

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:

COPY

APPLICATION OF BURNETT OIL COMPANY,
INC. FOR A NONSTANDARD OIL SPACING
AND PRORATION UNIT AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 15566

APPLICATION OF BURNETT OIL COMPANY,
INC. FOR A NONSTANDARD OIL SPACING
AND PRORATION UNIT AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 15567

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

October 27, 2016

Santa Fe, New Mexico

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

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, October 27, 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
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

APPEARANCES

FOR APPLICANT BURNETT OIL COMPANY, INC.:

JAMES G. BRUCE, ESQ.
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043
jamesbruc@aol.com

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1 (10:20 a.m.)

2 EXAMINER JONES: Let's call Case Number
3 15566, application of Burnett Oil Company for a
4 nonstandard oil spacing and proration unit and
5 compulsory pooling, in Eddy County, New Mexico.

6 Call for appearances.

7 MR. BRUCE: Mr. Examiner, Jim Bruce of
8 Santa Fe representing the Applicant, and I'd request
9 that this case be combined with the next case, 15567.

10 EXAMINER JONES: Okay. We'll call Case
11 15567, application of Burnett Oil Company for a
12 nonstandard oil spacing and proration unit and
13 compulsory pooling, Eddy County, New Mexico.

14 Call for appearances.

15 MR. BRUCE: Jim Bruce of Santa Fe
16 representing the Applicant.

17 EXAMINER JONES: Any other appearances in
18 either of these cases?

19 Okay. We'll combine both cases.

20 MR. BRUCE: And I have two witnesses.

21 EXAMINER JONES: Will the witnesses please
22 stand?

23 And the court reporter will swear the
24 witnesses.

25 (Mr. Means and Mr. Zelaya sworn.)

1 COLE MEANS,
2 after having been duly sworn under oath, was
3 questioned and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BRUCE:

6 Q. Would you please state your name for the
7 record?

8 A. Cole Means.

9 Q. And where do you reside?

10 A. Fort Worth, Texas.

11 Q. And who do you work for and in what capacity?

12 A. I work for Burnett Oil Co., Inc., land manager.

13 Q. Have you previously testified before the
14 Division?

15 A. Yes, sir.

16 Q. And were your credentials as an expert
17 petroleum landman accepted as a matter of record?

18 A. They were.

19 Q. And are you familiar with the land matters
20 involved in both applications?

21 A. I am.

22 MR. BRUCE: Mr. Examiner, I tender
23 Mr. Means as an expert petroleum landman.

24 EXAMINER JONES: He's qualified as an
25 expert in petroleum land matters.

1 Q. (BY MR. BRUCE) Mr. Means, let's first run
2 through Case 15566.

3 MR. BRUCE: And, Mr. Examiner, both exhibit
4 packages, one for each case, other than the land plat,
5 they're pretty similar. So --

6 Q. (BY MR. BRUCE) What is Exhibit 1, Mr. Means?

7 A. Exhibit 1 is Form C-102 for the Nosler 12 Fed
8 LJ 7H well.

9 Q. And what acreage is involved in this well unit?

10 A. It's going to be the north half-southwest
11 quarter and the northwest quarter-southeast quarter of
12 Section 12.

13 Q. So it will be a horizontal well unit?

14 A. Correct.

15 Q. And what formation is being tested by the 7H
16 well?

17 A. Glorieta-Yeso.

18 Q. And does the C-102 show the first take point --
19 the surface location and the first take point and the
20 bottom-hole final take point of the well?

21 A. It does. I can call those if you need me to.

22 Q. It's in writing.

23 Who do you seek to force pool in both
24 cases?

25 A. In both cases, Ard Oil and Ard Energy Group,

1 two separate entities, but kind of a collective
2 interest.

3 Q. Within the same family?

4 A. Within the same family, yes, sir.

5 Q. And could you identify Exhibits 2 and 3 and
6 briefly discuss them for the Examiner?

7 A. Exhibit 2 is our well proposal to Ard Oil and
8 Ard Energy and the entity names are on the letterhead.

9 EXAMINER JONES: Thanks.

10 Q. (BY MR. BRUCE) This covers both wells; does it
11 not?

12 A. Correct. You'll note the proposal -- we've
13 proposed both of the wells together. And the reason is
14 efficiency and your time, Mr. Bruce's time, my time, and
15 for continuous drilling, it gives us a year, 180-day
16 clock and a year of drilling inventory, if you will.
17 This was just a proposal letter we sent to Mr. -- well,
18 to Ard, Ard Oil and Ard Energy proposing both the 7 and
19 8H well. Included in the proposal was an AFE for the
20 well, location plat, and for the 7H, directional
21 drilling survey, and a copy of our operating -- existing
22 operating agreement.

