER JONES: Do you need Mr. Robbins to spell
16 his name? Can you spell your name?

17 MR. ROBBINS: R-o-b-b-i-n-s.

18 EXAMINER JONES: And you're representing
19 yourself?

20 MR. ROBBINS: Yes, I am.

21 EXAMINER JONES: Any other appearances?

22 Will the witness please to be sworn?

23 (Thereupon, the witness was sworn.)

24 MR. KELLAHIN: Mr. Examiner, this case was on the
25 docket for March 3rd, and based upon a prehearing

1 conference that included Mr. Robbins, Mr. Brooks by
2 agreement moved this case to today's docket, Mr. Examiner,
3 and we're ready now to proceed.

4 EXAMINER JONES: Okay.

5 PAUL LEHRMAN,
6 the witness herein, after having been first duly sworn upon
7 his oath, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. KELLAHIN:

10 Q. Mr. Lehrman, for the record, sir, would you
11 please state your name and occupation?

12 A. Paul Lehrman, I'm a senior landman with Lance Oil
13 and Gas Company.

14 Q. And where do you reside, sir?

15 A. Farmington, New Mexico.

16 Q. On prior occasions have you testified before the
17 New Mexico Oil Conservation Division and had your
18 qualifications as a landman accepted as an expert witness?

19 A. Yes.

20 Q. Summarize for us generally your experience in the
21 San Juan Basin as a landman.

22 A. I've been a landman off and on for 10, 15 years
23 in the San Juan Basin, done right-of-way work, just general
24 landman work for different companies.

25 Q. In preparation of the exhibits for today's

1 hearing, have you reviewed the files of Lance Oil and Gas
2 Company?

3 A. Yes.

4 Q. In addition to attempting to consolidate
5 uncommitted interest owners, have you also been involved in
6 the location and the permitting of this well?

7 A. Yes.

8 Q. Can you summarize generally how long you have
9 been involved in this particular area in consolidating
10 interests for the drilling of these wells?

11 A. I was previously employed, before Lance, by a
12 company, Richardson Operating Company, in Denver, Colorado,
13 and I've been working on this general area for
14 approximately two and a half to three years.

15 Q. Was it your responsibility to negotiate with Mr.
16 Tommy Robbins concerning the commitment of his interests to
17 this spacing unit?

18 A. Yes, myself and a lady who works with me, Anne
19 Jones.

20 MR. KELLAHIN: We tender Mr. Lehrman as an expert
21 petroleum landman.

22 EXAMINER JONES: Mr. Lehrman -- Any objection?

23 MR. ROBBINS: (Shakes head)

24 EXAMINER JONES: Mr. Lehrman is qualified as an
25 expert petroleum landman.

1 Q. (By Mr. Kellahin) Turn to the exhibit packages,
2 if you will, Mr. Lehrman, and let's start with what's
3 marked as Lance Exhibit Number 1.

4 Let me start by clearing up something. There are
5 two different well names associated with this well, are
6 there not?

7 A. Yes.

8 Q. What is the appropriate name at this point?

9 A. The appropriate name is the WF FRPC 17 Number 2
10 well. The map is incorrect, it says WF ROPCO 17 2. It
11 should be WF FRPC 17-2 . It's located in the northwest
12 quarter of Section 17 on Exhibit Number 1.

13 Q. Regardless of the name, both of these wells have
14 the same API number?

15 A. Yes.

16 Q. And they deal with the same well?

17 A. Yes.

18 Q. And they deal with the same well at the same
19 location?

20 A. Yes.

21 Q. Describe for us, using Exhibit 1, what is the
22 proposed spacing unit for this well?

23 A. It would be the northwest quarter of Section 17,
24 Township 29 North, Range 14 West, San Juan County?

25 Q. What is the objective for this well?

1 A. The Twin Mounds-Pictured Cliffs.

2 Q. Would 160-acre spacing be the appropriate spacing
3 unit size for a well at this depth?

4 A. Yes.

5 Q. Let's turn past Exhibit Number 1 and look at
6 Exhibit Number 2. Would you identify and describe for us
7 what this document is?

8 A. This is the New Mexico Oil Conservation Division
9 Form C-101, which is the application for the permit to
10 drill this particular well.

11 Q. This permit indicates the name of Richardson
12 Operating Company?

13 A. Yes, it does.

14 Q. It was originally permitted for that company?

15 A. Yes.

16 Q. And did you do some of the permitting work for
17 Richardson?

18 A. Yes, I permitted this well.

19 Q. And the interests that were formerly controlled
20 by Richardson Operating have now been assigned to and
21 transferred to Lance Oil and Gas Company?

22 A. Yes, in October of 2004, all of the leases and
23 basically all the assets of this particular area were sold
24 to Lance Oil and Gas.

