

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

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

ORIGINAL

APPLICATION OF ENCANA OIL & GAS
(USA), INC. TO AMEND ORDER, ORDER
R-14081, TO EXPAND THE NORTH ALAMITO
UNIT AND THE CORRESPONDING NORTH
ALAMITO UNIT; MANCOS POOL, SANDOVAL
AND SAN JUAN COUNTIES, NEW MEXICO.

CASE NO. 15367
(Reopened)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 18, 2016

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

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This matter came on for hearing before the
New Mexico Oil Conservation Division, William V. Jones,
Chief Examiner, and David K. Brooks, Legal Examiner, on
Thursday, August 18, 2016, at the New Mexico Energy,
Minerals and Natural Resources Department, Wendell Chino
Building, 1220 South St. Francis Drive, Porter Hall,
Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR
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APPEARANCES

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1 (8:30 a.m.)

2 EXAMINER JONES: Okay. Let's start at the
3 end of the docket this morning and call Case Number
4 15367, reopened, application of Encana Oil & Gas USA to
5 amend Order R-14081 to expand the North Alamito Unit and
6 the corresponding North Alamito Unit, Mancos Pool,
7 Sandoval and San Juan Counties, New Mexico.

8 Call for appearances.

9 MS. KESSLER: Mr. Examiner, Jordan Kessler,
10 of the Santa Fe Office of Holland & Hart, on behalf of
11 the Applicant.

12 MR. McMILLAN: Mr. Examiner, Seth McMillan
13 with Montgomery & Andrews on behalf of WPX.

14 MS. KESSLER: I have one witness today,
15 Mr. Examiner.

16 EXAMINER JONES: Okay. Will the witness
17 please stand?

18 And will the court reporter please swear in
19 Mona?

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

23 EXAMINER JONES: Mr. McMillan, are you in
24 opposition?

25 MR. McMILLAN: We are not.

DIRECT EXAMINATION

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BY MS. KESSLER:

Q. Please state your name for the record and tell the Examiners by whom you're employed and in what capacity.

A. My name is Mona Binion. I'm employed by Encana Oil & Gas, and my area of responsibility is land negotiator for the San Juan Basin of New Mexico.

Q. Have you previously testified before the Oil Conservation Division?

A. I have.

Q. Were your credentials as a petroleum landman accepted and made a matter of record?

A. They were.

Q. Are you familiar with the application that's been filed in this case?

A. I am.

Q. And are you familiar with the status of the lands in the subject area?

A. Yes, I am.

MS. KESSLER: Mr. Examiners, I tender Ms. Binion as an expert witness in petroleum land matters.

EXAMINER JONES: Any objection?

MR. McMILLAN: No.

1 EXAMINER JONES: She is so qualified.

2 Q. (BY MS. KESSLER) Ms. Binion, were you here and
3 did you give testimony at the hearing on this unit on
4 June 9th?

5 A. Yes, I did.

6 Q. And you testified that Order R-14081 had been
7 approved with the original unit outline; is that
8 correct?

9 A. That's correct.

10 Q. And on June 9th, you presented a unit
11 agreement, proof of notice, and requested that the
12 Division expand the North Alamito Unit and corresponding
13 pool?

14 A. Yes, we did.

15 Q. At that time did Encana also bring a geologist
16 to present geologic testimony and exhibits at the
17 hearing?

18 A. Yes, we did.

19 Q. If you could turn to Exhibit 14, have the unit
20 boundaries changed since the hearing on June 9th?

21 A. Yes. Originally, the expansion area was the
22 area that is, on this particular exhibit, shown in dark
23 bold black and yellow. The yellow outline represents an
24 unleased federal tract that is not removed from the
25 application area and the area that we will submit in

1 final form for the North Alamito Unit.

2 Q. Did you visit with the BLM who agreed to remove
3 this 160-acre unleased federal tract?

4 A. Yes, we did.

5 Q. And the result is a slightly smaller unit than
6 was presented on June 9th; is that correct?

7 A. It is, smaller by 160 acres.

8 Q. That would be the northeast quarter of Section
9 35?

10 A. Yes, Township 23 North, Range 7 West.

11 Q. Why did BLM authorize Encana to remove that
12 authorized federal tract?

13 A. The authorization to remove that tract was at
14 the request of the State Land Office who had an issue
15 with the compensatory royalty that would have been paid
16 and due on that tract had it been included in the unit.

17 Q. And I understand the BLM originally requested
18 that Encana put that unleased federal tract into this
19 unit expansion; is that correct?

