

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. 13,864

APPLICATION OF PARALLEL PETROLEUM )  
CORPORATION FOR COMPULSORY POOLING, )  
CHAVES COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

February 15th, 2007

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, February 15th, 2007, 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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 Examiner Hearing  
 CASE NO. 13,864

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## A P P E A R A N C E S

## FOR THE DIVISION:

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## FOR THE APPLICANT:

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By: W. THOMAS KELLAHIN

## FOR SPIRAL, INC.:

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\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:20 a.m.:

3 EXAMINER CATANACH: And at this time I'll call  
4 Case 13,864, the Application of Parallel Petroleum  
5 Corporation for compulsory pooling, Chaves County, New  
6 Mexico.

7 Call for appearances.

8 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of  
9 the Santa Fe law firm of Kellahin and Kellahin, appearing  
10 on behalf of the Applicant this morning, and I have one  
11 witness to be sworn.

12 EXAMINER CATANACH: Additional appearances?

13 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
14 entering appearance for Spiral, Inc. I have no witnesses.

15 EXAMINER CATANACH: Okay, will the witness please  
16 remain standing to be sworn in?

17 (Thereupon, the witness was sworn.)

18 MR. KELLAHIN: Mr. Examiner, we're here before  
19 you this morning to complete the consolidation of parties  
20 in a north-half spacing unit. There are a group of people  
21 that we are unable to either locate or obtain a voluntary  
22 agreement and require compulsory pooling at this time.

23 This will be a horizontal wellbore in the north  
24 half of the section. It's a Wolfcamp wellbore. The  
25 wellbore is oriented east-west. Its point of beginning is

1 on the adjoining Section 32. It then is drilled  
2 vertically, angle is built, and then it penetrates the  
3 north half of Section 33 at a standard location within the  
4 drilling window. Its terminus is at the other hard line on  
5 the east side of Section 33.

6 This is a well that has been already permitted,  
7 and our approvals have been issued by the District, so at  
8 this point we're trying to consolidate the remaining  
9 interest owners in the spacing unit.

10 EXAMINER CATANACH: Okay.

11 MR. KELLAHIN: We have one witness, Mr. Aaron  
12 Myers.

13 AARON L. MYERS,  
14 the witness herein, after having been first duly sworn upon  
15 his oath, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. KELLAHIN:

18 Q. Mr. Myers, for the record, sir would you please  
19 state your name and occupation?

20 A. My name is Aaron Myers, consulting landman for  
21 Parallel Petroleum.

22 Q. Where do you reside, sir?

23 A. Midland, Texas.

24 Q. On prior occasions have you testified before the  
25 Division?

1 A. No, I have not.

2 Q. Summarize for us your education?

3 A. Graduated from Texas A&M University in May of  
4 2000 and then attended St. Mary's Law School and graduated  
5 from there in May of 2004.

6 Q. Subsequent to your graduation, have you been  
7 employed in the capacity of a legal -- an attorney  
8 assisting with land matters or functioning as a landman for  
9 various companies?

10 A. Solely as a landman for the past almost two  
11 years, this March.

12 Q. What has been your involvement with Parallel in  
13 this particular property?

14 A. As far as this particular property goes, I  
15 assisted them as far as curing title issues, dealing with  
16 the title opinion written on the land, and also with the  
17 efforts to get this -- the pooling hearing completed.

18 Q. Have you made yourself knowledgeable about the  
19 facts and circumstances surrounding the title to this  
20 property?

21 A. Yes, I have.

22 Q. And have you made yourself knowledgeable about  
23 the ownership involved in this spacing unit?

24 A. Yes, I have.

25 Q. Have you consulted with other experts in this

1 area to determine ownership?

2 A. I've consulted with the broker who has handled  
3 all the leasing and title research efforts for us.

4 Q. Have you relied upon the accuracy of a drill site  
5 title opinion by a respected title attorney?

6 A. Yes, I have.

7 Q. And who's the title attorney involved?

8 A. The title opinion for this particular section was  
9 handled by Randy Turner.

10 MR. KELLAHIN: We tender Mr. Myers as an expert  
11 witness.

12 EXAMINER CATANACH: Mr. Myers is so qualified.

13 Q. (By Mr. Kellahin) Mr. Myers, for the record,  
14 sir, let's turn to what is marked as Exhibit Number 1 and  
15 have you orient the Examiner as to where your spacing unit  
16 is located.

