

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

ORIGINAL

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

CASE NO. 14807

APPLICATION OF BURGUNDY OIL & GAS OF
NEW MEXICO FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

DOCKET NO. 13-12

BEFORE: RICHARD EZEANYIM, Hearing Officer
DAVID K. BROOKS, Legal Examiner

APRIL 26, 2012

1:39 PM

Santa Fe, New Mexico

This matter came on for hearing before the
New Mexico Oil Conservation Division, RICHARD EZEANYIM,
Hearing Examiner, and DAVID K. BROOKS, Legal Examiner,
on THURSDAY, APRIL 26, 2012, at the New Mexico Energy,
Minerals and Natural Resources Department, 1220 South
Street Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Lisa Reinicke
PAUL BACA PROFESSIONAL COURT REPORTERS
500 Fourth Street, NW, Suite 105
Albuquerque, NM 87102

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A P P E A R A N C E S

For Burgundy Oil & Gas of New Mexico:

HOLLAND & HART
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421
By: Adam Rankin

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1 MR. EXAMINER: Let's go back on the record.
2 Good afternoon. At this point I think the next case to
3 call is case number 14807.

4 MR. RANKIN: That is correct.

5 MR. EXAMINER: This is the application of
6 Burgundy Oil & Gas of New Mexico, Inc. for compulsory
7 pooling in Lea County, New Mexico.

8 Call for appearances.

9 MR. RANKIN: Mr. Examiner, Adam Rankin with
10 Holland & Hart in Santa Fe on behalf of Burgundy Oil &
11 Gan of New Mexico. I have one witness.

12 MR. EXAMINER: Any other appearances?

13 May the witness stand up and be sworn, please.
14 State your name.

15 MR. STATTON: Bob Statton.

16 [Whereupon the witness was duly sworn.]

17 MR. EXAMINER: Mr. Rankin, please proceed.

18 MR. RANKIN: Thank you, Mr. Examiner. I
19 call my first witness, Mr. Bob Statton.

20 ROBERT STATTON

21 after having been first duly sworn under oath,
22 was questioned and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. RANKIN:

25 Q. Mr. Statton, for the record can you please state

1 your full name, where you live, and by whom you are
2 employed.

3 A. Richard Robert Statton. I live in Midland, and
4 I'm employed by Burgundy Oil & Gas of New Mexico.

5 Q. And what is your current position and your
6 responsibilities with the Burgundy?

7 A. Reservoir engineer. And my responsibilities
8 include primarily acquisitions and evaluating our
9 existing production for the AF site.

10 Q. And have you previously testified before the Oil
11 Conservation Division?

12 A. I have not. This is the first time.

13 Q. Will you please review for the Examiners your
14 educational and work experience?

15 A. Sure. I graduated from Texas ANM, BS in
16 petroleum engineering in 1979, and worked for a couple
17 of reservoir engineering consulting groups HJ Greery out
18 of Los Colinas and then Osburn in Midland before being
19 one of the cofounders for Burgundy.

20 Q. And so Burgundy operates for a number of
21 properties in Southeast New Mexico?

22 A. We operation about 100 wells.

23 Q. And are you familiar with the application that's
24 filed in this case?

25 A. I am.

1 Q. All too familiar?

2 A. Pretty well.

3 Q. Now, have you prepared exhibits for presentation
4 at today's hearing?

5 A. I have.

6 MR. RANKIN: Mr. Examiner, I would move to
7 tender Mr. Statton as an expert petroleum engineer.

8 MR. EXAMINER: He is so qualified.

9 MR. RANKIN: Thank you, Mr. Examiner.

10 Q. (By Mr. Rankin) Turning to Exhibit Number 1,
11 Mr. Statton, can you please review for the Examiners
12 what this map shows?

13 A. Sure. This map represents oil producers and the
14 Paddock, Lovington Paddock Field, Lea County,
15 New Mexico.

16 MR. EXAMINER: Which map are we looking at?

17 MR. STATTON: I'm sorry, this is Exhibit 1.
18 It should say at the top, Mr. Examiner, Paddock Oil
19 Producers - Lovington Field. I think that's the one
20 that you're looking at.

