

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. 13,735

APPLICATION OF LCX ENERGY, LLC, )  
FOR COMPULSORY POOLING, EDDY COUNTY, )  
NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM and DAVID R. CATANACH,  
Hearing Examiners

August 31st, 2006

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM and DAVID R. CATANACH, Hearing Examiners, on Thursday, August 31st, 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.

\* \* \*

## I N D E X

August 31st, 2006  
Examiner Hearing  
CASE NO. 13,735

	PAGE
APPEARANCES	3
REPORTER'S CERTIFICATE	13

\* \* \*

## E X H I B I T

Applicant's	Identified	Admitted
Exhibit 8	5	-

\* \* \*

## 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:

MILLER STRATVERT, P.A.  
150 Washington  
Suite 300  
Santa Fe, New Mexico 87501  
By: J. SCOTT HALL

## FOR JENNIFER ROADY:

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

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:19 a.m.:

3           EXAMINER EZEANYIM: Then we call Case Number  
4   13,735. This is the Application of LCX Energy, LLC, for  
5   compulsory pooling, Eddy County, New Mexico.

6           I understand this case was continued from August  
7   17th, readvertised, so that -- the issues today, and we  
8   have here with us David Catanach who was the Hearing  
9   Examiner. I think he's dressed up to hear the case. I  
10   don't know whether you want to come up here or you want  
11   to --

12          EXAMINER CATANACH: Yes, I do.

13          EXAMINER EZEANYIM: So you come up here, and then  
14   the case is -- So at this point we'll call Case Number  
15   13,735 and call for appearances.

16          MR. HALL: Mr. Examiner, Scott Hall, Miller  
17   Stratvert law firm of Santa Fe, on behalf of the Applicant,  
18   LCX Energy, LLC. I have no witnesses this morning.

19          MS. MUNDS-DRY: Good morning, Mr. Examiner.  
20   Ocean Munds-Dry with Holland and Hart, here representing  
21   Jennifer Roady this morning.

22          EXAMINER EZEANYIM: Okay, as you all know, David  
23   Catanach heard this case, so I'm going to turn it over to  
24   him. And so you make your presentations to him, see where  
25   we go from there.

1 MR. HALL: Mr. Examiner, this case was originally  
2 heard on June 22nd, 2006, and has been continued twice  
3 since then, once to correct a defect in the published  
4 notice in the Carlsbad newspaper, and then once again in  
5 order to publish notice and provide mailed notice to the  
6 estate of George Curtis Roady, who we had determined since  
7 the first hearing was the actual record interest owner for  
8 a pooled interest here.

9 At the last hearing one of Mr. Smith's heirs,  
10 Jennifer Roady, appeared without counsel, and based on her  
11 appearance the case was continued for two more weeks to  
12 allow for her to prepare for hearing or to allow for us to  
13 negotiate with her, to obtain her voluntary participation  
14 after the hearing.

15 I met with Ms. Roady out in the hall and  
16 discussed the matter with her, provided her with my  
17 business card and asked that she call. We didn't hear  
18 anything. Now Ms. Munds-Dry has entered an appearance for  
19 her.

20 The current status of the case, she has still not  
21 participated in the well in any form, she's not executed  
22 the lease offer that was given to her back on January 17th.  
23 There is in the exhibit file, Exhibit Number 4 from that  
24 hearing, which is a copy of the lease offer to her, and I  
25 would offer that again as Exhibit 8 in this hearing, just

1 for your information.

2 That's all I have, Mr. Examiner.

3 EXAMINER CATANACH: Okay. Ms. Munds-Dry?

4 MS. MUNDS-DRY: Mr. Catanach, Ms. Roady contacted  
5 our office early this week to see if we would represent her  
6 in this case. And as you may know, there's a little bit of  
7 a process to retain a client, so we've been in the process  
8 of that. She's now formally retained us, and I've had some  
9 phone conversations with her, but honestly I haven't had a  
10 chance yet to sit down with her.

