

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:

APPLICATION OF BURLINGTON RESOURCES OIL Case 14927
& GAS COMPANY, LP, FOR THE ESTABLISHMENT OF
A DOWNHOLE COMMINGLING REFERENCE CASE FOR ITS
SAN JUAN 29-4 UNIT, RIO ARriba COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Presiding Examiner
DAVID K. BROOKS, Legal Examiner

November 29, 2012

Santa Fe, New Mexico

This matter came on for hearing before the
New Mexico Oil Conservation Division, RICHARD EZEANYIM,
Presiding Examiner, and DAVID K. BROOKS, Legal Examiner,
on Thursday, November 29, 2012, at the New Mexico Energy,
Minerals and Natural Resources Department, 1220 South St.
Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
Paul Baca Professional Court Reporters
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A P P E A R A N C E S

FOR THE APPLICANT:

KELLAHIN & KELLAHIN
W. THOMAS KELLAHIN, ESQ.
706 Gonzales Road
Santa Fe, New Mexico 87501
(505)982-4285

WITNESSES:

PAGE

Charles E. Creekmore:

Direct examination by Mr. Kellahin
Examination by Examiner Ezeanyim

4
17

INDEX

PAGE

EXHIBIT BOOK WITH TABS 1 THROUGH 12 WAS
ADMITTED

17

REPORTER'S CERTIFICATE

21

1 EXAMINER EZEANYIM: The next case on the
2 docket is Case 14927. And this is the application of
3 Burlington Resources Oil & Gas Company, LP, for the
4 establishment of a downhole commingling reference case
5 for its San Juan 29-4 Unit, Rio Arriba County, New
6 Mexico.

7 Call for appearances.

8 MR. KELLAHIN: Mr. Examiner, I'm Tom
9 Kellahin, of the Santa Fe law firm of Kellahin &
10 Kellahin, appearing this morning on behalf of Burlington
11 Resources. I have one witness, Mr. Chuck Creekmore.

12 EXAMINER EZEANYIM: Any other appearances?

13 May the witness stand up, state your name and
14 then be sworn in, please?

15 MR. CREEKMORE: I'm Charles Creekmore. I
16 work for ConocoPhillips and also Burlington Resources.

17 (One witness sworn.)

18 EXAMINER EZEANYIM: Mr. Kellahin?

19 MR. KELLAHIN: Thank you, Mr. Examiner.

20 Briefly, the San Juan 29-4 Unit is a case for
21 deleting the notice obligation for the participants in
22 that unit. It has been separated out from the subsequent
23 case you're about to hear. There's a package of 14 units
24 in the next case.

25 This one is different, in that it doesn't have

1 an underlying order that exempted notice in the Dakota
2 and Mesaverde. In the second case we're going to present
3 by Mr. Creekmore, those 14 have already been exempted
4 from notice in Dakota and Mesaverde. He's seeking, in
5 that case, to exempt notice in that case for Mancos.

6 EXAMINER EZEANYIM: Let me understand what
7 you're saying. In this case, you've got exemptions for
8 all the criteria for downhole commingling?

9 MR. KELLAHIN: Yes, sir. ✓

10 EXAMINER EZEANYIM: Except the notice
11 requirement?

12 MR. KELLAHIN: Right. ✓

13 EXAMINER EZEANYIM: So you are here to
14 tell us why the notice requirement should be removed?

15 MR. KELLAHIN: Right.

16 EXAMINER EZEANYIM: All right. Go ahead.

17 CHARLES E. CREEKMORE

18 Having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. KELLAHIN:

21 Q. Mr. Creekmore, for the record, would you
22 please state your name and occupation?

23 A. Charles Creekmore. I'm a landman with
24 ConocoPhillips and Burlington Resources.

25 Q. Where do you reside, sir?

1 A. In Farmington, New Mexico.

2 Q. Have you testified on prior occasions before
3 the Division?

4 A. Yes.

5 Q. Have you had your qualifications as an expert
6 petroleum landman accepted and made a matter of record?

7 A. Yes, I have.

8 Q. Have you been the landman in charge of this
9 particular operation with regard to the application?

10 A. Yes, I have.

11 Q. Is the work product we're about to look at
12 work product that has been generated by you or under your
13 direction?