21 MR. EXAMINER: Yeah.

22 A. This map came off of IHS Energy, and I didn't do
23 a whole lot more after I printed it off. Anyway, the
24 well in question here is the Home State Number 1 well,
25 which is in section 28 of 16 south 37 east. And if you

1 notice, there's a legend down here, but then because
2 these dots are rather small, anything that's a black dot
3 is either shut in, TAed or plugged. Anything that's a
4 green dot is a producing oil well.

5 Q. (By Mr. Rankin) Mr. Statton, can you please
6 state for the Examiners what it is that Burgundy is
7 requesting in this application.

8 A. We're requesting that we can pool all the
9 interests from the surface to the base of the Paddock
10 formation to create a standard 40-acre oil proration
11 unit, which is unit letter M, section 2816 south,
12 37 east. And this is to be dedicated to the existing
13 well, the Home State Number 1, at a standard well
14 location of 660 from the south and east lines.

15 Q. And, Mr. Statton, there's an API already assigned
16 to that well; is that correct?

17 A. That's correct. It's 3002505343.

18 Q. Now, is there a defined pool which this well is
19 subject to?

20 A. It's in the Lovington Paddock Pool, which is
21 about five miles southeast of Lovington.

22 Q. Now, Mr. Statton, there's a long history to this
23 well, but would you mind briefly stating for the
24 Examiners, as briefly as you can, the history of this
25 well and how Burgundy came to acquire it?

1 A. Sure. This well was actually drilled in 1953 by
2 Shell. It was a dry hole. In 1998 an operator named
3 Fortune Exploration reentered the well in order to drill
4 a horizontal to test the strawn. And they weren't
5 successful in their horizontal completion, but as they
6 were coming back up out of the hole they decided to test
7 the Paddock and made a well. So that well started
8 producing about 1998 and quit producing in September of
9 2009.

10 Q. Now, that's demonstrated in Exhibit Number 2; is
11 that correct?

12 A. That's correct. That's the production decline
13 curve for the Home State Well Number 1. And I probably
14 should point out in case everybody is not familiar with
15 the nomenclature, but if you look up in the right-hand
16 corner of the graph is the operator of the well, then
17 the well name, the lease ID, an API number. NSP is the
18 nomenclature for Cumulative Oil Production. And you can
19 see that it's made 27,000 barrels, more or less, and the
20 gas production is about 21 million cubic feet, and water
21 production is 17,000 barrel.

22 The first production, FPD is April 1998 and the
23 last production date was September of 2009. To further
24 define it, if you look at the graph with all the symbols
25 the green dots is daily oil production, the red line is

1 gas production, the upside down blue triangle is water
2 production.

3 Q. Now, you've also got a chart, which was not part
4 of this packet but it's designated as 2A; is that
5 correct?

6 A. That's correct. It's a wellbore schematic, and
7 it shows the existing condition of the wellbore. As you
8 might be able to see down here there's some perforations
9 above the cast plug which is located at 11,155 feet.
10 The perforations from the Paddock at 6277 to 94, and
11 those perms were added by Fortune in April of 1998.

12 What we did three years ago is we approached in
13 an unsolicited matter the operator to try to buy this
14 well. That would have been about August of 2009. And
15 back and forth we went in the possibility of us actually
16 acquiring the well. We finally came to a point after
17 about three or four months that he verbally said, yeah,
18 we'll do it. So an attorney in Midland suggested, of
19 course wisely, that we do some due diligence and check
20 the Lea County clerk's office to make sure that
21 everything was as he said it was, the working interest
22 and et cetera, that revenue he was representing.

23 And that all looked good the best we could tell
24 from the records except that there were several liens,
25 several mechanical liens, as we found out from the bank.

1 And so conversations over the next few months went to,
2 with his permission, to the bank where we could try to
3 negotiate a deal with the bank to buy this well. And in
4 September of 2009 we still hadn't gotten anything done.
5 The oil quit producing.