20 A. Yes, they did.

21 Q. And the State Land Office would not provide
22 preliminary approval without the unleased tract
23 included?

24 A. That's correct.

25 Q. Let's turn to Exhibit 15. Is this a copy of

1 the revised unit agreement?

2 A. Yes, it is.

3 The unit agreement that was presented on
4 the June 9th hearing was the same form as what is
5 included in this exhibit. The only difference is the
6 change in the total unit acres on page 1, under
7 paragraph two, Unit Area.

8 Q. If we look at what's been tabbed as A, is this
9 a revised outline of the unit boundaries?

10 A. Yes, it is. And it shows the revised unit
11 acres in the legend.

12 Q. And tab B is the revised ownership percentage
13 for the unit?

14 A. Yes, it is.

15 Q. Is Exhibit 16 a preliminary approval letter
16 from the BLM reflecting the updated unit acreage?

17 A. It is. And it indicates, in the second
18 paragraph, the agreement to remove the northeast quarter
19 of Section 35 from the unit boundary.

20 Q. In paragraph two, you said?

21 A. Yes.

22 Q. Have you had discussions with the State Land
23 Office regarding inclusion of unleased federal acreage?

24 A. I have. And the preliminary response from the
25 State Land Office is they would be willing -- or they're

1 considering approving -- issuing preliminary approval to
2 the expansion of the unit now. I think they are
3 presenting it to the Commission now for final approval.

4 Q. And they've agreed to the exclusion of the
5 acreage, is that correct, in principle?

6 A. Correct.

7 Q. But they've not yet provided a letter with
8 preliminary approval?

9 A. Correct.

10 Q. You understand that's awaiting Mr. Dunn's
11 signature?

12 A. Correct.

13 Q. Turning back to Exhibit 14, at the hearing on
14 June 9th, did you provide testimony that Sections 1 and
15 12, the north half of Section 12, were at the time
16 committed to WPX's West Alamito Unit pursuant to Order
17 Number R-14002?

18 A. Yes, we did.

19 Q. What is the status of those lands today?

20 A. Those lands have been eliminated from the West
21 Alamito Unit. We have received confirmation from the
22 BLM that the West Alamito Unit and the corresponding
23 pool have been terminated.

24 EXAMINER JONES: I'm sorry. Can you say
25 that R order again that was affected?

1 MS. KESSLER: R-14002.

2 EXAMINER JONES: That's what I thought you
3 said. Where is it on this map?

4 THE WITNESS: It's not shown on here
5 anymore because it's terminated. We've removed it from
6 the map.

7 EXAMINER JONES: Okay.

8 Q. (BY MS. KESSLER) But if you look at the map, it
9 would be Sections 1 and 12 -- 1 and 12 and 22, North 8
10 West, correct?

11 A. Right. And I believe it might have also
12 encompassed Section 13 to the south.

13 EXAMINER JONES: Okay.

14 THE WITNESS: But the only portion of what
15 is presented today for North Alamito is all of 1 and the
16 north half of 12, was what was in the previously known
17 West Alamito Unit.

18 EXAMINER JONES: Thank you.

19 Q. (BY MS. KESSLER) So WPX has requested that BLM
20 terminate the West Alamito Unit and corresponding pool;
21 is that correct?

22 A. Yes.

23 Q. Is Exhibit 17 a letter from the BLM stating
24 that the unit has been terminated?

25 A. Yes.

1 Q. You understand that the corresponding pool will
2 also be terminated, correct?

3 A. Yes.

4 Q. So Sections 1 and 12 are not currently
5 committed to any unit?

6 A. Correct, or any pool.

7 Q. Or any pool.

8 A. Well, any new pool created by a unit order.

9 Q. Any unit pool?

10 A. Right.

11 Q. Are you requesting that that acreage be
12 included in the North Alamito Unit?

13 A. Yes, we are.

14 Q. And you understand there is no overlapping
15 acreage?

16 A. Correct.

17 Q. Did you prepare Exhibits 14 through 17, or were
18 they prepared under your direction and supervision?

19 A. Yes, they were.

20 MS. KESSLER: Mr. Examiners, I'd move
21 admission of Exhibits 14 through 17.

22 EXAMINER JONES: Any objection?

23 MR. McMILLAN: No objection.

24 EXAMINER JONES: Exhibits 14 through 17 are
25 admitted.

1 (Encana Oil & Gas Exhibit Numbers 14
2 through 17 are offered and admitted into
3 evidence.)