14 A. Yes, it is.

15 Q. Are the orders and references to the Division
16 actions, to best of your knowledge, true and accurate?

17 A. Yes.

18 MR. KELLAHIN: Mr. Examiner, we tender
19 Mr. Creekmore as an expert petroleum landman.

20 EXAMINER EZEANYIM: Mr. Creekmore is so
21 qualified.

22 Q. (By Mr. Kellahin) Mr. Creekmore, let's turn
23 to the exhibit book. And let's start with Tab 1, sir.

24 A. This is the application that was filed, and it
25 was also mailed to the owners in this particular unit.

1 Q. Summarize for the Examiner and Mr. Brooks what
2 it is that you're trying to accomplish with this
3 application.

4 A. We were required to give notice when we have
5 downhole commingling, which, on a drill-block basis, is
6 not necessarily a problem, as far as mailing out a large
7 number of notices. But when you get into units, they
8 have participating areas that -- you initially develop
9 your well on a drill-block basis. But once it is
10 determined to be commercial and the tract is commercial,
11 it goes into a producing area or what we call a PA.

12 And when they go into a PA, you have an
13 undivided interest, and a larger number of owners are in
14 that PA. And not necessarily in this unit, but in some
15 of the units, we have between 350 and 500 owners that we
16 have to send notice out to.

17 Now, we previously received exemptions in most
18 of our units for the Mesaverde and Dakota. But now that
19 we've added the Mancos and have come to hearing and
20 received preapproval for downhole commingling with the
21 Mancos, now that we're adding the Mancos, we also would
22 request an exemption from having to mail out notice every
23 time we do a commingled well.

24 In the San Juan Basin, many of the wells are
25 not economic unless you do have commingling of the

1 separate reservoirs to make the well economic.

2 Q. In terms of an overall plan, is it your
3 company's practice to take existing Mesaverde and Dakota
4 wells that are currently commingled and now add the
5 Mancos to those wells?

6 A. Now that the OCD Aztec office actually brought
7 a case that put the Mancos in -- gave the Mancos the same
8 spacing, so it makes it a lot -- you can add the Mancos,
9 which was previously behind pipe, to your Mesaverde and
10 Dakota well, it simplified the process because it gave
11 the same spacing and density to the Basin Mancos as was
12 previously established for the Dakota and the Mesaverde.

13 Q. Why have you broken out the San Juan 29-4 Unit
14 to be filed as a separate application before the Examiner
15 this morning?

16 A. Unlike many of our other units, the Basin
17 Dakota and the Blanco Mesaverde previously received
18 exemption from sending out notice, and I also had
19 preapproval for downhole commingling. This unit did not
20 have that exemption for the Mesaverde and the Dakota. So
21 we're asking, in addition to the Mancos, that the
22 Mesaverde and Dakota be allowed to be exempt from sending
23 notice every time we do a commingled well.

24 Q. Am I correct in understanding, for this unit,
25 there is underlying preapproval for commingling on all

1 the criteria for Dakota, Mesaverde and now Mancos?

2 A. Yes.

3 Q. So the only component of this exercise in
4 filing a commingle application form is to ask the
5 Division to remove the administrative burden of sending
6 notice to the parties?

7 A. Yes. Within the unit boundaries, yes, sir.

8 EXAMINER EZEANYIM: That's one of the
9 questions -- when I was looking at this application, I
10 said, "Why do you need to make it Number 15, instead of
11 making it exhibit" -- you asked one of my questions here.
12 Why did you separate it out? So you get a good answer,
13 why you separate it out.

14 In the other one, I think you wanted to add
15 the Mancos or something.

16 MR. KELLAHIN: That's right.

17 EXAMINER EZEANYIM: Mainly because you
18 want to be removed from notice requirements; right?

19 THE WITNESS: Yes.

20 EXAMINER EZEANYIM: Okay.

21 Q. In doing both of these cases, Mr. Creekmore,
22 have you or your company received objections to having
23 the notice obligation removed from the process?

24 A. This one had no objections. And I had three
25 telephone inquiries. But once I described what we were

1 doing, that went away. The other --

2 Q. We'll talk about that later.

3 So for this unit then, with your technical
4 people filing a commingling application, they still need
5 to get the Division's approval in Aztec for the
6 comminglings and following the information that's on
7 record for these units for the commingling process?

8 A. Yes.

9 Q. What you're asking is not to have to send that
10 form to all the parties that will have an interest in the
11 well?