6 We were still interested in trying to go into
7 this well and try to establish production in the
8 Paddock. So we continued to negotiate with the bank.
9 And as most things go, we went back and forth on what
10 they wanted and what we were willing to pay, and finally
11 after a period of time we had a letter of agreement that
12 said, okay, if we can get 85 percent of all the mineral
13 owners signed up, because this thing had gone past the
14 expiration of when the well was shut in, it went back to
15 their owners, then we'll make a deal with you. So it
16 was kind of if this happens then that. So at that point
17 we went ahead and decided to pursue trying to lease the
18 minerals.

19 Q. At that point, Mr. Statton, you discovered that
20 there were numerous interests in the well, in the
21 40-acre unit.

22 A. Yes.

23 Q. But you nonetheless closed on the wellbore, is
24 that correct, in March of 2012?

25 A. We did close on the purchase of the wellbore and

1 the production facilities.

2 Q. And so in the end the well had been in production
3 for 11 years and has been shut in since December of
4 2009?

5 A. Correct.

6 Q. Now turn to Exhibit Number 3, this is a change of
7 operator form indicating that Burgundy Oil & Gas of
8 New Mexico is now the current operator of the Home State
9 Number 1 well; is that right?

10 A. That's right.

11 Q. And so, Mr. Statton, Burgundy now has the full
12 responsibility for this wellbore and has the well bonds
13 in place to cover the wells; is that correct?

14 A. Yes, sir, we have both the blanket bond and a
15 single well bond in place.

16 Q. So up until this time, Mr. Statton, had the well
17 had a bond in place under the prior operator?

18 A. No, it did not. The prior operator did not have
19 a bond in place and so the condition from the OCD was to
20 say, well, if there's going to be a change of operator
21 there has to be a plugging bond, so we decided to go
22 ahead and --

23 Q. So until Burgundy acquired the wellbore this
24 well, which had been shut in for a number of years, was
25 a candidate to be an open well; is that correct?

1 A. That's correct, to be plugged by the state.

2 Q. Now, Mr. Statton, was there ever a pooling order
3 in place under the prior operator?

4 A. No, there was not.

5 Q. Was there a prior joint operating agreement in
6 place?

7 A. No, there was not.

8 Q. Turn to Exhibits 4 and 5, Mr. Statton. These are
9 lists of the mineral interests that you've been able to
10 identify; is that correct?

11 A. That's correct.

12 Q. Mr. Statton, can you please quickly review for
13 the Examiners how this list of mineral interest owners
14 came to be combined?

15 A. Sure. You bet. When we went and got the land
16 files from the operator when we started making this deal
17 happen on the wellbore we found some correspondence that
18 stated that there had been a title opinion done by the
19 law firm of Davis, Hill & Kramer back in April of 1995.
20 So we inquired of the firm with permission of the
21 operator to see if we could secure some information as
22 to who was listed as to the mineral interest owners.
23 And low and behold we found out there were close to 200
24 interest owners back in 1995.

25 We had to make a decision at that point. A lot

1 of it had to do with are these interests spread out
2 evenly amongst those 200 owners or is it a graduated
3 deal. And of course it turned out there's 90 percent
4 that own 10 and 10 that own 90 -- you know, in one way
5 of looking at it. So we decided because there were
6 about 80 parties comprising 95 of the interest to start
7 with them to see if we could get an oil and gas lease.
8 If they didn't want to lease to us then there was no
9 reason to go ahead and close on the wellbore. We didn't
10 want to get stuck with that.

11 Q. So in comprising this list, Exhibit 4 represents
12 95.5 percent of the interests?

13 A. That is correct.

14 Q. And Exhibit 5 represents the 4.5 percent?

15 A. That's right.

16 Q. And if you go up this list you're working off of
17 the 1995 title opinion; is that right?

18 A. That's correct.

19 Q. And what you did was then to update that title
20 opinion, is that correct, through county records?

21 A. Right. What we did was we contracted with Tierra
22 Land Surface in Midland, and they went about updating
23 from '95 to now any changes that there might have been
24 in these mineral owners as far as who owned what. And
25 then they also were the ones that went out and started

1 making phone calls and writing letters to inquire as to
2 anybody's interest in securing oil and gas leases for
3 us.