17 A. The spacing unit is outlined on Exhibit 1 in the  
18 north half of Section 33, Township 15 South, Range 25 East.

19 Q. Within the north half of this section, is it  
20 subdivided into tracts or lots?

21 A. No, it is not.

22 Q. So when we deal with the ownership in the north  
23 half, we're dealing with parties that have percentage  
24 interest within that 320 acres?

25 A. Yes, we do.



1 Q. Let's turn to Exhibit Number 2, Mr. Myers. Would  
2 you identify for the record what this is?

3 A. This is Parallel's application for a permit to  
4 drill on the north half of Section 33.

5 Q. Has this permit been approved by the Division?

6 A. Yes, it has.

7 Q. Turn to page 2 of the permit, and let's take a  
8 look at the survey map, the C-102. Describe for us  
9 generally what is your understanding of how this well will  
10 be drilled.

11 A. The well is going to use an entry point located  
12 on the surface of the north half of the adjoining section  
13 to the west, which is Section 32, and that entry point is  
14 plotted at 760 feet from the north line of that section and  
15 147 feet to the west of the west line -- or east line of  
16 that section.

17 Q. Once the wellbore achieves the appropriate angle  
18 as being drilled horizontally within the Wolfcamp, that's  
19 the target formation, is it not?

20 A. Yes, it is.

21 Q. When it's drilled within that formation, will its  
22 beginning point in the Wolfcamp and its terminus point, to  
23 your understanding, remain within the producing area?

24 A. Yes, it will.

25 Q. Do you have in place written agreements with the

1 owners of the surface of the adjoining Section 32 in which  
2 to place this wellbore and drill it directionally as  
3 proposed?

4 A. Yes, we do, we have a surface agreement that  
5 covers both the north half of Section 32 and 33.

6 Q. As you move through the rest of the display, if  
7 the Examiner chooses to do so, you have attached the  
8 directional drilling profiles for this wellbore?

9 A. Uh-huh.

10 Q. Let's turn now, sir, to Exhibit Number 3. What  
11 is Exhibit Number 3?

12 A. This is Parallel's authority for expenditure,  
13 prepared by Deane Durham, their drilling engineer.

14 Q. Have you utilized this AFE in your correspondence  
15 to the parties when you have proposed this well?

16 A. Yes, we have, the AFE was attached to  
17 correspondence that first went out, I believe, the early  
18 part of November last year, to all the parties we were  
19 trying to either lease or pool.

20 Q. How long a period of time has Parallel been  
21 attempting to consolidate interest in this spacing unit?

22 A. Oh, it's been roughly since October or November  
23 of last year.

24 Q. Have any of the parties that you have provided  
25 this AFE to objected to any of its terms and conditions?

1 A. None.

2 Q. Has parallel utilized an AFE similar to this for  
3 other wells in this area?

4 A. Yes, they have.

5 Q. And where is the other well located?

6 A. The other well is on the north half of the  
7 adjoining Section 32.

8 Q. To the best of your knowledge and information,  
9 this represents an accurate, reasonable well cost?

10 A. Yes, it does.

11 Q. In association with a pooling order, Mr. Myers,  
12 the Division allows the applicant to charge an overhead  
13 rate on a monthly basis for drilling wells and then, when  
14 it's a producing well, on a monthly basis for that charge.

15 A. Uh-huh.

16 Q. Do you have a recommendation to Examiner Catanach  
17 for some overhead rates?

18 A. They're recommending \$5000 a month for drilling  
19 and \$500 a month if producing, and that's based on a --  
20 Ernst and Young's accounting summary that they used. And  
21 that's also in proportion with the well located directly to  
22 the west on the north half of Section 32.