11 I do know just from phone conversations with her  
12 that she's not interested in being pooled, and I think she  
13 wants to voluntarily participate. We just haven't had  
14 enough time to sit down and talk about it and figure how  
15 we'd like to respond to LCX.

16 And I did let Mr. Hall know that; there just  
17 hasn't been enough time yet for us to figure out how we  
18 want to respond.

19 EXAMINER CATANACH: Okay, is that your position?

20 MS. MUNDS-DRY: I mean, just -- I don't know  
21 enough yet to know how to proceed, and I sympathize with  
22 Mr. Hall's situation because I know this has been  
23 continued, and I appreciate the two weeks but it hasn't  
24 been enough time.

25 So I guess I would argue that I would like

1 another two weeks to get the chance to meet with my client  
2 and figure out how we proceed.

3 EXAMINER CATANACH: Mr. Hall?

4 MR. HALL: Mr. Examiner, according to Division  
5 precedent all you need to do to provide notice is to notify  
6 the interest owner of record. That has been done.

7 The record also establishes that LCX has gone  
8 beyond that standard and has notified the apparent heirs of  
9 the Estate of George Curtis Roady. There is a question,  
10 because that estate has not been probated as far as we can  
11 tell, whether Ms. Jennifer Roady has the legal capacity to  
12 give LCX a lease at all. That's a question.

13 But it remains that the status of the case as of  
14 today is that LCX made a good faith offer to solicit her  
15 participation in the well in any event, despite the  
16 questions of title. As of today she has not joined in the  
17 well.

18 And in view of the fact that this will have been  
19 the third hearing on the matter, and given the current  
20 status, we ask that the Division proceed to go ahead and  
21 enter its order pooling the interest, and we will continue  
22 to negotiate with Ms. Munds-Dry and Ms. Roady to try to  
23 obtain her voluntary participation. If we do that, we will  
24 notify the Division after the order is entered, and she can  
25 be dropped from the order.

1 EXAMINER CATANACH: Mr. Hall, has the well been  
2 drilled --

3 MR. HALL: Yes.

4 EXAMINER CATANACH: -- in this case?

5 Is it producing?

6 MR. HALL: I believe it is.

7 EXAMINER CATANACH: Okay. Your January 17th  
8 letter to Ms. Roady offers to lease her interest. Has your  
9 company offered for her to voluntarily participate in the  
10 well?

11 MR. HALL: To my knowledge, these are the only  
12 terms that have been extended to her, evidenced by the  
13 January 17th letter.

14 EXAMINER CATANACH: Will she be afforded the  
15 opportunity to participate, to pay her share of the well  
16 costs, if she chooses to go that way?

17 MR. HALL: On terms different from the letter, I  
18 can't answer that question. I just don't know. But I can  
19 affirm to you that LCX is willing to negotiate with her  
20 further.

21 EXAMINER CATANACH: Well, I'm a little concerned  
22 because it seems that you've just offered to lease her  
23 interest and not -- It doesn't appear that you've offered a  
24 letter to participate or you've given her that option, but  
25 -- and you don't know if that's going to be afforded to



1 her?

2 MR. HALL: I can't say one way or another. All I  
3 can say is that they are willing to negotiate with her. I  
4 cannot preclude that.

5 In my reading of the statute there's no  
6 requirement that an operator provide specific terms for  
7 participation, either by lease or by direct participation.  
8 It's just that you negotiate voluntary participation in  
9 some form or another.

10 EXAMINER CATANACH: Well, even if her interest is  
11 pooled by virtue of a pooling order, she will still have  
12 the opportunity to voluntarily participate by paying her  
13 share of well costs 30 days after an order is entered, so  
14 she will still have that option under -- even under a  
15 pooling order.

16 So, you know, it appears to me -- She's had  
17 notice of this case since January 17th, and we've continued  
18 -- like Mr. Hall said, we've continued this case a couple  
19 of times, and specifically from the August 17th hearing to  
20 this hearing, to allow the parties to negotiate, and that  
21 appears not to have happened, even though we did encourage  
22 it. I would say that she's had ample opportunity to  
23 negotiate.