23 Q. And what is Exhibit 3?

24 A. Exhibit 3 is a separate letter -- separate
25 letter of even [sic] date to Ard Oil and Ard Energy

1 wherein we made three separate proposals for them to --
2 you know, offers for them to join or commit their
3 interest to both wells. One is we sent the operating
4 agreement with the letter, but then, again, an extra set
5 of signature pages to join the existing operating
6 agreement for the well, made a term assignment offer,
7 very reasonable terms, and then the third offer to join
8 a separate operating agreement -- just enter an
9 operating agreement, and we would do an overriding
10 royalty interest. We'd go out on an override in lieu of
11 the nonconsent penalty.

12 Q. And you have dealt quite often with the Ards in
13 the past regarding other wells? Burnett Oil has drilled
14 in sections -- in adjoining sections and in this section
15 also; is that correct?

16 A. Correct. Yes, sir.

17 Q. Did the Ards ever respond to your letters?

18 A. No, sir.

19 Q. And is that pretty common? Has it happened in
20 the past?

21 A. It's very common. Yes, sir.

22 Q. What interest, collectively, do the Ards own in
23 the 7H well?

24 A. In the 7H well, it's 10.83438 percent.

25 Q. And what is it in the 8H well?

1 A. In the 8H well, it's two-thirds of that number.
2 And the reason being, the southwest-southwest quarter of
3 Section 12 was earned by Concho pursuant to a term
4 assignment they had with the Ard Group that has since
5 expired. So Concho will be in that well for, let's say,
6 40 of 120 acres or a third of the 10 percent Ard
7 interest, and Ard will have the balance.

8 I will just note, in the offer letter,
9 Schedule 1 has the Ard interest that was separated out
10 by entity and then obviously the collective interests.

11 Q. You are not seeking to force pool COG in the 8H
12 case?

13 A. No, sir. They're subject to an operating
14 agreement. And in the 8H case, we'll just propose the
15 well pursuant to the operating agreement, and they'll
16 participate or not.

17 Q. In your opinion, have you made a good-faith
18 effort to obtain the voluntary joinder of the Ard
19 entities in both cases?

20 A. Yes, sir.

21 Q. What is Exhibit 4?

22 A. Exhibit 4 is a copy of the AFE for the 7H well.

23 Q. And what are the completed well costs?

24 A. The completed well costs, 2.565 million.

25 Q. And is that cost fair and in line with the cost

1 of other wells drilled to this depth in this area of New
2 Mexico?

3 A. Yes, sir.

4 Q. And do you request the maximum cost plus 100
5 percent risk charge in the event Ard entities do not
6 voluntarily join in the wells?

7 A. We do.

8 Q. What overhead rates do you request?

9 A. Our existing operating has 6,000 a month
10 drilling and 600 a month producing, and that's our
11 request.

12 Q. And are those the rates in your JOA?

13 A. They are.

14 Q. And in your opinion, are those rates fair and
15 reasonable?

16 A. Yes, sir.

17 Q. Are they similar to the rates charged by other
18 operators in this area for Yeso wells?

19 A. Yes, sir.

20 MR. BRUCE: And, Mr. Examiner, Exhibit 5 is
21 simply my Affidavit of Notice to the Ard entities. They
22 did receive actual notice.

23 Q. (BY MR. BRUCE) And, Mr. Means, are the only
24 offsetting operators in this area COG, Apache and
25 Chevron?

1 A. That's correct.

2 MR. BRUCE: And Exhibit 6, Mr. Examiner, is
3 my Affidavit of Notice to the offsets, and they did all
4 receive actual notice.

5 Q. (BY MR. BRUCE) Let's move on to the 8H case
6 very briefly, Mr. Means. Could you identify Exhibit 1
7 and describe the well unit in this case?

8 A. So Exhibit 1 is the case of the 8H well. This
9 will be the next 120-acre unit south, if will you. So
10 the project area, proration unit, will be the south
11 half-southwest quarter and the southwest
12 quarter-southeast quarter of Section 12.

13 Q. Again, a 120-acre well?

14 A. A 120-acre unit, yes, sir. And, again, for the
15 Glorieta-Yeso.

16 Q. And your proposed surface location is in the
17 adjoining Section 11, correct?

18 A. That is correct.

19 Q. If that one can't be obtained, do you plan on
20 having a surface location in the southwest
21 quarter-southwest quarter of Section 12?

22 A. Yes, sir.

23 MR. BRUCE: Mr. Examiner, we'd like that
24 reflected in the order in this case, in case we don't
25 get their preferred location.