4 Q. So we'll get to that in a moment, Mr. Statton.
5 But as a result of this work, this land work, you
6 identified that there are 81 interests who were
7 unlocatable and who did not have a current address of
8 record; is that correct?

9 A. That is correct.

10 Q. And they represent approximately what percentage
11 of the total mineral interest?

12 A. They represent about 2.9 percent. And to date
13 we've secured 77 oil and gas leases that represent about
14 86.4 of the mineral interest ownership.

15 Q. And now, Mr. Statton, that leaves approximately,
16 if I'm doing my math right, there's approximately a
17 total of 38 interests who are uncommitted to the
18 property, is that right, to the well rather?

19 A. That's correct. That's correct.

20 Q. And of those 38, that's a total of 10.7 percent;
21 is that right?

22 A. That's right.

23 Q. And of those 38 approximately 11, you anticipate
24 being able to reach agreement with?

25 A. We believe that they'll eventually sign an oil

1 and gas lease. They've indicated verbally they will.
2 They just haven't gotten back to us.

3 Q. And those 11 represent approximately what
4 percent?

5 A. They represent about 6.5 percent of the total
6 mineral interests.

7 Q. So you've got approximately 77 mineral interests
8 leased?

9 A. Right.

10 Q. Which represent 86.4 percent, and another 11 you
11 believe that you believe you will be able to get?

12 A. Right.

13 Q. Which represents 6.5 percent?

14 A. Yes, sir.

15 Q. And that leaves approximately --

16 A. That leaves about, oh, 7 percent that we don't
17 think, either because we couldn't find them or because
18 we just haven't gotten any response from them, that
19 we'll be able to get leases from.

20 Q. Now, Mr. Statton, for those people who you were
21 able to locate who had current addresses of record,
22 could you please briefly explain for the Examiners what
23 you did to try to get their voluntary agreement?

24 A. Sure. Well, we contacted them by phone and
25 explained in detail what our plans were just to put this

1 well back on production and establish, you know, cash
2 flow again. And then we followed that up by -- and,
3 again, this was done by Tierra Land primarily. We
4 followed that up with written correspondence being more
5 specific as to the plans and the timing of what we were
6 going to try to execute.

7 Q. And so Exhibit Number 6, Mr. Statton, that's a
8 sample letter of the proposal for a lease that you sent
9 out to all the mineral interests?

10 A. That's correct.

11 Q. Is that correct?

12 A. It is.

13 Q. And Exhibit 7 is a copy of the AFE that was
14 included with that?

15 A. That's right.

16 Q. Mr. Statton, are the costs that are included in
17 the AFE commensurate with well costs that Burgundy has
18 incurred in other wells in the area?

19 A. They are.

20 Q. Now, in your opinion, Mr. Statton, have you made
21 a good faith effort to obtain a voluntary agreement of
22 all the interests in this 40-acre unit?

23 A. Yes, sir.

24 Q. And to locate all interests within the address of
25 record?

1 A. We have.

2 Q. Has Burgundy also made an estimate of the
3 overhead and administrative costs while reentering the
4 well and also while producing this well?

5 A. Yes. We've estimated the cost to reenter the
6 well for supervision at \$750 a day for four days. And
7 then as far as overhead, it's \$600 a month.

8 Q. Now, are these costs also commensurate with what
9 Burgundy and other operators in the area have incurred?

10 A. Yes, sir.

11 Q. Now, does Burgundy request these figures be
12 incorporated into any order that results from the
13 hearing and that these overhead and administrative costs
14 be adjusted in accordance with COPAS accounting
15 procedures?

16 A. We do.

17 Q. Does Burgundy also request, in accordance with
18 Division rules, a charge for risk at 200 percent be
19 assessed against all admitted interests at the time of
20 the order?

21 A. We do.

22 Q. Now, Mr. Statton, are you still undertaking
23 negotiations? I think you indicated previously that you
24 were, that you believe you've got additional leases?

