

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

2006 MAR 8 PM 3 08

IN THE MATTER OF THE APPLICATION
OF PATINA SAN JUAN, INC. FOR AN
UNORTHODOX GAS WELL LOCATION,
SAN JUAN COUNTY, NEW MEXICO

CASE NO. 13683

MOTION TO DISMISS OBJECTION

Applicant, Patina San Juan, Inc., by and through its attorneys Miller Stratvert P.A. (J. Scott Hall), move the Division enter its order dismissing the objection to the Application. As grounds for this motion, Applicant states:

1. On January 24, 2006, Applicant filed with the Division its request for administrative approval of an unorthodox well location for the Valance 33 Well No. 2 (API No. 30-045-32689) to be drilled at a location 320' FNL and 2145' FEL (Unit B) of Section 33, T31N, R13W, in San Juan County, New Mexico with the E/2 of said Section 33 dedicated as a standard 320-acre stand-up gas spacing unit for the well. Applicant proposes to drill and complete the well in both the Basin Fruitland Coal Gas Pool and the Basin Dakota Pool. The well is the second optional Dakota infill well and will be the first Fruitland Coal Gas well within the E/2 unit.

2. The exception from the Division's well location rules was requested for the reason that the surface of the lands at locations to the south and to the east of the proposed unorthodox location is predominated by wetlands associated with the nearby La Plata River. Further the proposed location is in close proximity to State Hwy. 170.

3. Applicants sought administrative approval for its proposed well location pursuant to the procedures set forth in Division rules 104(F)(3) and (4). Notice of the administrative

application was sent to “affected persons” as defined by Rule 1207(A)(2) as directed by Rule 104(F)(4).

4. Fuller Production, Inc. of Midland, Texas is the operator of all formations from the surface to the base of the Dakota formation in the adjoining spacing units located in the W/2 of Section 33 and the S/2 of Section 28, T31N, R13W. Notice was accordingly sent to Fuller Production, Inc., and on February 15, 2006, Fuller responded by providing written waiver of any objection to Applicant’s request. (Exhibit A, attached.) On February 22, 2006, the Division received a written objection dated February 20, 2006 from Richard J. Bramwell and Darla Bramwell, the purported owners of a 14.73 acre parcel upon which Applicant’s well is proposed to be located. The Bramwells appear to object to the proposed location for the reasons that (1) it is “inside setback/buffer zone”, and (2) any drilling activity will cause a pending sale of the property to fail. The potential conflict with any present or future land use is not cited as grounds for the objection.

5. The objection is untimely. Rule 104(F)(4) directs, in mandatory terms, that if an affected person seeks to object to an application seeking an unorthodox well location, their objection “must be filed in writing within 20 days from the date the Division receives the application”. In this case, any affected person with standing to object was required to file their written application within 20 days of January 4, 2006, or by February 13, 2006. Consequently, the objection was untimely by more than a week.

6. On February 24, 2006, the engineering assistant to the Director advised: “Even though the 20 day objection period for your application [*see* Division Rule 104(F)(4)] has lapsed and the protesting party was not noticed under Division Rule 1210.A(2)(A), I will not proceed in the processing of this application under the Division’s administrative procedures (*see* Division

Rule 104.F).” In spite of the acknowledgement that the objection was untimely and the inapplicability of Rule 1210.A.2(a), no reason was given for the decision to defer the administrative processing of the application and the referral of the matter to an examiner hearing.

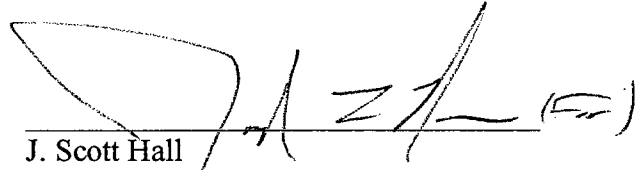
7. The protestants lack standing to object to the application. By the adoption of the definition of “affected persons” under Rule 1210.A.2(a), the Commission has defined those with standing to object to an unorthodox well location as “persons owning interests in the adjoining spacing units”. These are, specifically, the Division designated operator; in the absence of an operator, any lessee; and in the absence of an operator or lessee, any mineral interest owner. Surface owners are not “affected persons” with standing to object. Further, the protestants have not moved to intervene in this proceeding and have otherwise failed to show that they have standing pursuant to Division Rule 1209.C. As surface owners, these protestants cannot satisfy the specified criteria for intervention. Specifically, they are unable to demonstrate that their participation “will contribute substantially to the prevention of waste, protection of correlative rights or protection of public health or the environment.” The protestants’ speculative apprehension that a real estate sales contract may fail falls far short of the requirement of the rule and is not included within the interests that the Division is authorized by statute to protect.