24 And by virtue of entering an appearance in this  
25 case, she also has the appeal process if she chooses to do

1 that.

2 So I would say that we probably need to get this  
3 case settled, and I would therefore deny your request for  
4 another continuance, Ms. Munds-Dry.

5 EXAMINER EZEANYIM: I need to comment, if you  
6 don't mind.

7 EXAMINER CATANACH: Excuse me?

8 EXAMINER EZEANYIM: I need to make a comment, if  
9 you don't mind.

10 EXAMINER CATANACH: Go right ahead.

11 EXAMINER EZEANYIM: The question here, I don't  
12 know, if -- what -- directing the question to you, Ms.  
13 Munds- -- Ocean, what is the -- what is she arguing? She  
14 doesn't want the well drilled, or what -- what is the  
15 intent of this contention? What's going on here? I know  
16 you say you got it this week, you haven't gotten  
17 everything, but I really -- one of the questions I have is,  
18 why -- like David is saying, why should we continue this  
19 case? What is the bone of contention in this case?

20 MS. MUNDS-DRY: Mr. Ezeanyim, I'm at a little bit  
21 of a loss, because as I said, I'm new to this case. My  
22 understanding is that although she was given this notice,  
23 it was actually -- if you see here, it was sent to her  
24 brother and not to her. And from my understanding, she did  
25 not receive notice of the hearing until the day before the

1 last setting. And she received it then, and that's when  
2 she showed up at the hearing process.

3 So she didn't actually -- She was not actually  
4 aware of these proceedings until the day before the last  
5 continued case. So the original hearing, she apparently  
6 did not know about.

7 Again, I'm new, so I'm just learning from her  
8 these facts on a rather piecemeal basis.

9 It's not that she objects to the well, she just  
10 hasn't had a chance to evaluate what she's been given. She  
11 has apparently no other mineral interests, and she just  
12 doesn't frankly understand what's being offered to her yet.  
13 So I haven't had a chance to sit down and explain to her  
14 her options, so that's my only real reason for requesting  
15 that she be given a little bit more time, because she just  
16 frankly doesn't know yet what her options are --

17 EXAMINER EZEANYIM: Yeah.

18 MS. MUNDS-DRY: -- and I haven't had the chance  
19 to sit down to explain that to her.

20 And again, I do appreciate that Mr. Hall has been  
21 delayed terribly by this. But she just hasn't been given  
22 that opportunity even to understand what she's agreeing to.

23 EXAMINER EZEANYIM: Okay, based on what you just  
24 said, I think David is correct in what -- but I wanted to  
25 find out, you know, what is contested and see what merit it

1 has.

2 So you still have 30 days. Even if the order is  
3 to be issued, the well is now producing. I mean she can  
4 still reach an agreement now that she's aware of what's  
5 going on. So you have 30 days from now, now that they have  
6 retained you. David is correct, so we could take this  
7 under advisement and go ahead and do it. She could  
8 participate in the well or do whatever, you know, she wants  
9 to do. Somebody who is pooled today can get out of the  
10 pooling procedure by participating in the well. So I agree  
11 with David.

12 MS. MUNDS-DRY: And I understand that, and we'll  
13 certainly continue to work with Mr. Hall to try to avoid  
14 pooling if at all possible, given that we do have that 30-  
15 day window.

16 EXAMINER EZEANYIM: Okay, good. Okay, David, go  
17 ahead.

18 EXAMINER CATANACH: Anything further?

19 MR. HALL: No, sir.

20 EXAMINER CATANACH: Nothing further, Case 13,735  
21 will be taken under advisement.

22 (Thereupon, these proceedings were concluded at  
23 8:31 a.m.)

24 I do hereby certify that the foregoing is  
25 a complete record of the proceedings in  
the Examiner hearing of Case No. 13,735  
heard by me on 8/31/05.

STEVEN T. BRENNER, Examiner  
(505) 989-9317  
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 August 31st, 2006.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006