23 Q. Have you prepared for the Examiner a summary that  
24 we can use as an outline --

25 A. Yes.

1 Q. -- to describe and track the various interest  
2 owners that you're seeking to pool?

3 A. Yes, I have.

4 Q. What is that exhibit number?

5 A. Exhibit Number 4.

6 Q. Let's turn to Exhibit Number 4. Mr. Myers, I'm  
7 going to ask you to continue to use Exhibit 4 as our  
8 outline, and then as we move through the various names I'm  
9 going to ask you to associate an exhibit number with that  
10 name and we'll go through the correspondence package that's  
11 correspondingly numbered to those entries.

12 A. Okay.

13 Q. Let's start with the top entry, the Parallel  
14 Petroleum Company. The spreadsheet shows an indicated  
15 interest of what, sir?

16 A. Of 87.9 percent, roughly.

17 Q. Below that, the first entry after that is Myco?

18 A. Yes, it is.

19 Q. What is the status of your efforts to get Myco to  
20 participate on a voluntary basis?

21 A. Myco was sent an AFE and operating agreement.

22 Q. Let's turn to Exhibit Number 5. Is Exhibit 5 the  
23 proposal letter that you're referring to that was sent to  
24 Myco?

25 A. Yes, it is.

1 Q. At this point has Myco agreed to participate in  
2 the drilling of the well?

3 A. Not to my knowledge, no.

4 Q. As with this well proposal and the other well  
5 proposals we're going to look at, in each instance was  
6 Exhibit Number 3 the AFE sent to these people?

7 A. Yes, it was.

8 Q. In association with Myco, there are some other  
9 interests involved that we will talk about later, and I'm  
10 going to save those and talk about them when we get to  
11 their exhibit numbers.

12 The next entry is OXY. What's the status of  
13 OXY's proposal?

14 A. OXY was sent an AFE, and we as of yet have not  
15 received an AFE to come back from OXY.

16 Q. All right, sir. If you'll turn to Exhibit Number  
17 6, what's the date of the letter, well-proposal letter, to  
18 OXY?

19 A. December 14th, 2006.

20 Q. Identify for us, then, what's the next piece of  
21 correspondence. There's an Exhibit 7?

22 A. Exhibit 7 is a notice waiver, waiving the notice  
23 requirement for the hearing, if I'm not mistaken.

24 Q. Has Parallel been in contact with OXY about the  
25 circumstances of this pooling case?

1 A. Yes, we have.

2 Q. And OXY has executed a wavier of notice of  
3 hearing?

4 A. Yes, they have.

5 Q. Let's now turn to the next entry. It says Ann  
6 Deeton [sic] and Wells Fargo. Do you see that entry on  
7 Exhibit Number 4?

8 A. Yes, I do.

9 Q. Give us an explanation as to what's occurring as  
10 to this interest.

11 A. As far as Ann Denton is concerned, Parallel,  
12 rather than the broker we've been using, took a lease from  
13 Ann Denton. We had some title issues raised by the title  
14 opinion regarding two trusts from Ms. Denton's former  
15 husband's estate, and as such we had to go back and send  
16 notices to Mrs. Denton individually and to Wells Fargo Bank  
17 because of the issues that have arisen regarding Trust A,  
18 if I'm not mistaken, that was -- that had become title  
19 problems for Parallel.

20 Q. Initially, though, Ann Deeton had executed an  
21 agreement or a lease?

22 A. Yes, she had executed an oil and gas lease as an  
23 individual, and then we went back and had her ratify that  
24 oil and gas lease in her capacity as trustee.

25 However, Wells Fargo claims that they have no

1 record of any trust after purchasing United New Mexico  
2 Trust Company, who was the original co-trustee with Ms.  
3 Denton, and that's where our issues have come up regarding  
4 Wells Fargo and Ms. Denton as trustee.

5 Q. They've received that correspondence but have  
6 responded to you that they don't -- can't account for it as  
7 a trust?

8 A. Yes.

9 Q. They don't know whether or not it was ever  
10 funded?

11 A. That's correct.

12 Q. You've sort of a dead-end with that interest,  
13 have you?

14 A. Absolutely.

15 Q. How do you propose to treat that interest?

16 A. As far as I can tell right now, what's going to  
17 happen if the well does, in fact, get drilled is, they're  
18 going to have to suspend funds until we can get  
19 verification from both Ms. Denton and from Wells Fargo that  
20 the trust was, in fact, never funded.

