

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

6 NOTICE TO ALL AFFECTED PARTIES AS WELL CASE NO. 15113.  
7 AS HEIRS AND DEVISEES OF IRENE TALLMAN,  
8 ANNA CLAPP, ETHEL FERMSTAD, AUDREY KOSKI,  
9 ROSE GIDEON, AND A.D. DANISTON:

10 APPLICATION OF RELIANT EXPLORATION &  
11 PRODUCTION, LLC FOR COMPULSORY POOLING  
12 HARDING COUNTY, NEW MEXICO.

✓ ORIGINAL

13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 EXAMINER HEARING

15 April 17, 2014

16 Santa Fe, New Mexico

17 BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER

18 This matter came on for hearing before the  
19 New Mexico Oil Conservation Division, Michael McMillan,  
20 Chief Examiner, on Thursday, April 17, 2014, at the New  
21 Mexico Energy, Minerals and Natural Resources  
22 Department, 1220 South St. Francis Drive, Porter Hall,  
23 Room 102, Santa Fe, New Mexico.

24 REPORTED BY: Mary C. Hankins, CCR, RPR  
25 New Mexico CCR #20  
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## APPEARANCES

FOR APPLICANT RELIANT EXPLORATION & PRODUCTION, LLC:

EARL E. DeBRINE, JR., ESQ.  
and  
JORDAN L. KESSLER, ESQ.  
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.  
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## INDEX

	PAGE
Case Number 15113 Called	3
Case Presented by Affidavit and Exhibits	3
Proceedings Conclude	13
Certificate of Court Reporter	14

## EXHIBITS OFFERED AND ADMITTED

Reliant Exploration & Production, LLC Exhibit/Attachment Letters A through H	12
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1 (8:42 a.m.)

2 EXAMINER McMILLAN: At this point, I would  
3 like to call Case Number 15113, notice to all affected  
4 parties, as well as heirs and devisees of Irene Tallman,  
5 Anna Clapp, Ethel Fermstad, Audrey Koski, Rose Gideon,  
6 A. D. Daniston: Application of Reliant Exploration &  
7 Production, LLC for compulsory pooling, Harding County,  
8 New Mexico.

9 At this time, I would like to call for  
10 appearances.

11 MR. DeBRINE: Morning, Mr. Examiner. Earl  
12 DeBrine with the Modrall, Sperling Firm, and also with  
13 me is Jordan Kessler with our firm. She is going to be  
14 presenting the case today.

15 EXAMINER McMILLAN: Great. You may  
16 proceed.

17 MS. KESSLER: Thank you. Good morning,  
18 Mr. Examiner.

19 Today we are presenting the case of Reliant  
20 Energy -- or excuse -- Reliant Exploration & Production  
21 looking at compulsory pooling of several unleased  
22 mineral interest owners in the spacing unit in the Bravo  
23 Dome.

24 Pursuant to New Mexico Rule 19.15.4.12A(1),  
25 we would like to present this by affidavit because this

1    is an uncontested compulsory pooling case, and the  
2    unleased mineral interest owners are unlocatable. So we  
3    do not anticipate any other type of protest.

4                    So with your permission, I'd like to  
5    proceed by walking through the affidavit and the  
6    exhibits that have been prepared with the assistance of  
7    the Reliant Exploration & Production Company.

8                    EXAMINER McMILLAN: Yes. Proceed.

9                    MS. KESSLER: We have the affidavit of Fred  
10    Vanderburg, Jr., who is the Chairman of the Board of  
11    Reliant Exploration & Production. He has personal  
12    knowledge of all of the issues that concern land and  
13    geology at Reliant.

14                   So as I stated earlier, the purpose of this  
15    application is to pool several small, unleased mineral  
16    interest owners who are unlocatable in a 640-acre  
17    spacing unit in the Bravo Dome. Each of those interest  
18    owners represents about -- just slightly above 2 percent  
19    of the mineral interest owners of the 620-acre unit,  
20    which is approximately 13.33 acres. They're all located  
21    on an 80-acre tract, which is in the west half of the  
22    southeast quarter.

23                   All of the other interests in the 640-acre  
24    spacing unit are already subject to a lease or  
25    agreement.

1                   As I said earlier, no opposition is  
2     expected because those mineral interest owners are  
3     unlocatable, and Reliant has reached a verbal agreement  
4     with the only other working interest owner, which is OXY  
5     USA.

6                   Attached to the affidavit as Exhibit -- as  
7     Attachment 1 [sic] is a plat which outlines the well  
8     location. It's a vertical well that is approximately  
9     1,900 -- well, it's within all of the required  
10    spacing -- spacing-location issues within the 640-acre  
11    spacing units.