25 Q. Do you have documentation in the exhibit book to

1 reflect that the APD expiration date has been extended?

2 A. Yes, I filed a Form C-103 with the NMOCD to
3 extend the APD to January 27th of 2006.

4 Q. And that will be the second page behind Exhibit
5 Number 2?

6 A. That's correct.

7 Q. Turn past the approval to extend the commencement
8 date, and let's address the C-102. What does this
9 represent, Mr. Lehrman?

10 A. It shows the proposed allocation for the Twin
11 Mounds-Fruitland Sand-PC, which would be the northwest
12 quarter of this particular section.

13 Q. Again, this document bears your signature?

14 A. Yes, it does.

15 Q. Are you aware that this location is an unorthodox
16 well location for wells drilled and dedicated to the
17 Pictured Cliff gas pool?

18 A. Yes.

19 Q. What did you do about that?

20 A. We filed an administrative application to the
21 NMOCD for approval for this location.

22 Q. Would you turn the page and look at Exhibit
23 Number 3? Does this exhibit represent the approval of this
24 unorthodox well location?

25 A. Yes.

1 Q. Let's turn past Exhibit Number 3, Mr. Lehrman,
2 and let's take a moment and orient the Examiner to how the
3 various tracts are configured within the northwest quarter
4 of the section. Can you identify for the Examiner how
5 those tracts are configured on the two maps that are
6 attached in the exhibit book a Exhibit 4, being two
7 separate maps?

8 A. Well, basically both of these maps depict the
9 surface ownership in the northwest quarter of Section 17.
10 The names represent, you know, individual tracts that these
11 owners own.

12 Q. Approximately how many different interest owners
13 were originally involved in consolidating the interest for
14 the spacing unit? Do you have a recollection?

15 A. I believe there was 40 or 50, quite a few.

16 Q. Does -- Represent for us where the approximate
17 location of the well is to be.

18 A. The well is depicted on -- kind of in the
19 southwest quarter of the northwest quarter, on property
20 owned by a lady named Karen Brimhall. She lives in
21 Kirtland, New Mexico.

22 Q. It's in the handwritten ink color, and it says
23 "well", and an arrow?

24 A. Yes.

25 Q. Have you obtained the necessary approvals for

1 this lady for the surface use?

2 A. Yes.

3 Q. And what is the status of your efforts to drill
4 the well at this location?

5 A. We've made the location for the well and are
6 waiting for approval for the compulsory pooling before we
7 commence operations.

8 Q. Can you demonstrate for us, using this exhibit as
9 an illustration, where the approximate location of Mr.
10 Robbins' property is?

11 A. I think on both maps Mr. Robbins' property is
12 located basically right in the middle of this quarter
13 section. It's kind of highlighted sort of in a dark --
14 just south of County Road 6100 there.

15 Q. In ink there's written the word "Robbins"?

16 A. Yes.

17 Q. And an arrow?

18 A. Yes.

19 Q. And it's moving towards an area where there's two
20 shaded tracts?

21 A. Yes.

22 Q. Are each of those Mr. Robbins' tracts, as you
23 know them?

24 A. Yes.

25 Q. To the best of your knowledge, have you attempted

1 to determine the correct amount of acreage associated with
2 his interest within the spacing unit?

3 A. Yes.

4 Q. Do you have an estimate of approximately how far
5 this location is from Mr. Robbins' property?

6 A. We estimate it's approximately 1000 feet from Mr.
7 Robbins' property to the well location.

8 Q. Let's turn past those and look at Exhibit Number
9 5. When we look at this tabulation, what is represented on
10 this exhibit, Mr. Lehrman?

11 A. This is a chart of the unleased mineral
12 interests, with the net acres depicted in the first column
13 and the percent of interest in the Pictured Cliffs
14 formation in the second column, and the tabulation is at
15 the bottom, total unleased acres, total percentage in the
16 PC dedication.

17 Q. To the best of your knowledge, does Lance employ
18 title attorneys and other experts to do the calculation and
19 review of documents to determine to the best of your
20 ability that you have the correct parties and their
21 percentages within the spacing unit?

22 A. Yes.

23 Q. Was that done in this case?

24 A. Yes.

25 Q. When we look through the list of the parties

1 indicated on Exhibit 5, as of today, are there any of these
2 that we can now delete because you've been successful in
3 either obtaining a voluntary agreement, either by lease or
4 joinder in the well?

5 A. No.

6 Q. These all remain parties that you seek to obtain
7 a compulsory pooling order against?

8 A. That's correct.

9 Q. Does Lance's files contain a written proposal and
10 an AFE that was sent by Lance to all the interest owners
11 indicated on Exhibit Number 5?

12 A. Yes.

13 Q. When we turn to Exhibit Number 6A, is that the
14 written effort we're talking about?

15 A. Yes.

16 Q. Describe generally what was Lance's procedure
17 concerning trying to obtain leases from unleased mineral
18 owners within the spacing unit?