12 A. Correct.

13 Q. Let's turn to Exhibit Number 2 now, Tab 2, in
14 the exhibit book and have you describe what this is.

15 A. This is the new process that the Post Office
16 does, where they track your green cards and then keep
17 track of them. So they don't send your green cards back
18 now. It simplifies the process, and they track your
19 mailing of notice.

20 EXAMINER EZEANYIM: They track it online?

21 THE WITNESS: They track it online and
22 then provide this printout to us, so that we can supply
23 it to you.

24 EXAMINER EZEANYIM: Okay.

25 Q. (By Mr. Kellahin) Describe for me how you go

1 about generating an accurate notice list for this unit.

2 How did you do it?

3 A. First of all, we go through Exhibit B to the
4 Unit Agreement, which are all the lessees of record and
5 the current working interest owners. And then then we go
6 to the revenue decks for the royalty and overriding
7 royalty owners, if they're on pay. And if they're not on
8 pay, we go to the lease files themselves and get who the
9 current owners are out of the lease files.

10 Mostly, in these units, they're on pay. So
11 the most -- the pay decks are the most current
12 information we have on who the owners are.

13 Q. To the best of your knowledge, your notice
14 efforts have been complete and accurate?

15 A. Yes.

16 Q. And you timely sent the notices as required by
17 Division rules, so the parties had their applications
18 sent to them within a larger period of time than 20 days?

19 A. Yes.

20 Q. Let's turn to Tab 3, if you will, please.

21 A. (Witness complies.)

22 Q. Tab 3 is your map?

23 A. Yes.

24 Q. I find this difficult. Can you summarize for
25 the Examiner how we have a unit that looks like this?

1 A. This is one of the more unusual-looking units
2 that we have. It followed the same criteria as most of
3 the township units. Many of the township units have the
4 entire township in the unit. But it went through the
5 same qualification method, and only these tracts
6 qualified for the unit. But the unit was established,
7 based on this outline that you see here under Tab 3.

8 Q. Let's talk for a moment and see if we can put
9 this in better perspective. If you'll turn now to Tab
10 12, there's a double pullout. Will you pull out those
11 maps and see if we can use this to further explain the
12 configuration of the tracts in the unit?

13 A. Yes. Here's a better description of the
14 tracts. As you can see, they all received tract numbers.
15 And many of the tracts -- I think the highest tract
16 number we have is 15, so many of the tracts between 1 and
17 15 didn't qualify. But those that qualified were put in
18 the unit.

19 And then the second page shows -- there is the
20 PA or the participating area that I described before.
21 And the tracts in yellow are in a participating area, so
22 all of the tracts were developed on a drill-block basis.

23 EXAMINER EZEANYIM: Go back to qualified.
24 What do you mean by, "they didn't qualify"? What are you
25 talking about?

1 Q. (By Mr. Kellahin) Go back to the last foldout
2 with the yellow. If you'll find the east half of Section
3 18, do you see that one?

4 A. Yes.

5 Q. Use that as an illustrator. If you're going
6 to put a well in there, that drill-block would be the
7 equivalent of a spacing unit?

8 A. Yes.

9 Q. Explain to Examiner Ezeanyim what occurs at
10 that point.

11 A. When this well passes the commerciality test
12 and it goes to the BLM and the BLM determines that it
13 should be part of the participating area, then it goes
14 into the participating area. And at that time, all of
15 the tracts in yellow have an undivided interest in the
16 yellow area.

17 Now, the other tracts that are in white, that
18 aren't in yellow, are still to be developed on an
19 individual drill-block basis. But they have the
20 opportunity, once they are determined to be commercial,
21 to be also put in the undivided area.

22 The goal is to put as much in the
23 participating area as you possibly can. That's what
24 you're trying to do, is develop it systematically and
25 then have it all part of a participating area.

1 Q. These are long-established procedures with the
2 BLM and the operators on how this mechanism works?

3 A. Yes.

4 Q. Let's go through the series of attachments to
5 the exhibit book. Look at Tab 4, and summarize for the
6 Examiner the research you've done on the various
7 applicable Division orders for this case.

8 A. Tab 4 is Case Number 14133. And it resulted
9 in a ruling, 12984, which was brought by Steve Hayden,
10 who is the geologist in Aztec for the OCD, to establish
11 the Basin Mancos Pool. And that was again done in 2008.

