

Jones, William V, EMNRD

From: Brooks, David K, EMNRD <DavidK.Brooks@state.nm.us>
Sent: Wednesday, January 18, 2017 6:50 PM
To: Jordan L. Kessler
Cc: Jones, William V, EMNRD; Ernest Padilla
Subject: Case No. 14932 (Re-Opened): Application of Matador Production Company, etc.

Good evening Ms. Kessler

I am unable to understand the evidence in this case.

Mr. Carleton testified that Exhibit 3 is a summary of the parties in the unit, and that it shows you are seeking to add an additional 4%. TR at 6. The problem is that while Ex. 3 does indeed show an unpooled interest of 4.027%, my efforts to total the interests identified on Exhibit 3 (there is no total on the exhibit) yield only 0.0376255%. I arrived at this total through both of two independent tries at copying the interests stated into a spreadsheet.

Obviously if my arithmetic is correct, a very substantial part of the unpooled interest is omitted. Even if the interests stated beside the names in Ex. 3 are actually decimals interests, and not percentages as they are stated to be, there is still an interest unaccounted for. Notice is required to all owners of uncommitted interests whose interest appears in an instrument of record or known to the applicant. Such interests could total more than the entire uncommitted interest because of conflicts in title. But I do not understand how the total of interests evidenced in instruments described in Rule 4.12.A(1)(a) could be less than the total uncommitted interest, unless someone was left out. If all of the parties required to be noticed are not identified, we cannot tell whether the notice rule has been complied with, and accordingly we cannot pool, as we usually do, "all uncommitted interests, whatever they may be."

Since no other party appeared in the case except for BK Royalties, whose interest would not be affected, I think we could allow you to supplement the evidence with a complete listing of the parties entitled to notice, which would enable us to issue an order if they all were noticed, or we could again re-open the case for additional notices and evidence as needed.

Please let me know how Matador wants to proceed. If I made a mistake in adding the interest in Ex. 3, please advise me of that and furnish the correct total.

Sincerely

David K. Brooks

Jones, William V, EMNRD

From: Jordan L. Kessler <JLKessler@hollandhart.com>
Sent: Thursday, February 2, 2017 4:11 PM
To: Brooks, David K, EMNRD
Cc: Jones, William V, EMNRD; Ernest Padilla (epadilla@qwestoffice.net)
Subject: Re: Case No. 14932 (Re-Opened): Application of Matador Production Company, etc.
Attachments: Case No. 14932 (Re-Opened): Application of Matador Production Company, etc.; Tiger 222H - Ex 2 3 - draft - 1-30-17.pptx

Hi David,

Per your attached email, I have conferred with Chris Carleton, the landman from Matador, and he agreed that there were typos in the original exhibit 3. His testimony at the hearing was correct at the time: approximately 4 percent of the interest was unpooled. However, the arithmetic in the original exhibit 3 was incorrect. The parties were all correct, meaning that all parties owning an unpooled interest were provided notice of the hearing.

I've attached a corrected list which reflects the corrected percent ownership and all parties that remain unpooled. Please note that now the unpooled interest is only (approximately) 3 percent, because Matador has reached an agreement with several of the previously unpooled interest owners.

I believe that this resolves the issue, but please let me know if you need anything further from me.

Jordan Lee Kessler
Attorney | Holland & Hart LLP
110 North Guadalupe Suite 1
Santa Fe, NM 87501
Phone (505) 988-4421
Fax (505) 983-6043
E-mail: JLKessler@hollandhart.com



CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.