19 A. Well, generally we employ a title attorney to
20 write what we call a title opinion. He goes to the county
21 records and determines the mineral ownership for the
22 particular area we're interested in.

23 And then we write, you know, letters, certified
24 letters, you know, proposing different things, you know,
25 offer to lease, offer to join in the well. We also offered

1 an additional thing, which is to sell the mineral interest,
2 you know, to Lance, and this is depicted on this letter.

3 Q. Let's look at the options. In sending this
4 letter, is this the same type of letter that all the
5 interest owners receive?

6 A. Yes.

7 Q. The fourth entry, you've afforded the opportunity
8 to them to participate in the drilling of this well?

9 A. That's correct.

10 Q. And that would be accomplished by executing an
11 AFE, an operating agreement, and paying their share?

12 A. Yes.

13 Q. Was that done for Mr. Robbins in this case?

14 A. He was offered that option, yes.

15 Q. Among other options offered, there was an offer
16 to purchase his interest?

17 A. Yes.

18 Q. Do you have an estimate of how this particular
19 value was arrived at for purchase of these interests?

20 A. That's a tough question. We've kind of just
21 decided that, you know -- we've kind of come across a
22 general figure for the lease offer, and then we, you know,
23 increase that by a certain number for the actual offer to
24 purchase the minerals. There's really no set formula. It
25 really just depends on, you know, what the acreage is, you

1 know, leasing for in the area. We don't really expect
2 anybody to sell their mineral interests, it's just an offer
3 that we provide to people.

4 Q. In case they would?

5 A. Yes, we have --

6 Q. In this particular spacing --

7 A. -- had it come up, but --

8 Q. In this particular spacing unit, were there any
9 interest owners that have sold their interest to you?

10 A. No.

11 Q. In offering them an opportunity to lease their
12 interest, in item number 1 you set forth a basic term of
13 offer of lease?

14 A. Yes.

15 Q. Describe for us the basic points of the lease
16 offer.

17 A. It's an oil and gas lease that provides for a
18 five-year primary term with a one-eighth royalty and a
19 certain monetary amount based on their participation in the
20 dedication unit.

21 Q. Is this the type of lease proposal that you've
22 made to all the interest owners in the spacing unit?

23 A. Yes.

24 Q. And have you been successful in obtaining leases
25 from other interest owners in the spacing unit under those

1 type of terms?

2 A. Quite a few, yes.

3 Q. When we turn to Exhibit 6B, identify this
4 document for us.

5 A. This is the authorization for expenditure, which
6 is an internal document that Lance generates for the actual
7 drilling of this particular well, sets forth the costs that
8 we envision for, you know, the total costs for the well,
9 drilling and completion.

10 Q. And is this the type of document that's
11 circulated with the previous letter to the interest owners
12 should they desire to participate in the drilling?

13 A. Yes, we try to lay out what their interests and
14 what their proportionate share of that well would be,
15 should they decide to join in it.

16 Q. And these estimated costs are the kinds of costs
17 that Lance itself uses to pay their interest in this well?

18 A. That's correct.

19 Q. To the best of your knowledge, is this accurate
20 and correct?

21 A. Yes.

22 Q. Have you received any objection from any of the
23 interest owners to be pooled, including Mr. Robbins, as to
24 these costs?

25 A. No.

1 Q. Let's turn more specifically, Mr. Lehrman, to
2 Exhibit 7. Have you and Ms. Anne Jones prepared a
3 chronology with regards to efforts associated with Mr.
4 Robbins' interest?

5 A. Yes.

6 Q. To the best of your knowledge, is this chronology
7 accurate?

8 A. Yes.

9 Q. Without reading it specifically, let's walk
10 through how you have gone about trying to obtain either a
11 lease or a joinder by Mr. Robbins for his interest.

12 A. Well, back in January we sent Mr. and Mrs.
13 Robbins, you know, a lease offer, well proposal for this
14 particular well, and sent certified mail, and I had several
15 conversations with Mr. Robbins along with this time frame.

16 And then we met with Mr. Robbins back in March
17 concerning his questions about the whole procedure,
18 basically. And I think in the interim he's written some
19 letters to Congressman Udall and had some phone
20 conversations with people from the NMOCD concerning the
21 procedures and what took place, et cetera.

22 Q. Let's go down to the end of it. When we get down
23 after the prehearing conference with the Division, with Mr.
24 Robbins, on February 28th, after that time did either you
25 or anyone associated with Lance meet with Mr. Robbins?