12 Q. As part of that order, did the Division at
13 this time approve downhole commingling for the pool?

14 A. No.

15 Q. Was that subsequently done later?

16 A. Yes. Under Tab 5, ConocoPhillips -- we
17 brought a case before the Division and were successful in
18 getting downhole commingling. That was Case 14862, and
19 then Rule 12984-B. We were successful in getting
20 preapproval for downhole commingling in the Basin Mancos.

21 Q. This is the mechanism in the Mancos that
22 satisfies these other criteria of pressure differential
23 values and all those things?

24 A. Yes.

25 Q. Turn to Tab 6 now, and show us what we see

1 behind Tab 6.

2 A. It's just a spreadsheet showing most of the
3 units that we operate in the San Juan Basin. And as you
4 can see, there's a dividing line. And down below that
5 under "Unit Name," you'll see the San Juan 29-4. And
6 again, even though it's a township name, there are only
7 six and a half sections. And it does not have
8 preapproval exemption from notice in the Mesaverde,
9 Dakota and Mancos, like we were advising you earlier.

10 Q. This is your master spreadsheet for all your
11 units, and this applies only to the notice component of
12 the process?

13 A. Yes.

14 Q. And the entry we're talking about for this
15 case is in the second block down, the block of the four
16 isolated -- it's the top line of that lower block?

17 A. Yes.

18 Q. Has your research shown that the Division has
19 approved for other operators what you're seeking to do in
20 this unit?

21 A. Yes. I put a couple of cases in there. One
22 is under Tab 7, where Williams Production Company, now
23 WPX, in their Rosa Unit, received an exemption from
24 giving notice. That's under Order Number R-12991. Then
25 under Tab 8, I supplied XTO Energy, under R-12984-A,

1 received an exemption from having to give notice.

2 Q. What have you included behind Tab 9?

3 A. This is the order that -- this is the
4 preapproval order.

5 Q. When we look at the preapproval order, the
6 Division, at this time, was still using the naming of the
7 rule by 303.C?

8 If you turn the page and look at the
9 attachment, can you do what Mr. Ezeanyim was requesting,
10 get the actual current rule number that's associated with
11 these activities?

12 A. Yes. I put that under Tab 10.

13 Q. And then after Tab 9, Tab 10 again is the
14 rules using the current numbers?

15 A. Yes.

16 Q. And then finally, the last exhibit that we're
17 discussing is the one behind Exhibit Number 11. What do
18 we have here?

19 A. That is where we received an order, 13574,
20 this year in regard to preapproval for downhole
21 commingling with the Basin Mancos and the Mesaverde and
22 Dakota.

23 Q. Let's visit this for a moment. Remind
24 Mr. Brooks and Mr. Ezeanyim of what happens when you file
25 an application, send notice, and there's a party that

1 enters an objection. That's an example in this case;
2 right? That's what happened here?

3 A. Yes. I'm sorry. We went over that earlier.

4 In this case, a woman filed an objection to
5 our application, and we had to respond to it in hearing.
6 And she never showed up at the hearing, but we had to
7 come to the hearing. We had to send a landman, geologist
8 and engineer to justify our downhole commingling. And so
9 we went to a great deal of expense. And she didn't show
10 up once she filed this objection when we sent out the
11 notice

12 EXAMINER EZEANYIM: Objection for what?
13 What was she objecting to?

14 THE WITNESS: She just -- I forgot exactly
15 what she said. But she just objected to us doing it.

16 EXAMINER EZEANYIM: Doing the commingling?

17 THE WITNESS: Downhole commingling.

18 EXAMINER BROOKS: I recall the case. She
19 was just objecting. She didn't really know what was
20 going on.

21 EXAMINER EZEANYIM: Is she an interest
22 owner?

23 THE WITNESS: She was an interest owner.
24 She just filed an objection, so we had to respond to it
25 at a great deal of expense. We had to send people over

1 here, prepare for the case, and attorney fees, so -- and
2 then she didn't show up.

3 EXAMINER EZEANYIM: How was it resolved?
4 What happened?

5 THE WITNESS: We received approval from
6 the Division.

7 EXAMINER EZEANYIM: Okay. It's done?

8 THE WITNESS: Yes. That's this R-13574.

9 Q. (By Mr. Kellahin) Is that the only example
10 you can find where an party has filed an objection within
11 your current knowledge?

12 A. That is the only recent one I could find, yes.

13 MR. KELLAHIN: Mr. Examiner, that
14 concludes my questions of Mr. Creekmore. We move the
15 introduction of the exhibit book which contains Tabs 1
16 through 12.