12                  As I said earlier, this is in the Bravo  
13    Dome, and I've attached Exhibit 2 to the affidavit, the  
14    special pool rules for the Bravo Dome, which is Pool  
15    Code Number 96010, and does call for a 640-acre spacing.

16                  I've also attached as Exhibit C to the  
17    affidavit the copy of the proposal letter that has been  
18    sent to the interest owners. That letter was sent by me  
19    on March 18 and gave all of the interest owners notice  
20    of this hearing as required by the New Mexico rule. All  
21    parties, their interest in the well and their last known  
22    addresses, are listed on Attachment D.

23                  As I stated earlier, the unleased mineral  
24    interest owners each own just over 2 percent of the  
25    mineral interests in this 640-acre spacing unit.

1 Reliant's interest is 75 percent, and OXY's interest is  
2 12.5 percent. And, again, we've reached an agreement  
3 with OXY.

4 In an attempt to locate the unleased  
5 mineral interest owners, Reliant examined all of the  
6 Harding County records, conducted Internet searches,  
7 telephone directory searches and record searches in the  
8 counties of the last known residences. And, again, we  
9 did provide notice, which is attached as Exhibit E,  
10 along with my affidavit, that all of those interest  
11 owners have received notice to their last known address.

12 Reliant has made a good-faith effort to  
13 contact each of these mineral interest owners and would  
14 like to obtain the voluntary joinder of the interests of  
15 the well. Notice was published, which is reflected in  
16 Attachment E in Harding County, New Mexico on April 2nd,  
17 pursuant to the New Mexico Rule 19.15.4.

18 Because the unleased mineral interest  
19 owners are the only parties to be pooled, Reliant is not  
20 seeking for those interests a 200 percent risk charge,  
21 just the standard one-eighth royalty interest that would  
22 apply to unleased mineral interest owners, because  
23 they're not cost-bearing interest.

24 EXAMINER McMILLAN: I guess I wasn't clear  
25 on that last statement. Are you seeking the 200 percent

Important

1 penalty?

2 MS. KESSLER: Should the 200 percent  
3 penalty apply to any working interest owners or  
4 cost-bearing interests, we would seek that if it applied  
5 to them, but since these particular parties to be pooled  
6 that we're concerned with here are not cost-bearing, we  
7 don't believe that the 200 percent would apply to them  
8 under the New Mexico statute.

9 We have attached a copy of the accounting  
10 procedures and the AFE as Attachment D. The drilling  
11 costs are set forth therein and are reasonable and in  
12 line with other wells that have been drilled to a  
13 similar depth in Harding County.

14 Should any sort of working interest or  
15 cost-bearing interest be pooled, we would seek that the  
16 200 percent risk penalty be applied to them.

17 Overhead charges are reflected in the AFE,  
18 which is attached as Attachment G and are \$6,000 per  
19 month while the well is being drilled and \$600 per month  
20 while the well is being produced.

21 Now, if you have any further questions --

22 EXAMINER McMILLAN: Okay. So the first  
23 question I have is: Do you know the API number?

24 MS. KESSLER: Yes. The API number is  
25 30-021-20578.

1 EXAMINER McMILLAN: And this is part of the  
2 640, so the proration unit is going to be what?

3 MS. KESSLER: Well, the proration unit  
4 under the Bravo Dome rules is set at 640 acres, and that  
5 is, again, attached as Attachment B, the special pool  
6 rules for the Bravo Dome.

7 EXAMINER McMILLAN: And I guess I need some  
8 clarification of what's going on, I guess, with OXY,  
9 because some of your statement of the case is kind of  
10 contradictory.

11 MS. KESSLER: Within the past week or two,  
12 a verbal agreement has been reached with OXY, so at this  
13 point, OXY and Reliant are in agreement and are  
14 proceeding together in this well. So OXY has not  
15 objected.

16 EXAMINER McMILLAN: But you really don't  
17 have anything in writing?

18 MS. KESSLER: It's a verbal agreement. We  
19 would be happy to provide evidence of the agreement when  
20 it has been reduced to writing.

21 EXAMINER McMILLAN: Okay. So I guess I'm  
22 still not completely clear on the penalties that you  
23 want for the unknown interests.

24 MS. KESSLER: Okay. So what we're -- under  
25 New Mexico Statute 70-2-17, since the unleased.



1 mineral interest owners are not a cost-bearing  
2 interest -- they're just a royalty interest -- we're  
3 seeking the standard royalty rate, which would be  
4 one-eighth percent -- or one-eighth of production. It  
5 does not appear from the statute that the 200 percent  
6 risk charge can be applied to royalty interest owners.  
7 So to the extent that it could be -- that the 200  
8 percent could be applied to any party, we would be  
9 seeking it, but we do not believe it applies to these  
10 parties.