1 A. Yes.

2 Q. And where did that meeting occur?

3 A. Anne Jones and I met with Mr. Robbins at his
4 home.

5 Q. And when did that occur?

6 A. In March.

7 Q. What was the purpose of going to see Mr. Robbins?

8 A. I think to see -- you know, to meet him in person
9 and see, you know, what his questions were about the whole
10 procedure. He indicated some things to me on the phone.
11 We wanted to try to answer those questions with him in
12 person; it's a lot better way to do business than talk on
13 the phone or do business by mail. I think we were over
14 there about an hour.

15 Q. Summarize for us your recollection of the
16 meeting.

17 A. It was a good meeting. I think Mr. Robbins, you
18 know, had some -- his main focus seemed to be questions
19 about the actual compulsory pooling procedure itself.

20 Q. Let's take it in parts. Did he express any
21 concern about where the well was to be located?

22 A. Initially he did, but we indicated that we had
23 made an agreement with Ms. Brimhall for several locations
24 that I think at some point had been a question. He
25 dismissed that and really focused on, you know, our offer

1 and what he thought maybe the procedure should be. And we
2 indicated to him that, you know, we followed the NMOCD
3 Rules as far as, you know, how we proceeded with our
4 leasing efforts and what would happen at the hearing.

5 Q. Did you offer to Mr. Robbins a lease that
6 included a non-surface use of his property?

7 A. Yes.

8 Q. Have you done that with others in the area?

9 A. Yes.

10 Q. What then transpired about the rest of the
11 conversation about that meeting, other than surface issues?

12 A. Mr. Robbins indicated that he would, you know,
13 confer with some people that he knew in the oil and gas
14 industry and basically, you know, tell us what he thought
15 would be an equitable offer. And he met Ms. Jones a letter
16 with those terms, and we subsequently responded to that.

17 Q. Let's turn through the package of documents. Mr.
18 Examiner, all the entries on Exhibit 7, there are
19 associated exhibits that correspond to the numbered entries
20 on Exhibit 7, and I would like to flip over, and let's move
21 to Exhibit 17.

22 You referred to the fact that Mr. Robbins had
23 written a letter to Lance proposing terms for a lease?

24 A. That's correct.

25 Q. And have you reviewed those terms?

1 A. Yes.

2 Q. Were they acceptable to Lance?

3 A. No.

4 Q. Describe for us what he was asking you to do?

5 A. He wanted a five-year -- basically what we would
6 call a term oil and gas lease for a flat fee per month, not
7 really based on any kind of interest in the well, just a
8 flat fee, or he made us the -- or gave us the option to
9 just purchase his minerals outright for a certain sum.

10 Q. In terms of his lease proposal, do you have any
11 other working interest owners for which you have a lease of
12 this type?

13 A. Yes.

14 Q. Are there any others in this spacing unit?

15 A. Yes.

16 Q. Do they provide for terms where you renegotiate
17 this every five years?

18 A. No.

19 Q. None like that?

20 A. No.

21 Q. What would be the typical oil and gas lease that
22 you would obtain? What would it provide?

23 A. For a five-year primary term for a one-eighth
24 royalty.

25 Q. And then if you obtain production within the five

1 years, it's extended for the life of the production?

2 A. Yes.

3 Q. He's not proposing that here, it's something
4 different, is it not?

5 A. Yes, it's just a term, per month, for a certain
6 term, and then it would be renegotiated after that term.

7 Q. Is there any royalty associated with his
8 proposal?

9 A. No.

10 Q. When we look at his proposal to have you buy his
11 interest, when we go back and compare the \$57,000 proposal,
12 what interest does he have in the spacing unit, when you go
13 back and compare it to Exhibit 5?

14 A. His total net mineral acres is a little less than
15 a half, and he has about a quarter of one percent of the
16 actual proposed allocated spacing unit.

17 Q. Do you have an opinion as to whether his proposal
18 to sell his interest for \$58,000 is fair and reasonable?

19 A. No, I don't think it's fair and reasonable. I'm
20 not sure where he came up with the \$57,000. I really have
21 no idea where he came up with that number, but that must be
22 a number he feels is, you know, appropriate for the
23 transaction he desires. But I don't think it's fair and
24 equitable.

25 Q. What would be the range of reasonableness in an

1 offer to purchase on an acreage basis?

2 A. Well, again, as I said earlier, it would really
3 depend on what we felt was -- you know, possibly maybe what
4 the well would produce but, you know, what we had been
5 offering, you know, other people in the area for oil and
6 gas leases and then we have some kind of allocation factor
7 based on, you know, what that might be for an outright
8 purchase.

9 A lot of times in the industry, people will look
10 at maybe three years of production. That has changed
11 since, you know, prices have escalated. People are paying
12 more. I'm not saying that's not a possibility, but it used
13 to be kind of a general number about three times
14 production.

15 Q. Can you give us a sense of what that might be in
16 dollars for an interest in this spacing unit?

17 A. I couldn't right now, because I don't know what
18 the well would produce. It's -- We won't know until we
19 produce it.