17 EXAMINER EZEANYIM: The exhibit book that
18 contains Tabs 1 through 12 will be admitted.

19 Any questions?

20 (Exhibit Tabs 1 through 12 were admitted.)

21 EXAMINER BROOKS: No questions.

22 EXAMINATION

23 BY EXAMINER EZEANYIM:

24 Q. In this unit, assuming that you need to do
25 this public notice, how many people do you have to notify

1 at a time?

2 A. Probably -- well, in this one, as I said, we
3 were just trying to clean things up and have consistency.
4 And it would be the -- in this particular unit, it would
5 be the 16 people that you see under Tab 2. But we have
6 to research that every time we have a downhole
7 commingling. So you have to continue to go back through
8 your files and make sure you have all the owners
9 throughout the unit.

10 Q. Did you notice all those same people that you
11 were going to do this today? You noticed them; right?

12 A. Yes. The notice is under Tab 2.

13 Q. And there were no objections?

14 A. No objections.

15 MR. KELLAHIN: Before you take further
16 action, Mr. Examiner, I would seek to have you continue
17 this case to the January 24th docket. While the notice
18 to the parties and the application is correct, the
19 docketed notice here omitted the inclusion of the Mancos.

20 So I've already notified Florene, and I have
21 filed a corrected notice for her. Because when you look
22 at the docket ad, it only talks about commingling Dakota
23 and Mesaverde. It's my mistake.

24 EXAMINER EZEANYIM: But you've already
25 gotten the permission to commingle Mancos.

1 MR. KELLAHIN: I know. And I think I
2 should have referenced that in this ad, because it
3 doesn't say "Mancos" as one of the pools.

4 EXAMINER EZEANYIM: You've gotten
5 permission to downhole commingle in the three pools?

6 MR. KELLAHIN: Right.

7 EXAMINER EZEANYIM: But now, when you are
8 trying to get this well, you didn't mention the Mancos?
9 That's what you are saying?

10 MR. KELLAHIN: The Mancos is mentioned in
11 the notice letter that went to the parties. It's in the
12 application. But when I prepared the docket notice for
13 you and Florene, I omitted the phrase, "Mancos," from
14 the list of pools. If that is an error, I need to
15 correct it. And I'd like to do so, if required.

16 EXAMINER BROOKS: This is 14927? You're
17 talking about the notice that's published on the docket?

18 MR. KELLAHIN: Right.

19 EXAMINER BROOKS: "Applicant, in the
20 above-styled cause, in accordance with Division Rule
21 303.E, seeks to establish a downhole commingling
22 reference case to modify the notification rules on an
23 area-wide basis authorization for downhole commingling of
24 Dakota and Mesaverde gas production in the wells."

25 I see what you're saying. I think it should

1 be republished and continued.

2 EXAMINER EZEANYIM: You are going to renew
3 the notice?

4 MR. KELLAHIN: Not the notice. We will
5 readvertise and change your notice.

6 EXAMINER EZEANYIM: Okay.

7 EXAMINER BROOKS: Change the notice you
8 have on file with us that will be incorporated in the
9 docket next time?

10 MR. KELLAHIN: Yes, sir.

11 EXAMINER EZEANYIM: You want it to be
12 continued to January 24th?

13 MR. KELLAHIN: Yeah. That's the next one,
14 I think.

15 EXAMINER EZEANYIM: There is a hearing on
16 December 13th, but there wouldn't be time to give the
17 requisite notice before then.

18 EXAMINER EZEANYIM: Okay. I don't have
19 any more questions.

20 Anything further?

21 MR. KELLAHIN: No, sir.

22 EXAMINER EZEANYIM: Case Number 14927 will
23 be continued to January 24th to complete our notice.

24 Okay. You may be excused. that the foregoing is

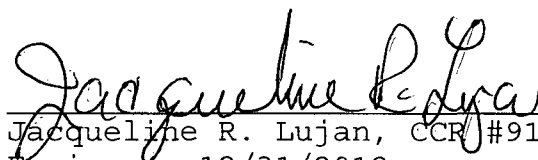
25 a complete record of the proceedings in
the Examiner hearing of Case No. 14927
heard by me on 11/25/12

REPORTER'S CERTIFICATE

I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on November 29, 2012, proceedings in
the above captioned case were taken before me and that I
did report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by
nor related to nor contracted with 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.

WITNESS MY HAND this 11th day of December,
2012.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2012