

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. 13,739

APPLICATION OF MCKAY OIL AND GAS, LLC, )  
 FOR COMPULSORY POOLING, SAN JUAN COUNTY, )  
 NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

July 6th, 2006

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, July 6th, 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

July 6th, 2006  
 Examiner Hearing  
 CASE NO. 13,739

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APPLICANT'S WITNESS:	
<u>WILLIAM J. MAYHEW</u> (Landman)	
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\* \* \*

## E X H I B I T S

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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

## FOR BURLINGTON RESOURCES OIL AND GAS:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
110 N. Guadalupe, Suite 1  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: OCEAN MUNDS-DRY

\* \* \*

## ALSO PRESENT:

Robert J. Sutphin

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:43 a.m.:

3  
4 EXAMINER EZEANYIM: At this point I call Case  
5 Number 13,739. This is the Application of McKay Oil and  
6 Gas, LLC, for compulsory pooling, San Juan County, New  
7 Mexico.

8 Call for appearances.

9 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
10 representing the Applicant.

11 I have one witness.

12 EXAMINER EZEANYIM: Any other appearances?

13 MS. MUNDS-DRY: Mr. Examiner, Ocean Munds-Dry  
14 with Holland and Hart.

15 Also appearing with me here today are Robert J.  
16 Sutphin.

17 We're here on behalf of Burlington Resources Oil  
18 and Gas.

19 We have no witnesses, we're simply here because  
20 of some related litigation with another interest owner, and  
21 we're here to protect our interests.

22 Thank you.

23 EXAMINER EZEANYIM: Okay, any other appearances?

24 May the witness stand to be sworn, please?

25 (Thereupon, the witness was sworn.)

1                                    WILLIAM J. MAYHEW,  
2     the witness herein, after having been first duly sworn upon  
3     his oath, was examined and testified as follows:

4                                    DIRECT EXAMINATION

5     BY MR. BRUCE:

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

7             A.     My name is William J. Mayhew.

8             Q.     Where do you reside, Mr. Mayhew?

9                    EXAMINER EZEANYIM:   Can you spell Mayhew for me?

10                  THE WITNESS:   M-a-y-h-e-w.

11            Q.     (By Mr. Bruce)   And where do you reside?

12            A.     In Albuquerque, New Mexico.

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

14            A.     I work for McKay Oil and Gas, LLC, and also  
15     another family-owned business, El Pamco, Incorporated,  
16     which is a small oil and gas company also.   And I'm general  
17     manager of both companies, and I take care of the day-to-  
18     day business of both companies.

19            Q.     Could you describe just briefly your employment  
20     background in the oil and gas business for the Examiner?

21            A.     When I got out of the Navy in 1978, I went to  
22     work for McKay Oil and Gas and El Pamco, Incorporated, and  
23     have been there ever since, working in all aspects of the  
24     business.

25            Q.     Okay, so you do a little bit of landwork?

1 A. Yes.

2 Q. Operations?

3 A. Operations, yes, sir.

4 Q. Okay. And so you're familiar not only with the  
5 landwork involved, but the proposal for this well and the  
6 drilling of the well?

7 A. Yes.

8 MR. BRUCE: Mr. Examiner, I just tender Mr.  
9 Mayhew as a practical oilman, rather than as a landman.

10 EXAMINER EZEANYIM: Mr. Mayhew is so qualified.

11 Q. (By Mr. Bruce) With respect to the drilling of  
12 this well, Mr. Mayhew, could you identify Exhibit 1 and  
13 just briefly describe what McKay seeks in this case?

14 A. Exhibit 1 is a C-102 that was filed, and it's for  
15 the west half of Section 1, a Fruitland Coal well, which is  
16 the Kelly Number 1, and it's located 1925 from the north  
17 line and 1675 feet from the west line.

18 Q. And this is in Township 30 North, 12 West?

19 A. 30 North, 12 West, Section 1, San Juan County.

20 Q. This is a Fruitland Coal test?

21 A. Yes, it is.

22 Q. And you seek to force pool all interests, all  
23 working interests, in the Fruitland Coal formation; is that  
24 correct?

25 A. Well, we have two parties that have not

1 responded.

2 Q. Okay, let's move on. Who are the interest owners  
3 in the west half, the working interest owners? And I refer  
4 you to Exhibit 2.

5 A. Exhibit 2 is out of our -- the operating  
6 agreement. McKay Oil and Gas has 33.3 percent, Burlington  
7 Resources Oil and Gas Company has 25 percent, Bolack  
8 Minerals has 18.75 percent, Speerex Ltd. Partnership 6.25  
9 percent, and Edward Hartman has 16.6.

10 Q. Which of these parties do you seek to force pool?

11 A. Burlington Resources and Bolack Minerals.

12 Q. And Burlington Resources was recently taken over  
13 by ConocoPhillips?

14 A. Correct, yes.

15 Q. Let's discuss your efforts to obtain the joinder  
16 of these parties in the well. What is Exhibit 3?

17 A. Exhibit 3 is a letter that I sent out to all  
18 working interest owners, requesting that they participate  
19 in the drilling of the Kelly Number 1.

20 Q. And did this proposal letter also contain an AFE  
21 for the well?

22 A. In the letter was also an AFE and an operating  
23 agreement.

24 Q. Okay. And this well covered, in addition, a  
25 separate well, did it not? Your proposal letter covered

1 another well besides --

2 A. Yes, there was another well --

3 Q. Okay.

4 A. -- that the same interest owners were involved  
5 in.

6 Q. Now have you also spoken with Burlington  
7 regarding this matter?

8 A. I have spoken with Burlington, the landman, Ben  
9 Malone, and he told me of the litigation that's currently  
10 going on, the problem that Burlington and Bolack Minerals  
11 has.