21 Q. This is one of the curative items that you will  
22 pursue as an attorney doing that work for Parallel?

23 A. Yes, it is.

24 Q. Let's turn now -- And that would refer to  
25 correspondence that's Exhibit 8, and then 9 is the letter

1 to Wells Fargo about this topic?

2 A. Yes, it is.

3 Q. Let's turn to Exhibit 10 and look at the entry  
4 for Betty Hansell, H-a-n-s-e-l-l [sic]? Do you find that  
5 entry?

6 A. Yes, I do.

7 Q. What's the status of your efforts to get her to  
8 participate?

9 A. Mrs. Hadsell as a mineral owner popped up late in  
10 the efforts to get the pooling done and to get things  
11 leased. She's been contacted, and I believe a lease was  
12 sent out roughly around the same time this well proposal  
13 and AFE were sent to her. However, at this time I haven't  
14 heard back as to whether or not she's leased or not.

15 Q. Let's turn now to the next entry on your Exhibit  
16 Number 4. It's Sacramento Partners. Associated with that  
17 entry there are Exhibits 11, 12 and 13?

18 A. Uh-huh.

19 Q. Describe for us what's occurring with that  
20 interest.

21 A. That interest was sent an AFE and well proposal.  
22 To date we haven't heard back from them, and Exhibits 12  
23 and 13 -- Exhibit 12 is a correction letter, correcting a  
24 problem with the original well-proposal letter, and Exhibit  
25 13 is a letter sending them a copy of a *pro forma* operating



1 agreement.

2 Q. At this point in time, Mr. Myers, is this an  
3 interest that still needs to be pooled?

4 A. Yes, it is.

5 Q. The next entry is Spiral, Inc. What are the -- I  
6 show Exhibit Numbers 14, 15 and 16 associated with Spiral,  
7 Inc.

8 A. It's the same as it was with Sacramento Partners,  
9 it's the original well-proposal letter and AFE, second  
10 letter is a letter correcting an item in the well-proposal  
11 letter, and the third is a letter sending them a copy of a  
12 pro-forma operating agreement.

13 Q. At this point do you have a commitment from  
14 Spiral Energy to participate or farm out or --

15 A. No, we don't.

16 Q. -- further transfer these two --

17 A. No.

18 Q. Mr. Catanach, this is the company for which Mr.  
19 Jim Bruce entered his appearance this morning.

20 The next entry, it says Lobos Energy Partners,  
21 Mr. Myers.

22 A. Uh-huh.

23 Q. Let me direct your attention to that entry, and  
24 in association with that entry would you look at Exhibits  
25 17 through 21? Starting with those exhibits, sir, would

1 you summarize what's occurring as to that interest?

2 A. Starting with Exhibit 17, Dominion Oklahoma Texas  
3 Exploration and Production, Incorporated, was sent a well  
4 proposal and AFE. They were subsequently sent Exhibit 18  
5 which is a correction letter, and also sent Exhibit 19  
6 which was a letter containing a copy of our *pro forma*  
7 operating agreement.

8 Let's see, sometime in the middle of January I  
9 was contacted by Lobos Energy, letting me know that  
10 Dominion had turned over all these letters and paperwork to  
11 them because Lobos had bought Dominion's interest. I was  
12 then provided an assignment and bill of sale by Lobos,  
13 which covers the interests that we were seeking to be  
14 pooled, and item 21 -- or Exhibit 21, excuse me -- is a  
15 notice wavier coming from Lobos because we weren't able to  
16 get notice out to them in time.

17 Q. And so 21 is a waiver of notice for the hearing  
18 today?

19 A. Yes, it is.

20 Q. At this point, the Lobos interest started with  
21 Dominion, Lobos now controls that --

22 A. Yes, that's correct.

23 Q. -- and they have not yet committed their interest  
24 to the well?

25 A. They have not yet, no.

1 Q. Let's turn now to the next entry on your Exhibit  
2 Number 4, Shibaro [sic]?

3 A. Yes, to Sharbro Oil.

4 Q. Sharbro. The exhibit letter, notice letter, is  
5 Exhibit 22 to that company?

6 A. Yes, it is.

7 Q. What's the status of your effort to get them to  
8 participate?

9 A. We have not received a signed AFE from Sharbro at  
10 this time.

11 Q. So let's turn to the next entry, there's a Jessie  
12 Boyd Barr. The exhibits associated with that entry are  
13 Exhibits 23, 24 and 25?