11 EXAMINER McMILLAN: So you're just asking  
12 for a one-eighth royalty?

13 MS. KESSLER: Correct.

14 EXAMINER McMILLAN: Okay. The other  
15 question is: Is this federal, fee or state or a  
16 combination of everything.

17 MS. KESSLER: The land is primarily fee  
18 land -- it's all fee land.

19 EXAMINER McMILLAN: And the other thing is:  
20 Why did you pick this location? Why was this location  
21 chosen?

22 MR. DeBRINE: I don't have that  
23 information, Mr. Examiner. Reliant has been drilling in  
24 this area for several years, and they just identified  
25 this as the next well in their drilling program as

1 productive of CO2 in the --

2 EXAMINER McMILLAN: So why do they feel  
3 that this -- there has to be some reason for believing  
4 that this location will be productive for carbon  
5 dioxide.

6 MR. DeBRINE: Yes. These are all producing  
7 wells in the adjacent areas that are producing CO2.

8 MS. KESSLER: Reliant also has several  
9 wells that are producing -- currently producing, and  
10 they own several acreages in several adjacent sections.

11 EXAMINER McMILLAN: But I need -- you know,  
12 why -- okay. I'll put the exact same question another  
13 way. Why didn't you drill 1,980 from the north --  
14 excuse me -- 1,980 from the south, 1,980 from the east?  
15 What makes this location better than any other location  
16 in that section?

17 MR. DeBRINE: I think Reliant's geology  
18 just identified this as the most advantageous location  
19 to drain this 640-acre spacing unit for the well.

20 EXAMINER McMILLAN: Okay. But there's  
21 going -- you know, the Applicant's going to have to  
22 provide some reason for it. There has to be either --  
23 you know, there has to be some geologic or engineering  
24 reason, you know, that we have, because that will be  
25 considered in part of the ruling. Therefore, we would

1 like for the Applicant to provide us for some reason why  
2 this location should be drilled.

3 MS. KESSLER: We can provide a supplemental  
4 affidavit with reasons.

5 EXAMINER McMILLAN: Yes, that is what I  
6 want to see.

7 MS. KESSLER: Okay. Is that something that  
8 could be e-mailed or faxed to you?

9 EXAMINER McMILLAN: It would -- let's go  
10 ahead and let's make sure everything is perfect. Let's  
11 send it certified mail, registered receipt. That way we  
12 definitively know that all the parties have it.

13 MS. KESSLER: Okay. We'll provide that to  
14 you either later today or this week.

15 EXAMINER McMILLAN: That would be  
16 excellent.

17 And the one question: Has OXY examined the  
18 AFE?

19 MS. KESSLER: OXY was provided with a copy  
20 of the AFE, and we have -- I have with me green cards  
21 that are verification that they did receive copies of  
22 the well-proposal letter and the AFE.

23 EXAMINER McMILLAN: Okay. Good.

24 Well, with this in mind and after you  
25 supply the requested information, after that point, this

1 case will be taken under advisement.

2 MS. KESSLER: Okay.

3 EXAMINER McMILLAN: And as you're well  
4 aware, the rest of the cases have been continued until  
5 May the 1st. Thank you very much.

6 MR. DeBRINE: Thank you, Mr. Examiner.

7 (Discussion off the record, 8:57 a.m. to  
8 8:59 a.m.)

9 EXAMINER McMILLAN: Because of a mistake I  
10 made, Case Number 15113, notice to all affected parties,  
11 as well as heirs and devisees of Irene Tallman, Anna  
12 Clapp, Ethel Fermstad, Audrey Koski, Rose Gideon, and  
13 A.D. Daniston: Application of Reliant Exploration &  
14 Production, LLC for compulsory pooling, Harding County,  
15 New Mexico is now re-opened.

16 MS. KESSLER: Mr. Examiner, I'd tender the  
17 exhibit of the green cards that were sent with the  
18 well-proposal letter and AFE to the all parties involved  
19 in the application described above. So it would be -- I  
20 believe it would be H, Exhibit H.

21 EXAMINER McMILLAN: So accepted.

22 (Reliant Exploration & Production, LLC  
23 Exhibit Letters A through H were offered  
24 and admitted into evidence.)

25 EXAMINER McMILLAN: Hearing Docket Number

1 12-14 is now adjourned. Thank you.

2 (Case Number 15113 concludes, 9:00 a.m.)

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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. \_\_\_\_\_  
heard by me on \_\_\_\_\_.

Michael McMillan, Examiner  
Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

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

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

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

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*Mary C. Hankins*  
MARY C. HANKINS, CCR, RPR  
Paul Baca Court Reporters, Inc.  
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Date of CCR Expiration: 12/31/2014