8. As the owner of the oil and gas lease on the subject lands, Patina San Juan, Inc. “is entitled to use as much of the surface as is reasonably necessary for its drilling and production operations”. *See, Amoco Production Co. v. Carter Farms*, 103 N.M., 119, 703 P.2d, 896 (1985). To allow the protestants in this case, without adequate standing or reason, to supercede the Division’s established rules and procedures conferring standing and for processing administrative applications would effectively exalt the protestants’ subservient interest and diminish the mineral lessee’s property rights without any legal basis.

For the foregoing reasons, Applicant requests that the Division enter its order dismissing the objection of the protestants and directing that the application be processed administratively at the earliest opportunity.

Respectfully submitted,

MILLER STRATVERT P.A.



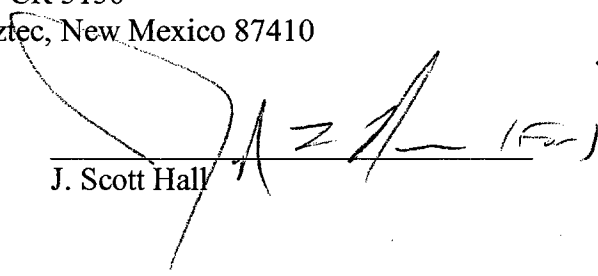
J. Scott Hall
Attorneys for Patina San Juan, Inc.
Post Office Box 1986
Santa Fe, New Mexico 87504-1986

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was mailed to counsel of record on the 8th day of March, 2006, as follows:

Gail MacQuesten, Esq.
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87504

Patrick J. Cunningham
Attorney-in-fact for Richard J. Bramwell
and Darla L. Bramwell
10 CR 3136
Aztec, New Mexico 87410



J. Scott Hall

02/15/2006 18:00 FAX 4326851912

LR FRENCH JR

002/003

1625 B. Broadway
Suite 2000
Denver, CO 80202

Tel: 303.228.4165
Fax: 303.228.4388
rhoelstken@
nobleenergyinc.com

Robert A. Hoelstken,
Negotiator
Rocky Mountain
Business Unit
Onshore Division



February 13, 2005

Mr. Royce Fort
Fuller Production, Inc.
P. O. Box 11327
Midland, TX 79702

Re: Unorthodox Well Location
Valence 33 #02 Well
T31N, R13W, NMPM
Sec. 33: 320' FNL, 2,145' FEL
San Juan County, New Mexico

Dear Mr. Fort:

Reference is made to the application which was filed by Patina San Juan, Incorporated, a wholly owned subsidiary of Noble Energy Production, Inc. ("Patina") for the drilling of the Valence 33 #02 Well at an unorthodox location specified in the caption. Patina is in receipt of Fuller Production, Inc.'s ("Fuller") letter dated February 3, 2006, serving notification that Fuller will not protest this location if Patina will provide well information from the drilling of the Valence 33 #02 Well and if Patina would not protest a reciprocal location filed by Fuller.

This letter will serve to notify you that if Fuller does not file an objection to Patina's unorthodox well location application for the Valence 33 #02 Well, Patina will adhere to the following:

1. Furnish Fuller with the following well information from the Valence 33 #02 Well:
 - a. Daily progress reports (fax (432) 885-1912 or Email becky@frenchoiltx.com).
 - b. One copy of all logs run.
 - c. One copy of all governmental forms filed.
2. Patina would not protest the filing by Fuller of one reciprocal location in the S/2 of Section 28 or the W/2 of Section 33, T31N, R13W, provided, any such location is not located closer than 1,000' to the Valence 33 #02 Well.

If you are agreeable to the above terms, please sign return to the attention of Robert Hoelstken of this office via facsimile transmission to (303) 228-4285.

Sincerely,

PATINA SAN JUAN, INCORPORATED (A wholly owned subsidiary of Noble Energy Production, Inc.)

By: 

Business Unit Manager

EXHIBIT

A

February 13, 2006

AGREED TO AND ACCEPTED this 15 day of February, 2006

FULLER PRODUCTION, INC.

By: Royce Fort

Title: Gen. Mear