14 A. Yes, sir, that's correct.

15 Q. Explain to us what you've done concerning that  
16 interest.

17 A. 23 is a well proposal which contained an AFE.  
18 Exhibit 24 is the correction letter correcting an item in  
19 the original well proposal, and 25 is a letter sending Ms.  
20 Barr a copy of the *pro forma* operating agreement.

21 Q. At this point this interest is still not  
22 committed?

23 A. No, it is not. And as a matter of fact, the  
24 original letter that was sent out containing the well  
25 proposal and AFE was sent back unclaimed.

1 Q. Let's turn to the next entry, Ms. Fint [sic].

2 A. Okay, Elaine Flint, yes.

3 Q. What exhibits are associated with your efforts to  
4 consolidate her interest?

5 A. Exhibits 26 and 27. 26, she was sent a well  
6 proposal, an AFE. And in Exhibit 27 she was sent a copy of  
7 the *pro forma* operating agreement.

8 Q. At this point her interest is not committed?

9 A. No, it is not.

10 Q. Let's go to the next entry. There's a Thomas  
11 Boyd. What's the status of Mr. Boyd's interest?

12 A. Mr. Boyd was sent a well proposal and AFE on  
13 November 6th, 2006. He was subsequently leased.

14 Q. Okay, so we can delete him from the pooling  
15 Application?

16 A. That is correct.

17 Q. Let's turn now to the Margaret Doyle and John  
18 Steven [sic] Doyle interest. Do you see that interest?

19 A. Yes, I do.

20 Q. Let's look for the exhibits associated with that.  
21 It's Exhibits 29, 30 and 31?

22 A. That's correct.

23 Q. Describe for us what you're doing here.

24 A. Okay, in Exhibit 30 Mr. and Mrs. Doyle were sent  
25 a well proposal and AFE. Exhibit 29, again, is a

1 correction letter, correcting an item in the well proposal.  
2 And Exhibit 31 is a letter sending them a copy of the *pro*  
3 *forma* operating agreement.

4 Q. Have you been successful in trying to find these  
5 people?

6 A. No, we have not. This is another letter that  
7 came back unclaimed.

8 Q. Starting with Exhibit 32, there's a series of  
9 entities or individuals that at one point were not  
10 committed and now are. Let's start with the EOG interest.  
11 That's marked with Exhibit 32?

12 A. Yes, this is a well proposal and AFE letter sent  
13 to EOG by Mike Gray, the land manager on this project at  
14 Parallel. Since then, EOG has given Parallel a term  
15 assignment covering their interest in the north half of  
16 Section 33.

17 Q. So the EOG interest now is included on Exhibit 4  
18 in the total of interest now held by Parallel?

19 A. Yes, that's correct.

20 Q. All right, sir. Let's turn to Exhibit 33, and  
21 there's a company called NRLL. What's happened to this  
22 interest?

23 A. This interest -- as you can see on Exhibit 33, we  
24 sent them a well proposal and AFE, in addition to a copy of  
25 an operating agreement. This interest, come to find out,

1 was subsequently leased by Myco.

2 Q. So when we look at Exhibit 4, the Myco percentage  
3 interest total for the spacing unit now includes the NRLL  
4 interest?

5 A. Yes, it does.

6 Q. Let's turn to Exhibit 34, the Peter R. Bayer  
7 interest. What's happened to this interest?

8 A. This interest as well was also subsequently  
9 leased by Myco and has been added to their total at the top  
10 of Exhibit 34.

11 Q. And then Exhibit 35?

12 A. Exhibit 35 is a correction letter that was sent  
13 to correct the original well proposal and AFE, and Exhibit  
14 36 is a letter containing a copy of our *pro forma* operating  
15 agreement.