1 EXAMINER JONES: Okay. Say that one more
2 time.

3 MR. BRUCE: In the application and in the
4 published notice in this case, they prefer a location in
5 the southeast-southeast of Section 11.

6 EXAMINER JONES: Okay.

7 MR. BRUCE: And that's on this plat.

8 EXAMINER JONES: okay.

9 MR. BRUCE: If that cannot be obtained,
10 they are going to have a location in the
11 southwest-southwest of 12. We would like that, in the
12 alternative, in the application so that we don't have to
13 come back later.

14 EXAMINER JONES: Okay. So these are
15 proposed wells? They're not approved yet for drilling;
16 is that correct?

17 THE WITNESS: The 7H -- we have an approved
18 APD for the 7H well, and we'll drill that in January.
19 And we have not filed, although we will file very soon,
20 the APD for the 8H well, which will be roughly a
21 midsummer drill of 2017.

22 EXAMINER JONES: So we're talking about the
23 8H?

24 THE WITNESS: Yes, sir.

25 MR. BRUCE: Just that one.

1 THE WITNESS: And the 7H does not have a
2 surface location because of the dunes. We prefer the
3 surface location in the adjoining section, 11, to
4 maximize lateral length. So the 8H should work out.
5 Then we'll have the surface location in the adjoining
6 Section 11 to maximize the productive lateral for that
7 well.

8 EXAMINER JONES: If you don't get it, you
9 want the surface location southwest-southwest of 12?

10 THE WITNESS: Of 12, correct.

11 Q. (BY MR. BRUCE) Mr. Means, Exhibits 2 and 3, are
12 those the same letters submitted in the first case for
13 the 7H well?

14 A. Yes, sir.

15 Q. And what is Exhibit 4?

16 A. Exhibit 4 is the AFE for the 8H well reflecting
17 effectively the same cost, 2.575, completed well, a
18 little over a million dollars dry-hole cost.

19 Q. And, again, is this cost fair and reasonable
20 and in line with the cost of the other Yeso --
21 horizontal Yeso wells drilled in this area?

22 A. Yes, sir.

23 Q. And what overhead rates do you propose for this
24 well?

25 A. Same overhead rates, 6,000 a month drilling and

1 600 a month producing.

2 Q. And are those rates fair and reasonable?

3 A. Yes, sir.

4 Q. Do you request that the rates be adjusted as
5 provided in the COPAS accounting procedure?

6 A. Yes, sir, every April.

7 MR. BRUCE: Mr. Examiner, Exhibit 5 is my
8 Affidavit of Notice to the Ard entities in the 8H well
9 case, and then Exhibit 6 is my Affidavit of Notice to
10 the offsets in the 8H case.

11 Q. (BY MR. BRUCE) Again, the same -- they're the
12 same offsets, correct, Mr. Means?

13 A. Correct. Yes, sir.

14 Q. Were Exhibits 1 through 6 in each case prepared
15 by you or under your supervision or compiled from
16 company business records?

17 A. Yes, sir.

18 Q. And in your opinion, is the granting of both
19 applications in the interest of conservation and the
20 prevention of waste?

21 A. Yes, sir.

22 MR. BRUCE: Mr. Examiner, I'd move the
23 admission of Exhibits 1 through 6 in both cases.

24 EXAMINER JONES: Exhibits 1 through 6 in
25 Case Number 15566 and 15567 are admitted.

1 (Burnett Oil Co., Inc. Exhibit Numbers 1
2 through 6 are offered and admitted into
3 evidence.)

4 MR. BRUCE: I have no further questions of
5 the witness.

6 EXAMINER JONES: Okay. So Ard is not
7 appearing here under -- they've not made an appearance
8 in this case; is that correct?

9 MR. BRUCE: No, although Mr. Padilla is
10 lurking behind my back (laughter).

11 EXAMINER JONES: I saw that (laughter).
12 Mr. Padilla -- okay.

13 MR. PADILLA: I'm not entering an
14 appearance.

15 EXAMINER BROOKS: I have no questions of
16 the witness.

17 CROSS-EXAMINATION

18 BY EXAMINER JONES:

19 Q. So everybody was noticed -- actual notice?
20 Even the surrounding parties -- lurking parties were
21 noticed?

22 MR. BRUCE: Yeah. Yup. No continuances
23 here.

24 EXAMINER JONES: No continuances?

25 EXAMINER BROOKS: No parties to be pooled

1 except the Ard interest?