20 Q. Was this letter reviewed by Lance Oil and Gas
21 Corporation and the people that make decisions about
22 purchasing interests?

23 A. Yes.

24 Q. And they chose not to accept that?

25 A. That's correct.

1 Q. In response to Mr. Robbins' proposal, did Lance
2 send a letter to him advising him that they were declining
3 his interest and again offering terms of lease?

4 A. Yes.

5 Q. And how was that done?

6 A. That was done by certified letter in March, Ms.
7 Jones sent Mr. Robbins a response to his inquiry.

8 Q. What were the basic terms of your proposal to
9 lease his interest?

10 A. Originally?

11 Q. No, at this point?

12 A. Again, you know, the terms we'd offered
13 originally.

14 Q. At this point, Mr. Lehrman, have you been able to
15 successfully enter into a voluntary agreement with Mr.
16 Robbins and his wife concerning participation in the well?

17 A. No.

18 Q. Have you been able to lease their interest?

19 A. No.

20 Q. At this point is there anything further you think
21 you could do in order to get a voluntary agreement from Mr.
22 Robbins?

23 A. No.

24 Q. Do you desire the Examiner to issue a compulsory
25 pooling order?

1 A. Yes.

2 Q. Let's turn to the subject of proposed overhead
3 rates. Have you attached in the exhibit book as Exhibit 19
4 the Ernst and Young tabulation of overhead charges?

5 A. Yes.

6 Q. Do you have a recommendation to the Examiner as
7 to an overhead rate for a drilling well rate on a monthly
8 basis and a producing well rate on a monthly basis for this
9 well?

10 A. Yes, based on the projected depth, we would ask
11 for a \$3500 monthly drilling well rate and a \$481 producing
12 well rate.

13 Q. Is it your company's practice to escalate those
14 charges in accordance with the COPAS escalation procedures?

15 A. Yes, that's done on a yearly basis.

16 Q. And would you ask the Division Examiner to
17 include that option within the pooling order?

18 A. Yes.

19 Q. Pursuant to Division Rules for the implementation
20 of a 200-percent risk factor penalty associated with pooled
21 interest if they fail to join in the well, do you ask the
22 Examiner to issue such a procedure where there's a 200-
23 percent penalty associated?

24 A. Yes.

25 Q. And who is to be the operator?

1 A. Lance Oil and Gas Company.

2 Q. When we look at the interest owners in the
3 spacing unit, are we dealing with any State of New Mexico
4 minerals?

5 A. There's a small mineral interest owned by the
6 State Highway Department from the State of New Mexico, but
7 they have refused to sign oil and gas leases in the past.
8 We've just gone through the compulsory pooling and gone
9 through that procedure.

10 Q. And that procedure has been acceptable to the
11 Highway Department for their interest, and that's how we've
12 been doing those, right?

13 A. Yes.

14 Q. Are there any federal minerals associated with
15 this spacing unit?

16 A. No.

17 Q. Except for the State interest in one of the
18 tracts, the rest of these are fee owners?

19 A. Yes.

20 Q. Describe for us the general area within the 160-
21 acre spacing unit. Where are we located within Farmington?

22 A. Well, it's actually west of Farmington. It's
23 over to the east of the area known as Kirtland, New Mexico.
24 It's not an incorporated part of San Juan County; there's
25 no real town of Kirtland. It's basically an area west of

1 Farmington, but it's down close to the San Juan River and
2 it's an area of agricultural -- you know, a lot of people
3 raise alfalfa, a lot of trees, elms, et cetera.

4 Q. To the best of your knowledge, does your proposed
5 location that you've staked and building satisfy all the
6 regulatory requirements of the various regulatory entities?

7 A. Yes.

8 Q. If you turn to Exhibit 20, is Exhibit 20 the
9 certificate of notification and the mailing certificates
10 for this hearing?

11 A. Yes.

12 Q. And then following that, Exhibit 21 is the
13 newspaper advertisement?

14 A. Yes.

15 MR. KELLAHIN: Mr. Examiner, that concludes my
16 examination of Mr. Lehrman. We move the introduction of
17 Exhibits 1 through 21.

18 EXAMINER JONES: Any objection?

19 MR. ROBBINS: No.

20 EXAMINER JONES: Okay, Exhibits 1 through 21 --

21 MR. KELLAHIN: Yes, sir. 21 will be the
22 newspaper ad, very last page.

23 EXAMINER JONES: Okay. -- will be admitted to
24 evidence in this case.

25 Mr. Robbins, are you going to testify as a

1 witness in this case, or are you just -- are you going to
2 testify at all?