16 Q. Let's now turn to Timothy Bayer. I guess -- Was  
17 he a brother?

18 A. Yes, I believe he was.

19 Q. What's happened to Timothy Bayer's interest,  
20 starting with Exhibit 37?

21 A. Exhibit 37 is another well proposal sent to Mr.  
22 Bayer. He was subsequently leased by Myco as well.

23 Q. Have others besides yourself and Mr. Mike Gray  
24 been associated with trying to contact these people and  
25 reach some type of voluntary solution?

1           A.    Yes, there has been. Our brokers at Trek  
2 Petroleum have been the ones that have been chiefly  
3 responsible for contacting people regarding leasing and for  
4 determining mineral ownership on this particular section.

5           Q.    Do those individuals work under your control and  
6 direction?

7           A.    Yes, they do.

8           Q.    Have you provided in Exhibit 38 a summary of the  
9 contacts that have been made by Parallel in their efforts  
10 to consolidate all these interests into a spacing unit?

11          A.    Yes, I have, Exhibit 38 lists everybody that  
12 either Parallel or Trek have tried to contact in order to  
13 get their respective mineral interests leased.

14          Q.    Have you relied on this summary for part of your  
15 work?

16          A.    Yes, I have.

17          Q.    To the best of your knowledge, has it been  
18 accurate and reliable?

19          A.    Yes, it has.

20          Q.    At this point are you in need of a compulsory  
21 pooling order, in order to consolidate the remaining  
22 percentages that aren't committed to the spacing unit on a  
23 voluntary basis?

24          A.    Yes, we are.

25               MR. KELLAHIN: Mr. Examiner, for the record, the

1 next exhibit, Exhibit 39, is Ocean Munds-Dry's affidavit as  
2 to the individuals and entities for which she sent notice  
3 of hearing, and Exhibit 40 represents my affidavit as to  
4 some additional parties.

5 And then finally Exhibit 41 is the -- in your  
6 file, Mr. Catanach, should have the original of that  
7 newspaper publication, showing that the Applicant has  
8 published notice to those individuals for which we cannot  
9 locate either them or an address by which they might be  
10 served by certified mail.

11 With your permission, Mr. Catanach, that  
12 concludes our presentation. We move the introduction of  
13 Exhibits 1 through 41.

14 EXAMINER CATANACH: Exhibits 1 through 41 will be  
15 admitted.

16 MR. KELLAHIN: And that concludes our direct  
17 examination of Mr. Myers.

18 EXAMINATION

19 BY EXAMINER CATANACH:

20 Q. Mr. Myers, which parties have you not been able  
21 to contact or obtain a valid address for?

22 A. Parties that we have not been able to contact,  
23 that would include Jessie Ruth Boyd Barr and Margaret  
24 Louise Doyle and John Stevens Doyle, are people that I know  
25 for a fact that we have just been getting mail back --



1 returned from.

2 Q. I'm sorry, the Barr interest and which other --

3 A. The one at the bottom, Margaret Louise Doyle and  
4 John Stevens Doyle.

5 Q. Okay. So those two?

6 A. Yeah, those are two that we've been getting  
7 returned mail for.

8 MR. KELLAHIN: Do it again. What were all of  
9 them?

10 THE WITNESS: It was Jessie Ruth Boyd Barr and  
11 Margaret Louise Doyle and John Stevens Doyle.

12 Q. (By Examiner Catanach) And what efforts have you  
13 made to try and find a valid address for these people?

14 A. We've searched the county records for Chaves  
15 County in an effort to come up with either social security  
16 number or anything that indicates an address. And, you  
17 know, that was compiled by our brokers, and they used that  
18 to send the leases out.

19 Q. And you've just sent those letters, and they're  
20 just not --

21 A. Yeah, they're coming back with the green cards  
22 still attached to the back of them.

23 Q. You said something about the Hadsell interest  
24 came in kind of late, and I wanted to ask you a couple of  
25 questions about the. I believe that's Exhibit Number 10,

1 where you sent Betty Hadsell a proposal, well proposal?

2 A. Uh-huh.

3 Q. That seems to have occurred fairly late in the  
4 process. Your letter is dated January 23rd. That probably  
5 is about the time you guys filed for compulsory pooling.  
6 Have you spoken to her at all, or --

7 A. I have not. Our lease broker has been in contact  
8 with her agent and attorney-of-fact, which is actually her  
9 daughter Karen Allen. And the way that we stumbled across  
10 that was, we had taken an affidavit of heirship regarding  
11 her late husband Bobby Boyd's estate. We got that from  
12 Thomas Boyd, Jr., who signed off on the affidavit of  
13 heirship saying that he was the sole heir-at-law for Bobby  
14 Boyd's estate.