2 MR. BRUCE: That's correct.

3 THE WITNESS: That's correct.

4 EXAMINER BROOKS: In both cases?

5 THE WITNESS: Correct.

6 Q. (BY EXAMINER JONES) And you're assuming COG is
7 going to sign according to the JOA; is that correct?

8 A. Yes, sir. Yeah. They've indicated -- so we
9 drilled, you'll recall. About a year ago, we pulled the
10 4 and the 6H, the two wells north. They actually didn't
11 participate for their interest in the 4H well, but have
12 indicated -- those were actually really good wells. And
13 they've indicated they're going to participate in the
14 8H, and we're working with them on the surface location
15 currently for the 8H well. And we seem -- we're going
16 to swap locations, with them in 12 and us in 11. And I
17 think we should get that squared away here in the
18 next -- not too long.

19 Q. How did Burnett come into interest here?

20 A. These were leases that were acquired by,
21 actually, a predecessor company, R. F. Winfer
22 [phonetic]. A guy named Robert Winfer acquired these
23 back in the 1950s, and Mr. Winfer was married to a
24 Burnett. So that Winfer interest kind of got merged
25 into Burnett Oil Company way back when.

1 Q. Okay. And since -- since COG's involved at
2 least in one well, not the other well?

3 A. They don't have an interest in the other well,
4 just because they didn't earn anything under the term
5 assignment for that 120 acres.

6 Q. Okay. And I should ask -- I hate to ask, but I
7 should ask. Any vertical division of interests?

8 A. No, sir. Not within the -- not within the
9 Glorieta-Yeso, no.

10 Q. Okay. Thanks.

11 A. I say Glorieta-Yeso. Yeah, Yeso. Yeah.

12 MR. BRUCE: Just one set of geologic
13 exhibits for both cases, Mr. Examiner.

14 RAFAEL ZELAYA,
15 after having been previously sworn under oath, was
16 questioned and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BRUCE:

19 Q. Would you please state your name for the
20 record?

21 A. Rafael Zelaya.

22 Q. Where do you reside?

23 A. Fort Worth, Texas.

24 Q. Who do you work for and in what capacity?

25 A. Burnett Oil Company, Inc., and I'm a geological

1 manager.

2 Q. Have you previously testified before the
3 Division?

4 A. Yes, sir.

5 Q. And were your credentials as an expert
6 petroleum geologist accepted as a matter of record?

7 A. Yes, sir.

8 Q. And are you familiar with the geology involved
9 in both applications?

10 A. Yes.

11 MR. BRUCE: Mr. Examiner, I tender
12 Mr. Zelaya as an expert petroleum geologist.

13 EXAMINER JONES: He is so qualified.

14 Q. (BY MR. BRUCE) Mr. Zelaya, let's go through
15 these exhibits. Some of them have the well unit for
16 only the 7H well, the northern well of the two wells
17 that are proposed, but is the geology the same for both
18 wells?

19 A. Yes, sir.

20 Q. And before we hit up the geology, could you go
21 through Exhibits 7 and 8 briefly and discuss what is
22 shown in these exhibits?

23 A. Yes, sir. Exhibit 7 is just the base map
24 showing the unit for the 7H. Although the area is
25 relatively flat, there are -- there is a draw that comes

1 through the eastern portion of Section 12 and also some
2 sand dunes, and that is represented in Exhibit 8.

3 Q. And there are also some wildlife areas or
4 habitats in this area; are there not?

5 A. That is correct, yes.

6 Q. And as a result, it's not always easy to get
7 well locations in this immediate area?

8 A. No, sir. It's pretty tricky.

9 Q. Move on to Exhibit 9. What does that show?

10 A. Exhibit 9 is a structure map on the top of the
11 Paddock, which is on the top of the Yeso. And as you
12 can see, it's relatively flat with a slight dip to the
13 southeast.

14 Q. And what is Exhibit 10?

15 A. Exhibit 10 is a porosity map of the Paddock
16 section, greater than 3 percent porosity, and you can
17 see from west to east, the porosity thickness ranges
18 from 250 feet to about 150 feet.

19 Q. Is the Yeso continuous across each of the well
20 units?

21 A. Yes, sir.

22 Q. And from a geologic standpoint, would you
23 expect each quarter-quarter section in the well units to
24 contribute more or less equally to production?

25 A. Yes, sir.

1 Q. Are there any faults that would affect the
2 drilling of a horizontal well in this area?

3 A. No, sir. We have not identified any faults.

4 Q. Do you prefer stand-up or lay-down well units
5 in this area?

6 A. We prefer lay-down units, but in areas where we
7 pretty much have to drill a stand-up unit, they're still
8 productive. And the offset operator, COG, has drilled
9 stand-up units as well.

10 Q. What is Exhibit 11?

11 A. Exhibit 11 is the directional plan that has
12 been filed for the 7H, and it shows that the first and
13 last take points will be orthodox locations.