4 EXAMINER JONES: Mr. McMillan?

5 MR. McMILLAN: No questions of this
6 witness, Mr. Hearing Examiner.

7 CROSS-EXAMINATION

8 BY EXAMINER JONES:

9 Q. What about the yellow area?

10 A. That was an unleased federal tract that the BLM
11 had originally requested or demanded that we include in
12 an expansion of this unit.

13 Q. And the State Land Office wouldn't approve of
14 an unleased tract?

15 A. Correct.

16 Q. Okay. What about the black area -- the black
17 outline in Section --

18 A. 24?

19 MS. KESSLER: 25?

20 Q. (BY EXAMINER JONES) -- 25?

21 A. 25. That is a fee tract. Part ownership of
22 that tract was Encana and Dugan, and the other part was
23 J & J Resources. We have traded acreage with J & J
24 Resources and now have taken possession of that other
25 mineral interest and are now willing and interested in

1 bringing that into the unit.

2 Q. Okay. So that will be brought in? That's
3 brought in?

4 A. Yes.

5 Q. Okay. So no preliminary approval from SLO and
6 no final approval from the BLM?

7 A. Correct. We cannot submit final approval to
8 the BLM or request approval until we have an order from
9 the OCD.

10 Q. Oh, okay.

11 A. They require an order be issued and approval
12 from the OCD before they will consider the unit for
13 final approval.

14 Q. Would they do that if it was all federal lands?

15 A. The OCD approval wouldn't be required if it was
16 all federal land.

17 Q. Yeah. Even if it's an all PA, all
18 participating, area unit?

19 A. That's -- that's what we've been informed, yes.

20 Q. And that's what's in the unit agreement form,
21 too? There is no --

22 A. Correct.

23 Q. -- clause in there?

24 A. It requires the NMOCD approval, the unit
25 agreement does.

1 Q. That one does require --

2 A. Yes.

3 Q. So basically it's covered in the unit
4 agreement.

5 Now, how is WPX involved here with -- is it
6 because this is expanding into some lands that were
7 previously covered by a WPX unit?

8 A. Correct.

9 Encana and WPX have entered into an
10 agreement to trade leases, and so Encana and Dugan have
11 taken ownership of the lease that covers Section 1 and
12 the north half of 12 in exchange for other leases that
13 we have tendered to WPX. And so WPX has eliminated the
14 West Alamito Unit from those lands so that we would be
15 free to bring them into North Alamito.

16 Q. Okay. No wells were involved at that time?

17 A. No, sir.

18 Q. So this is still an all-participating area unit
19 from the get-go?

20 A. Yes, sir.

21 Q. And the original -- the initial well's already
22 been drilled or at least spudded?

23 A. Yes. There are seven existing horizontal wells
24 in this unit area, four of which are state wells.

25 Q. Okay. Okay. Is it absolutely vital that you

1 have one pool associated with an all-PA unit?

2 A. It is our understanding that -- it's difficult
3 for the OGRID system to handle the management of
4 multiple pools in an undivided area this large for
5 reporting production, and, hence, it was a more
6 advantageous situation to have one pool, to have all of
7 the production from the unit reported to one pool.

8 Q. Okay. You said OGRID, but you meant ONGARD.

9 A. ONGARD. You're right. I apologize.. Yeah.
10 OGRID is the -- is the owner number, right -- the
11 operator number?

12 Q. Operator number.

13 A. Yeah.

14 Q. Okay. So, basically, if you had more than one
15 pool, you would have to have more than one PUN. And
16 then how would you allocate -- how would you combine
17 them? With an all-PA unit initially. So -- okay.

18 A. Exactly. Plus the fact that we have downhole
19 commingling issues, et cetera.

20 Q. Yes. Yes.

21 A. Right.

22 Q. Okay. So it's absolutely essential that it's
23 more than one pool?

24 A. That was our understanding, yes.

25 Q. And this unit agreement would cover the

1 entire -- this has all been heard in previous testimony,
2 correct?

3 MS. KESSLER: That's correct. We're here
4 to provide --

5 EXAMINER JONES: So I'm just forgetting
6 everything, so I'm asking it again.

7 Q. (BY EXAMINER JONES) But this is the Mancos,
8 basically?

9 A. Yes, sir. It's the entire Mancos.

10 Q. Including the Greenhorn?

11 A. To the base of the Greenhorn, that's correct.
12 The unit agreement goes to the interval -- the bottom of
13 the interval is the base of the Greenhorn Limestone.