3 MR. ROBBINS: I guess I am.

4 EXAMINER JONES: Okay, well --

5 MR. ROBBINS: I've got some questions.

6 EXAMINER JONES: Okay. Well, if you're going to
7 testify, we'll have you testify in a minute, but -- and --
8 but you'll have to be sworn in and sit over there. And I
9 will let you go ahead and ask Mr. Lehrman some questions --

10 MR. ROBBINS: Okay.

11 EXAMINER JONES: -- also at this time. Go ahead.

12 CROSS-EXAMINATION

13 BY MR. ROBBINS:

14 Q. Regarding my price for my mineral rights, did you
15 say a while ago that most people didn't take what you had
16 offered?

17 A. Are you talking about for the actual outright
18 purchase?

19 Q. That's right?

20 A. I don't recall any people that have actually sold
21 their minerals in that spacing unit to Lance.

22 Q. So possibly your prices are way too low and
23 that's why nobody takes it?

24 A. It's possible, yes. We don't really expect
25 anybody to sell their minerals. We put that as a third

1 option, but we -- you know, occasionally somebody will
2 just, you know, check that off and send it back. I don't
3 recall any Lance purchases. I know when I worked for
4 Richardson we had very few people that would actually check
5 that box, that would actually outright purchase the
6 minerals in that drill block, but it's very rare. And I
7 personally would talk people out of that option. We just
8 put it in there for a third option.

9 MR. ROBBINS: That's all the questions I have.

10 EXAMINER JONES: Okay, thank you.

11 EXAMINATION

12 BY EXAMINER JONES:

13 Q. Mr. Lehrman, did you notice the State Highway
14 Department? You said they don't normally participate, but
15 did you send notice to them?

16 A. Well, if I may elaborate on that, we've had that
17 question come up on numerous compulsory pooling
18 applications.

19 We've talked to people at the NMDOT, and they
20 feel like they don't have anybody who can sign for the
21 proposal, so they've just taken the tack of just ignoring
22 it and let us go through this compulsory pooling hearing
23 and, you know, act like an interest owner that just doesn't
24 want to deal with it. I'm not really sure why. We've
25 talked to several people over there, over the course of

1 several years, and we prefer them to lease but they've just
2 said that, you know, they don't have anybody that they feel
3 can sign that lease in any kind of authoritative capacity,
4 so they've just basically forgotten about it. It's kind of
5 frustrating, actually, but that's kind of the tack they've
6 taken.

7 Q. But did you notice them for this case?

8 A. Yes.

9 Q. Okay, that's -- And to go back to Mr. Robbins'
10 question, do you think if you offered them a little more
11 bonus they might -- more of these people sign up, or --

12 A. Those terms are really set forth by our
13 management in Denver, as far as, you know, what we feel is
14 appropriate in the area, economic in the area, and we've
15 had really good success in leasing for, you know, certain
16 bonus terms that have been offered to everybody, you know,
17 up front, and so we feel like that's, you know, the way to
18 go.

19 Q. Will there be any -- on Mr. Robbins' property
20 will there be any surfaces damages --

21 A. No.

22 Q. -- that you know about?

23 A. No, no. No, Mr. Robbins' property won't be
24 touched with any kind of facilities.

25 Q. No wells on it or no roads built through there --

1 A. No.

2 Q. -- or anything?

3 A. No, all the wells are located well away from the
4 occupied dwellings.

5 Q. Is the well going to produce any H₂S gas?

6 A. No, we don't anticipate any.

7 Q. Is he downwind of your well?

8 A. Well, the predominating winds in San Juan County
9 are really westerly, southwesterly.

10 But Lance -- you know, we're pretty safety
11 oriented, and most of the federal permits that I've applied
12 for, we have contingencies in there for H₂S. Most of our
13 field people are all H₂S-trained, and if we detect H₂S, you
14 know, we'll shut the well in and do the appropriate thing
15 with the local NMOC Office in Aztec, but we don't
16 anticipate any H₂S.

17 Q. Are you drilling it with water?

18 A. Yeah, water and mud.

19 Q. Water/mud. No air drilling, no compressors will
20 be out there --

21 A. No. No, we've indicated to everybody in the area
22 that all our compression is in one central area that's
23 probably about -- I don't know, what? About a mile, a mile
24 and a half east of --

25 MR. ROBBINS: About a half a mile east of me.

1 THE WITNESS: Well, actually, we have one central
2 -- right there at the Y, I don't know how far that is from
3 you.

4 MR. ROBBINS: That's a mile.

5 THE WITNESS: Yeah, that's about a mile.

6 All the wells we're proposing in this area will
7 be gathered and compressed at that facility and sent up to
8 our San Juan plant, and also all the water too, so we're
9 trying to eliminate any kind of water-trucking in the area.
10 Basically, once the wells are drilled they'll just kind of
11 do their thing, and we'll have an individual truck, you
12 know, check on the well per day, but we won't have a lot of
13 truck traffic in that area. There's already enough
14 traffic, I think. We don't want to add to that.