14 Q. Since the location of the 8H well is not quite
15 certain as of yet, there is no directional drilling plan
16 for the 8H well; is that correct?

17 A. Not currently. We're working on getting that
18 put together. Yes, sir.

19 Q. Were Exhibits 7 through 11 prepared by you or
20 under your supervision or compiled from company business
21 records?

22 A. Yes, sir.

23 Q. And in your opinion, is the granting of these
24 applications in the interest of conservation and the
25 prevention of waste?

1 A. Yes.

2 MR. BRUCE: Mr. Examiner, I move the
3 admission of Exhibits 7 through 11.

4 EXAMINER JONES: Exhibits 7 through 11 are
5 admitted in both cases.

6 (Burnett Oil Co., Inc. Exhibit Number 7
7 through 11 are offered and admitted into
8 evidence.)

9 MR. BRUCE: And I have no further questions
10 for the witness.

11 EXAMINER BROOKS: No questions.

12 CROSS-EXAMINATION

13 BY EXAMINER JONES:

14 Q. On Exhibits 9 and 10, Section 12, is that a
15 restricted section?

16 A. It is not. So the eastern portion is
17 restricted because of the COG. That's just our unit
18 outline.

19 Q. Okay. The well that's shown in red, is that --
20 that's the 7H?

21 A. Yes, sir. That is the 7H.

22 Q. And the 8H would be?

23 A. Just south of that, three sections to the
24 south.

25 Q. Okay. So are we talking Paddock here?

1 A. Yes, sir. It's the lower portion of the
2 Paddock section.

3 Q. How close to the Blinebry is it?

4 A. We're about, roughly, 150 feet.

5 Q. So you mapped 3 percent. Is that -- is that
6 density? Porosity?

7 A. It's a combination of both. You know, some of
8 these are older logs, but where we have cross-block
9 porosity, we like to use that.

10 Q. Do you have reasonable control?

11 A. Yes, sir.

12 Q. Well, you must have sold these to your
13 managers, so --

14 You can drill these economically and make a
15 decent profit?

16 A. Yes, sir. We've had great results on the north
17 two wells.

18 Q. What would be the biggest risk?

19 A. Making sure that the completion goes off
20 correctly.

21 Q. Okay (laughter).

22 A. Our geologic risks, I would say, are very
23 minimal because the section is so thick. There isn't a
24 specific target landing point. We're just landing as
25 deep into the section as possible and letting the bit

1 kind of work itself updip.

2 Q. Okay. And there is no damage due to drilling
3 fluids?

4 A. Not that we've seen.

5 Q. You're able to frac through it anyway?

6 A. Yes, sir, about 13 stages.

7 Q. 13 stages. Any idea how far they go or how far
8 they're propped?

9 A. You know, that's an even better question. If
10 we could answer that, everybody would -- no, I don't
11 have that answer.

12 Q. But if you weren't drilling in this depth, the
13 bottom, what would be the next possible depth that you
14 would --

15 A. The Blinebry, which would be the section -- or
16 the formation just below it within the Yeso.

17 Q. Is it easy to see the top between the Paddock
18 and the Blinebry?

19 A. You can see the base of the Paddock, the
20 porosity, go away. It's pretty definitive.

21 Q. So it's anhydrite?

22 A. They're interbedded dolomites.

23 Q. Okay. Okay. Thanks very much. Appreciate it.

24 EXAMINER BROOKS: I did have one question
25 after all.

1 CROSS-EXAMINATION

2 BY EXAMINER BROOKS:

3 Q. You said you prefer to drill lay-downs in this
4 area, but you've drilled stand-ups because, I suppose,
5 the development in the area?

6 A. That's correct. Yes, sir.

7 Q. Why do you prefer to drill lay-downs?

8 A. Just based on the production history from
9 previous wells and what we've seen in the area. The
10 lay-downs tend to perform better, and that may be
11 related to fracturing. But we haven't --

12 Q. You don't have a definite theory as to --

13 A. We don't have an answer.

14 Q. -- why that's -- just something you've
15 experienced?

16 A. Yes, sir.

17 Q. That's all I have.

18 EXAMINER JONES: Ready to take these under
19 advisement?

20 MR. BRUCE: Yes, sir.

21 EXAMINER JONES: Okay. Cases 15566 and
22 15567 have been heard and are taken under advisement.

23 (Case Numbers 15566 and 15567 conclude,
24 10:46 a.m.)

25

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

Mary C. Hankins

22

MARY C. HANKINS, CCR, RPR
Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2016
Paul Baca Professional Court Reporters

23

24

25