12 Q. Okay. And I presume you don't know a lot about  
13 that, but it involves who -- who is responsible for certain  
14 costs in drilling wells?

15 A. Yeah, that's what I understand.

16 Q. Okay. And did you receive letters from Bolack's  
17 attorney and from Burlington's attorney regarding that  
18 dispute?

19 A. Yes, I did.

20 Q. And are those submitted as Exhibit 4?

21 A. Yes, they are.

22 Q. Would you like both Burlington and Bolack to join  
23 in the well?

24 A. Yes, we would.

25 Q. But at this time they have not voluntarily



1     agreed; is that correct?

2             A.     No, they haven't.

3             Q.     And the litigation, as you understand it, is  
4     still ongoing?

5             A.     It's ongoing.

6             Q.     So in order to protect your correlative rights,  
7     you need to proceed with the drilling of the well?

8             A.     Yes.

9             Q.     In your opinion, has McKay made a good faith  
10    effort to obtain the voluntary joinder of the interest  
11    owners in the well?

12            A.     Yes, we have.

13            Q.     Would you please identify Exhibit 5 and discuss  
14    the cost of your proposed well?

15            A.     Exhibit 5 is the AFE that we sent to everybody.  
16    The dryhole cost is approximately \$148,000, and a completed  
17    well will be \$332,000.

18            Q.     Is this cost in line with the cost of other wells  
19    drilled to this depth in this area of New Mexico?

20            A.     Yes, I believe it is.

21            Q.     And do you request that McKay be appointed  
22    operator of the well?

23            A.     Yes.

24            Q.     Do you have a recommendation for the amounts  
25    which McKay should be paid for supervision and

1 administrative expenses?

2 A. In the operating agreement it states that it be  
3 \$5400 for monthly charges for a drilling well and \$540 for  
4 a completed, producing well.

5 Q. And are these amounts equivalent to those  
6 normally charged by McKay and other operators in this area  
7 for wells of this depth?

8 A. Yes.

9 Q. Do you request that these rates be adjusted  
10 periodically as provided by the COPAS accounting procedure?

11 A. Yes.

12 Q. And do you request a 200-percent risk charge be  
13 assessed against any nonconsenting interest owners?

14 A. Yes, we do.

15 Q. Were the uncommitted interest owners notified of  
16 this hearing?

17 A. Yes, they were.

18 Q. And is that reflected in the affidavit of notice  
19 submitted as Exhibit 6?

20 A. Yes.

21 Q. Notice was also given to Speerex of this hearing,  
22 but they have since voluntarily joined in the well; is that  
23 correct?

24 A. Yes, they have, yes.

25 Q. Were Exhibits 1 through 6 either prepared by you

1 or under your supervision or compiled from company business  
2 records?

3 A. Yes, they were.

4 Q. And in your opinion is the granting of this  
5 Application in the interest of conservation and the  
6 prevention of waste?

7 A. Yes.

8 MR. BRUCE: Mr. Examiner, I'd move the admission  
9 of McKay Exhibits 1 through 6.

10 EXAMINER EZEANYIM: Any objection?

11 MS. MUNDS-DRY: (Shakes head)

12 EXAMINER EZEANYIM: Exhibits 1 through 6 will be  
13 admitted into evidence.

14 Ms. Munds-Dry?

15 MS. MUNDS-DRY: We don't have any questions,  
16 thank you.

17 EXAMINER EZEANYIM: Ms. MacQuesten?

18 MS. MacQUESTEN: No questions, thank you.

19 EXAMINATION

20 BY EXAMINER EZEANYIM:

21 Q. Is the land all fee?

22 A. No, the northwest quarter of Section 1 is fee,  
23 and the southwest quarter is federal.

24 Q. Northwest quarter is federal and southwest is  
25 fee?

1           A.   No, the southwest quarter is federal, the  
2 northwest is fee.

3           Q.   Okay. And the location of the well is 1925 from  
4 the north, 1675 from the west. Is this standard for  
5 this --

6           A.   Yes, it's a standard location.

7           Q.   The well has not been drilled, right?

8           A.   No, sir.

9           Q.   Have you applied for an APD, since it's standard  
10 location?

11          A.   Yes, we have.

12          Q.   And you've gotten an API number?

13          A.   Yes, we do have one.

14          Q.   Do you have that copy of the APD application?

15          A.   I may not have it with me.

16          Q.   Okay, that's fine. If you have the API number --

17          A.   Oh, I do have it here. I have -- The API number,  
18 is -- let's see -- 30-045-33729.

19          Q.   Okay. I'm looking for your advertisement here.  
20 Did I get it? Is this the advertisement?

21               MS. MacQUESTEN: They were able to contact all of  
22 the --

23               MR. BRUCE: Yeah, all of the people were  
24 locatable, Mr. Examiner, so I did not publish notice.

25               EXAMINER EZEANYIM: Okay, good.

1 Anything further?

2 MR. BRUCE: I have nothing further in this  
3 matter.

4 EXAMINER EZEANYIM: If there's nothing further,  
5 Case Number 13,739 will be taken under advisement.

6 THE WITNESS: Thank you.

7 (Thereupon, these proceedings were concluded at  
8 8:54 a.m.)

9 \* \* \*

10  
11  
12  
13 I do hereby certify that the foregoing is  
14 a complete record of the proceedings in  
the Examiner hearing of Case No. 13739  
15 heard by me on 7/6/06.

16   
Oil Conservation Division, Examiner

## 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 July 7th, 2006.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006