14 Q. And -- okay. We asked probably before.
15 Vertical wells out here --

16 A. The geologic testimony from the previous
17 hearing --

18 Q. I'll look at that.

19 A. -- represented the vertical locations in this
20 unit.

21 Q. Okay. And those were drilled for the Gallup?

22 A. Correct.

23 Q. But now you're talking Mancos? You're calling
24 it Mancos?

25 A. Which includes the Gallup, as I understand.

1 Q. In all your ownership documents?

2 A. Our ownership documents represent the ownership
3 of the entire Mancos as been defined by our geologist.

4 Q. Okay. Within the unit area?

5 A. Correct.

6 Q. Okay. So you're just asking for an adjusted
7 unit here, I guess? That's all?

8 MS. KESSLER: That's correct, Mr. Examiner.

9 Q. (BY EXAMINER JONES) And is there anything in
10 the previous unit order that you would suggest be
11 changed? If so, please let Jordan know, and she can
12 give us a draft order.

13 MS. KESSLER: I'd be happy to provide you a
14 draft order.

15 EXAMINER JONES: That might be good.

16 MS. KESSLER: Also, Mr. Examiner, there --
17 I believe there are some timing issues that Mona can
18 address. A draft order might be advantageous in this
19 case.

20 EXAMINER JONES: Okay.

21 THE WITNESS: The lease that we inherited
22 or received from WPX is due to expire at the end of
23 November, and in order to perpetuate the life of that
24 lease, the unit has to be approved by that date. And so
25 we still need to secure final ratifications and joinders

1 from the owners, which we had to wait until we knew the
2 final outline before we presented that to the other
3 owners and then finally submit that to the BLM, which
4 also requires that the OCD order be part of the package
5 that's submitted. So we have a very short period of
6 time to get that all done.

7 Q. So it's a chicken and egg or a catch-22 or
8 whatever --

9 A. (Laughter.)

10 Q. -- or an OCD --

11 A. It's a fast track.

12 Q. Okay. Or you could just go out and drill on
13 that lease to save the lease.

14 A. Getting a permit may be a problem to get it
15 done in time and a contractor rig and have all that done
16 timely to save that lease.

17 Q. These units have segregation clauses that are
18 modified; is that correct?

19 A. Correct. So that lease will be segregated once
20 the unit is formed, if that lease is committed to the
21 unit. This is a 160-acre tract in that lease that will
22 not be part of the unit. WPX retained ownership of
23 that.

24 Q. Okay. So speaking of that, all people -- all
25 the tracts are committed as the unit is outlined here?

1 A. We haven't submitted joinders to the other
2 owners under there because we haven't gotten final
3 approval of the outline. So we didn't have a final
4 outline to present to the owners.

5 Q. Since everybody's sharing?

6 A. Correct.

7 We have communicated with all of the
8 owners, though, and we have indication they're all
9 intending to commit. So that is what we anticipate, but
10 we don't have the actual paperwork together yet.

11 Q. What's your company's intentions as far as this
12 acreage? It's being tied up with this unit probably for
13 reasons of efficiency. But as far as strategic plan, do
14 you have it on your plans to develop this unit?

15 A. We do. And I believe that was presented to you
16 at the last hearing. Our geologist presented a plan of
17 development. And we do have several permits already in
18 hand, and we're proceeding to request additional permits
19 for the drilling of this unit. However, they can't be
20 submitted until the unit is approved because they're
21 transfers. It's all -- it is a -- it is a chicken and
22 an egg, because they're transverse so they're legal
23 according to the existing rules. And so we cannot
24 present them to the BLM for approval until we make them
25 legal, which is what the unit is there for, to allow the

1 transverse drilling.

2 Q. Okay. Okay. So the existing -- the horizontal
3 wells that are there would need to be -- they're already
4 dedicated to the pool that was created earlier. So
5 unless that pool changes to have a more legible name
6 maybe or something in the draft order that comes in --
7 hopefully it will include the word "Mancos" in it
8 somewhere instead of just saying it's a horizontal pool
9 for the unit.