15 Q. (By Examiner Jones) Okay, and you'll have to
16 frac the PC, right?

17 A. Yes.

18 Q. The time it's going to take you to drill is about
19 -- less than a month, right?

20 A. Oh, most of these wells are -- probably take less
21 than a week.

22 Q. So but you do charge -- go ahead and charge a
23 whole month for this, \$3500, you're requesting for the
24 COPAS?

25 A. We could probably prorate that.

1 Q. But as a matter of --

2 A. Yes.

3 Q. -- practice --

4 A. Yes.

5 Q. -- you'd normally charge at least --

6 A. Right.

7 Q. -- one month? And if it goes over, you charge
8 two months, right?

9 A. Right. These are generally -- I mean, I don't
10 know what the depth is on this, I have to look. What is
11 it, 1600 feet? 1800 feet?

12 1100 feet. You know, the Pictured Cliff, the
13 Fruitland Coal is above that, so 1100 feet, you're looking
14 at probably four days, five days with no problems.

15 EXAMINER JONES: Okay. Okay, that's all my
16 questions. Thanks a lot, Mr. Lehrman.

17 Mr. Robbins, do you want to testify?

18 MR. ROBBINS: First I have a couple of questions.

19 On the notification list I was talking to my
20 neighbors early this week, and two of them knew nothing
21 about this hearing, two of them on this list. That would
22 be -- well, Mr. Lobato for sure, and Mr. Youts didn't
23 either.

24 EXAMINER JONES: Okay, I'll consider that a
25 question to Mr. Lehrman, so Mr. Lehrman...

FURTHER EXAMINATION

BY MR. ROBBINS:

Q. Mr. Lehrman, did you get -- did you notify Sabiniano Lobato and an Alan Youts of this hearing? According to your returns back here, there's no signature on either one of theirs. Right before Exhibit 21, the page before that --

MR. KELLAHIN: Mr. Examiner, we'll check and make sure we have all the right owners either leased or notified of the hearing. However, it's not relevant to Mr. Robbins' problem.

EXAMINER JONES: The other owners are all -- But they haven't signed, though, have they --

MR. ROBBINS: No --

EXAMINER JONES: -- these people?

MR. ROBBINS: -- according to Mr. Brooks --

EXAMINER JONES: That's right, it's not relevant to your problem, but it --

MR. KELLAHIN: Well, I appreciate him sharing that with us, and we'll check on it.

EXAMINER JONES: Yeah, we'll have them definitely check on that.

MR. ROBBINS: Well, I know the Youtsess would have attended this hearing with me if they'd have been notified, so it is sort of relevant to my case, because Mr. --

1 EXAMINER JONES: Okay.

2 MR. ROBBINS: -- Kellahin said that I was the
3 only one opposed to this well in one of his letters here.

4 EXAMINER JONES: Okay, how would you go about
5 finding out if you did give notice to these people? I
6 mean, how long would it take for you to find out?

7 MR. KELLAHIN: We'll have to check with the title
8 attorneys and figure out where this interest was. Well,
9 they had actual notice from Mr. Robbins, they should have
10 come and told us they cared.

11 MR. ROBBINS: I told them yesterday, is when I
12 talked to them.

13 EXAMINER JONES: They didn't notice the -- you
14 have a notice in the paper also --

15 MR. KELLAHIN: Yes, we do.

16 EXAMINER JONES: -- newspaper, that -- legally,
17 they should have -- It's hard to read all the notices in
18 the newspaper.

19 MR. KELLAHIN: We'll deal with it accordingly,
20 Mr. Examiner.

21 EXAMINER JONES: Okay, do you want to -- Do you
22 have any more questions, Mr. Robbins?

23 MR. ROBBINS: No more questions, I guess.

24 EXAMINER JONES: For this witness?

25 MR. ROBBINS: No.

STEVEN T. BRENNER, CCR
(505) 989-9317

1 EXAMINER JONES: Okay. Thanks, Mr. Lehrman.

2 Mr. Robbins, do you want to provide some expert
3 testimony?

4 MR. ROBBINS: I'd like to go over a few things.
5 Do I need to come over there?

6 EXAMINER JONES: Yes. Okay, will you stand to be
7 sworn?

8 (Thereupon, the witness was sworn.)

9 EXAMINER JONES: Okay, first of all, can we go
10 over your background and qualify yourself as a --

11 MR. ROBBINS: -- mineral rights owner?

12 EXAMINER JONES: Yeah, there you go.

13 JAMES T. ROBBINS,
14 the witness herein, after having been first duly sworn upon
15 his oath, was examined and testified as follows:

16 DIRECT TESTIMONY

17 BY MR. ROBBINS: My name is James Thomas Robbins,
18 I'm a general contractor. I also do ski-guiding in the
19 wintertime. I own the land -- my wife and I own the land
20 at 3 County Road 6285, Kirtland, New Mexico.