25 A. We're trying to get everybody that's expressed

1 interest that we've had either phone conversations with
2 or they've written a few letters back to go ahead and
3 lease to us.

4 Q. Mr. Statton, Exhibit Number 8 is a copy of the
5 affidavit filed by or prepared by your attorney
6 indicating that we followed the Division rules for
7 providing notice; is that correct?

8 A. Yes, sir.

9 Q. And if you turn to the page of that affidavit
10 you'll see a list of all -- let's see, two sets of all
11 the interests who were notified.

12 A. That's correct.

13 Q. And Exhibit Number 9, Mr. Statton, this is a copy
14 of the legal ad that ran in the Lovington Reader; is
15 that right?

16 A. Yes, sir.

17 Q. And in this advertisement you've listed all 81
18 names of mineral interests who did not have an address
19 of record who you were not able to locate; is that
20 correct?

21 A. Correct.

22 Q. Thank you, Mr. Statton. Were Exhibits 1 through
23 9, Mr. Statton, prepared by you or under your direction?

24 A. Yes, sir.

25 MR. RANKIN: Mr. Examiner, I'd like to move

1 to admit Exhibits 1 through 9.

2 MR. EXAMINER: Exhibits 1 through 9 will be
3 admitted.

4 [Exhibits 1 through 9 admitted.]

5 MR. RANKIN: I have no further questions.

6 EXAMINER BROOKS: No questions.

7 MR. EXAMINER: Can you repeat the API number
8 for that well to make sure I get it right?

9 MR. STATTON: Yes, sir. 3002505343.

10 MR. EXAMINER: Okay. Let's go to the
11 overhead rates. You said the completion would be what?

12 MR. STATTON: \$750 a day. We think it's
13 going to take four days to prepare the well.

14 MR. EXAMINER: 750. And your rate, is that
15 600 a month?

16 MR. STATTON: 600 a month, yes, sir.

17 MR. EXAMINER: So there would be need to
18 have an escrow.

19 MR. RANKIN: That's correct, right.

20 MR. EXAMINER: What is the status of the
21 well right now?

22 MR. STATTON: It's shut in.

23 MR. EXAMINER: Have you completed it to the
24 Paddock?

25 MR. STATTON: Well, we're not doing

1 anything --

2 MR. EXAMINER: Until you get the order?

3 MR. STATTON: Until we get the order. We've
4 done some preliminary work to get electricity ready to
5 be hooked up and just cleaning up some areas. Fixed a
6 heater treater that needed to be fixed. But we're just
7 waiting on the hearing.

8 MR. EXAMINER: Are you sure the Paddock will
9 be productive in this well?

10 MR. STATTON: I'm sorry?

11 MR. EXAMINER: Are you sure the Paddock will
12 be productive in this well? What did you do to --

13 MR. STATTON: Oh, to get it back?

14 MR. EXAMINER: No. You are going to go to
15 the Paddock to complete it?

16 MR. STATTON: Yes, sir.

17 MR. EXAMINER: Okay. How are you sure
18 you're going to get some production out of this Paddock?

19 MR. STATTON: Well, we're hoping that we go
20 back in and have to maybe use a little bit of mud acid
21 to bring it back on. But we're not sure until we get
22 back into the well. You know, we're not working on it
23 until we get all this cleaned up.

24 MR. EXAMINER: Oh, okay. Nothing further.

25 MR. RANKIN: Nothing further from me.

1 MR. EXAMINER: Thank you. You may step
2 down.

3 At this point 14807 will be taken under
4 advisement.

5 [Case 14807 taken under advisement.]

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 14807
heard by me on 11/2/12
Oil Conservation Division, Examiner

REPORTER'S CERTIFICATE

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I, Lisa Reinicke, New Mexico Provisional Reporter, License #P-405, working under the direction and direct supervision of Paul Baca, New Mexico CCR License #112, Official Court Reporter for the US District Court, District of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

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

Lisa R. Reinicke
Lisa R. Reinicke,
Provisional License P-405
License expires: 8/21/2012

Ex count :