10 EXAMINER JONES: Mr. Brooks?

11 CROSS-EXAMINATION

12 BY EXAMINER BROOKS:

13 Q. We're talking about the North Alamito Unit
14 Pool, the one in pink on this exhibit?

15 A. Correct. However, it doesn't go into effect
16 until the unit is approved, which it has not been
17 approved yet.

18 Q. Okay. And this is a combined federal, state
19 unit, right?

20 A. Correct.

21 Q. So that's why the OCD approval is required?

22 A. Yes, sir. There's also fee acreage, and
23 there's Indian allotted acreage.

24 Q. Yeah.

25 Now, the BLM rules specifically require

1 state approval when there is state land. Do they also
2 require state approval when there is private land within
3 the unit?

4 A. Correct, private land and state land. The
5 State Oil Division -- the State Land Office approval is
6 required if the state lands are to be committed.

7 Q. Yeah. The State Land Office would not be
8 required if there were -- if there were only private and
9 nonstate --

10 A. Correct.

11 Q. -- but --

12 A. Or if the State Land Office did not wish to
13 commit their lands to the unit.

14 Q. Yeah.

15 A. And without the state lands, if there is
16 sufficient commitment of other tracts that aren't on
17 state lands that meet the requisite approval requirement
18 from the BLM, the unit can still be formed with the
19 state lands being uncommitted.

20 Q. Now, I ask this because I'm not very well
21 educated on this subject. I've tried to learn more
22 about it. The requirement for state approval -- and I
23 believe it's -- I believe I read it once. I believe it
24 just says state approval. It doesn't really specify
25 what state agency, but, of course, it would differ from

1 state to state. But the requirement for state approval
2 for the inclusion of private lands, is that in the BLM's
3 regulations somewhere, or is it in some of their forms?

4 A. It is in the unit agreement form we have been
5 provided.

6 Q. Okay. That's where I thought it was.

7 A. I don't know whether it's in the actual Code of
8 Federal Regulations.

9 Q. I had not been able to find it there, and I
10 actually haven't been able to find it in the unit forms
11 available on their Web site. But I found it once, and I
12 have read it. And I can't find it again, so that's been
13 very frustrating.

14 Is it your understanding that the situation
15 would be like this -- this is my understanding, and I
16 want to confirm we're on the same page here. State
17 approval is required for a federal unit if it includes
18 state land or if it includes private land but not if it
19 includes neither. Is that your understanding?

20 A. Yes and no. That's correct in the sense of the
21 type of acreage that's included in the unit. However,
22 if there is no state land or no fee land, however, we
23 need the formation of a new pool, it would require,
24 again, you know --

25 Q. Well, of course, the pools are the creature of

1 the New Mexico Oil Conservation Division.

2 A. Correct.

3 Q. So only the New Mexico Oil Conservation
4 Committee [sic] can create or abolish pools.

5 A. Correct. That would be the only other reason
6 we would --

7 Q. BLM does not do pools.

8 A. -- need, yes, the Division's approval.

9 Q. Yeah. But so far as the approval of the unit --

10 A. Correct.

11 Q. Okay. That was my understanding.

12 A. Yes, sir.

13 Q. And land negotiators are often more
14 knowledgeable about these things than lawyers are, so I
15 want to make sure I'm not -- I'm not behind the --
16 behind in figuring these things out.

17 Thank you.

18 EXAMINER JONES: Mr. McMillan, do you have
19 any more questions?

20 MR. McMILLAN: I don't have anything,
21 Mr. Hearing Examiner. I was just here to just confirm
22 that the land -- the contemplated land swap that was
23 discussed at the last hearing went through and that BLM,
24 in fact, abolished the North Alamito Unit. So it looks
25 like that's been done.

1 MS. KESSLER: West Alamito.

2 MR. McMILLAN: West Alamito. I'm sorry.

3 MS. KESSLER: West Alamito.

4 THE WITNESS: Yeah. Please don't abolish
5 my unit before --

6 (Laughter.)

7 MR. McMILLAN: I apologize. I meant to say
8 West Alamito.

9 EXAMINER JONES: Anything else,
10 Ms. Kessler?

11 MS. KESSLER: No, Mr. Examiner. Ask that
12 you take this under advisement, and I'll provide a draft
13 order to the Division.

14 EXAMINER JONES: Thank you very much.
15 Take Case Number 15367, reopened, under
16 advisement.

17 (Case Number 15367 concludes, 8:53 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 _____

Off. Conservation Division - Examiner

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3
4 CERTIFICATE OF COURT REPORTER

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

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

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

20
21 

22 MARY C. HANKINS, CCR, RPR
23 Certified Court Reporter
24 New Mexico CCR No. 20

25 Date of CCR Expiration: 12/31/2016
Paul Baca Professional Court Reporters