21 I'm opposed to Lance leasing my mineral rights
22 because they've had a history of not telling the truth
23 about some things. In a letter here from Mr. Kellahin it
24 said that I swore at Lance's representatives, and at that
25 point in time I'd never even talked to them. Normally --

1 EXAMINER JONES: Okay, this letter is already in
2 the --

3 MR. KELLAHIN: -- exhibit book, Mr. Examiner.

4 EXAMINER JONES: -- exhibits, so -- Okay, go
5 ahead.

6 THE WITNESS: And then the first time I met with
7 Lance, I offered them my mineral rights for a final refusal
8 on well location, and they said that the only person that
9 -- the only people -- the only agency that determined well
10 location was OCD. And that's true to a point. You know,
11 you can't drill within 200 feet of a house and that sort of
12 thing. But Lance does have some say in where a well goes,
13 and they -- Paul told me that they didn't have any say at
14 all.

15 I don't like -- I wouldn't like to enter into
16 essentially a lifetime contract, which is what these
17 generally turn out to be with a company that a I can't
18 trust. If they want to enter into a contract with me, I
19 have made them an offer, and they chose to not even
20 negotiate it. Their counter-offer was the same as the
21 first offer they'd made me.

22 So I would just as soon not be compulsory pooled,
23 and I would not like to be in any contract with Lance at
24 all.

25 EXAMINER JONES: Okay, Mr. Kellahin, do you want

1 to ask Mr. Robbins any questions?

2 CROSS-EXAMINATION

3 BY MR. KELLAHIN:

4 Q. Well, for clarification, Mr. Robbins, what is it
5 that you expect Mr. Jones to do, the Hearing Examiner?
6 What do you want him to do?

7 A. I would like him not to put me in a compulsory
8 pooling, I would like to exclude this section from
9 drilling, or I would like to --

10 Q. You mean exclude your tract?

11 A. That would be fine, yeah.

12 Q. You want to opt out of this spacing unit?

13 A. I would like to, yeah.

14 Q. So what then happens to your interest?

15 A. I'd retain it.

16 Q. Well, how would you share in any production
17 that's associated with the spacing unit in which your
18 property has an interest?

19 A. There would be no drilling on my spacing unit.

20 Q. Well, there is not under this proposal.

21 A. Excuse me?

22 Q. Under this proposal the well is not to be located
23 on your tract.

24 A. But it's in my drilling -- I own no interest in
25 that drilling unit, that 160-acre drilling unit.

1 Q. I understand that, I understand that. It would
2 not be drilled physically on your property.

3 A. And what difference does that make?

4 Q. We're trying to share the production with your
5 tract. As the owner of the tract you're entitled, if you
6 desire to have it, to have an opportunity to share in the
7 production that's associated with your tract. Are you
8 telling me you don't want to share?

9 A. I don't want to share -- I don't want to enter
10 into any agreement with Lance, and I would like to see no
11 wells drilled by Lance in that production unit. I have
12 offers from two other drilling companies for my mineral
13 rights at this time.

14 Q. What is the status of those offers? Have they
15 executed those?

16 A. Pending this hearing.

17 Q. You realize that subsequent to the hearing you
18 may still transfer your interest to another interest owner?

19 A. I understand that.

20 Q. And then have that party associated with this
21 well deal with Lance under the terms that they choose to
22 deal?

23 A. That still makes me involved with Lance.

24 MR. KELLAHIN: Well, no more questions, Mr.
25 Examiner.

1 EXAMINER JONES: Okay, I have no further
2 questions for Mr. Robbins, but thank you for coming. And
3 you may be excused.

4 So anything more in this case?

5 MR. KELLAHIN: Other than to respond to Mr.
6 Robbins. It's our preference to have his interest pooled
7 pursuant to the Oil Conservation Division pooling
8 procedures. We have done our best to comply very carefully
9 with that process, we have met with him, we're simply at a
10 difference of opinion about what's to happen. And in this
11 circumstance, then, the statute requires the Division to
12 issue a pooling order, and we would like it done
13 accordingly.

14 EXAMINER JONES: Okay, thank you --

15 MR. KELLAHIN: Thank you.

16 EXAMINER JONES: -- Mr. Kellahin, thank you, Mr.
17 Robbins.

18 With that, we'll take Case 13,437 under
19 advisement.

20 (Thereupon, these proceedings were concluded at
21 9:55 a.m.)

22 I do hereby certify that the foregoing is
23 * * * a complete record of the proceedings in
24 the Examiner hearing of Case No. _____
25 heard by me on _____

_____, 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 April 11th, 2005.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006