

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:)

CASE NO. 13,662

APPLICATION OF SYNERGY OPERATING, LLC,)
FOR COMPULSORY POOLING, SAN JUAN COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

June 22nd, 2006

Santa Fe, New Mexico

2006 JUL 6 AM 8 07

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, June 22nd, 2006, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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I N D E X

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Examiner Hearing
CASE NO. 13,662

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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
Deputy General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
Santa Fe, New Mexico 87504

* * *

1 WHEREUPON, the following proceedings were had at
2 10:03 a.m.:

3 EXAMINER CATANACH: Okay, call Case 13,662, the
4 Application of Synergy Operating, LLC, for compulsory
5 pooling, San Juan County, New Mexico.

6 Call for appearances.

7 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
8 representing the Applicant. I think I'll call Mr. Hegarty
9 as a brief witness in this matter.

10 EXAMINER CATANACH: Any additional appearances?
11 Okay.

12 MR. BRUCE: Mr. Examiner, this matter was
13 previously heard and Mr. Hegarty was sworn in and
14 qualified. I don't know if you want me to do it again.

15 EXAMINER CATANACH: Well, we need to swear him
16 in.

17 MR. BRUCE: Swear him in.

18 EXAMINER CATANACH: Yes.

19 (Thereupon, the witness was sworn.)

20 MR. BRUCE: Mr. Examiner, this case was heard, I
21 forget, a couple of months ago now, but some issues were
22 raised as to the parties we were entitled to pool and also
23 as to the acreage involved in this matter, which got sort
24 of complicated due to multiple resurveys by the federal
25 government, and we'd like to address just those couple of

1 matters right now.

2 EXAMINER CATANACH: Okay.

3 PATRICK HEGARTY,

4 the witness herein, after having been first duly sworn upon
5 his oath, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BRUCE:

8 Q. Mr. Hegarty, with respect to the acreage, what
9 does Exhibit A reflect?

10 A. Exhibit A reflects your work, and -- based upon
11 an examination of the mineral title plat, and you went to
12 the BLM and confirmed what the final survey -- what they
13 accepted as the final survey.

14 MR. BRUCE: And Mr. Examiner, when you look at
15 this -- I don't know why the BLM did it this way, but the
16 numbers with the -- like 39.96, et cetera, are the acreages
17 of each of those particular tracts reflected on the BLM's
18 master title plat. The numbers in the upper right-hand
19 corner of the little rectangles or boxes are the lot
20 numbers of the north half of Section 6 of 29 North, 13
21 West.

22 There are -- You can see the lot numbers are not
23 sequential, there is a break between the lot numbers. And
24 there are two small tracts, five-acre tracts, that do not
25 have lot numbers, and they are described on this tract.

1 Q. (By Mr. Bruce) And Mr. Hegarty, that's what led
2 to the confusion in title in this matter, did it not?

3 A. Correct.

4 Q. What does Exhibit B reflect?

5 A. Based upon your examination of the master title
6 plat, this is an exact summation of our interest and the
7 acreage associated with the proration unit, being that it's
8 a truncated section and it's a -- smaller than a normal
9 section.

10 Q. And you have on this the interests owned by
11 Synergy and the other working interest owner on this tract.
12 What is that?

13 A. Synergy is 21.34929, and McCulloch Oil Corp.
14 78.65071. McCulloch Oil Corp. is the entity identified in
15 the county records. That corporation, we discovered, was
16 merged into Maxxam Corporation, and so we -- and McCulloch
17 no longer exists, so we went ahead and notified Maxxam and
18 gave them a chance to participate in the well and --

19 Q. Okay, so in the BLM's and the county records, the
20 materials filter -- the working interest ownership filters
21 into McCulloch Oil Corporation, but then it just sits
22 there --

23 A. Right.

24 Q. -- is that correct?

25 A. That's correct.

1 Q. And you had to go on the Internet and do various
2 searches of Secretary of State records to determine that
3 Maxxam Corporation was the successor-in-interest to
4 McCulloch?

5 A. That's correct.

6 Q. And written notice of the revised -- or I should
7 say amended Application, was given to Maxxam Corporation,
8 was it not?

9 A. Yes, it was.

10 Q. And that's reflected in Exhibit C?

11 A. Yes, it is.

12 Q. And you have had -- You testified about this
13 before. You have had discussions with Maxxam, have you
14 not?

15 A. Yes, we have.

16 Q. And their response was essentially -- ?

17 A. Force pool us.

18 Q. Force pool --

19 A. They're a pretty large corporation. This is a
20 very small interest, and they felt it was in their best
21 interest to just let the proceeding go forward and to force
22 pool their interest.

23 Q. And finally, Exhibit D, you did publish notice as
24 against McCulloch just to be safe?

25 A. Yes.

1 Q. Okay. And the case was re-advertised to reflect
2 the nonstandard units that are involved in this unit, Mr.
3 Examiner.

4 Were Exhibits A through C either prepared by you
5 or compiled from company business records, Mr. Hegarty?

6 A. Yes, they were.

7 Q. And in your opinion is the granting of this
8 Application in the interests of conservation and the
9 prevention of waste?

10 A. Yes, it is.

11 MR. BRUCE: Mr. Examiner, I'd move the admission
12 of Synergy's Exhibits A through D.

13 EXAMINER CATANACH: Exhibits A through D will be
14 admitted.

15 Mr. Bruce, as I recall, this is the case where
16 Maxxam had conveyed interest ownership to various parties?

17 MR. BRUCE: I think it pre-dated that. What
18 happened is, way back in the chain of title pre-dating
19 McCulloch there were a number of small interests conveyed
20 out. And they apparently all filtered back into McCulloch,
21 but the problem was the property description due to the
22 changing --

23 THE WITNESS: -- surveys.

24 MR. BRUCE: -- survey, federal surveys. And now
25 that we've gotten the final property description right, all

1 those little parties were -- we don't seek to pool anybody
2 else, other than Maxxam.

3 EXAMINER CATANACH: So Maxxam is the owner of
4 record?

5 MR. BRUCE: Actually, McCulloch is the owner. If
6 you look at the records themselves, McCulloch is the owner.
7 But Maxxam is the successor-in-interest, based on secretary
8 of state merger and document records. Not New Mexico
9 Secretary of State, out-of-state secretaries of state.

10 EXAMINER CATANACH: And Maxxam has acknowledged
11 that they do own that interest?

12 THE WITNESS: (Nods)

13 EXAMINER CATANACH: Okay, so you're pooling
14 Maxxam?

15 MR. BRUCE: We're pooling Maxxam only.

16 EXAMINER CATANACH: Okay. There being nothing
17 further, Case 13,362 will be taken under advisement.

18 (Thereupon, these proceedings were concluded at
19 10:12 a.m.)

20 * * *

21 I do hereby certify that the foregoing is
22 a complete record of the proceedings in
23 the Examiner hearing of Case No. 13662
24 heard by me on June 22, 2006
25 David K. Kach, Examiner
Oil Conservation Division

CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL June 25th, 2006.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006