15 Ms. Hadsell, if I'm not mistaken, is actually his  
16 mother, and he didn't include her in the listing of that  
17 affidavit. And then we came across that later on, in a  
18 related title search, and were able to get a name and  
19 address for her.

20 And if I'm not mistaken, she's been sent a lease,  
21 and our broker was pretty confident he would get a lease  
22 out of them, which would pretty much remove her from a  
23 compulsory pooling standpoint. But to date I haven't heard  
24 anything one way or the other.

25 EXAMINER CATANACH: Well, I'm concerned that

1 these parties may not have had enough time to evaluate --  
2 They got notice very late of this, and I'm not sure that it  
3 might be wise to maybe continue the case for a couple of  
4 weeks and give them some additional time.

5 MR. KELLAHIN: Our preference, Mr. Catanach, is,  
6 I have not seen Mr. Turner's title opinion, and I'm relying  
7 on Mr. Myers here, but this has been a difficult problem of  
8 accounting for all the interests. We did have interests  
9 accounted for, and it turned out that they had misled us  
10 and filed incorrect affidavit of heirships claiming  
11 interests which they did not own, and so there's a  
12 complexity about this.

13 I think we could come up with a list of parties  
14 off of here for which the interest might be suspect, and we  
15 can specifically in the order, if you desire, delete them  
16 at this point. If the well is successful, I prefer to come  
17 back then and clear up those problems and clear up any  
18 future problems that we may discover, because we're not yet  
19 finished, I don't think.

20 There's -- As Mr. Myers has explained, these  
21 people pop in and out and I'm not sure that -- who the  
22 right people are, and I'm not really comfortable in relying  
23 on the published notice in the newspaper as a stopgap for  
24 any claim of interest.

25 And if it suits your purpose, I think we can

1 identify the group of interests, which are all very small,  
2 that might be suspect, specifically delete them from the  
3 order, and we'll suspend and carry those interests, and  
4 after the well is successful we can amend the pooling  
5 order.

6 MR. BROOKS: It's not something we've ever done  
7 that I know of. We normally just pool all uncommitted  
8 interests, whatever they are.

9 EXAMINER CATANACH: No, I don't recall us doing  
10 that, Mr. Kellahin.

11 MR. BROOKS: Well, that carries a lot more weight  
12 than my recollection, because it goes back a lot further.

13 MR. KELLAHIN: We may have done it in the past.  
14 We have had occasions where we've come in after the fact  
15 and amended a pooling order that we've discovered had  
16 omitted parties.

17 In this instance, by the time we got to the  
18 hearing there are parties, which we now think we know, some  
19 of whom have been in contact with us. And I would rather  
20 not have to delay the drilling of the well even a few more  
21 weeks while we try to search out another zero-point-one-  
22 one, whatever it is. These are tiny little interests.

23 EXAMINER CATANACH: Well, are there any time  
24 constraints to having to drill the well?

25 MR. KELLAHIN: This well is being drilled on the

1 same pad as the first horizontal well is that went to the  
2 west on the same surface location. I don't know what the  
3 exact timing of it is, but the permit has been issued, and  
4 I think it's just a question of scheduling.

5 EXAMINER CATANACH: Let me ask you, I think we  
6 had the same situation with Sharbro, as far as them getting  
7 a late proposal.

8 MR. KELLAHIN: Yeah, Sharbro's proposal was  
9 delivered to them on the 8th of January.

10 Q. (By Examiner Catanach) Have you spoken to  
11 sharbro at all, Mr. Myers?

12 A. No, I have not. I'm trying to remember which  
13 exhibit that was.

14 MR. KELLAHIN: It should have been --

15 THE WITNESS: If I remember correctly --

16 MR. KELLAHIN: -- Exhibit 22.

17 EXAMINER CATANACH: Twenty-two.

18 THE WITNESS: -- I had an incorrect address for  
19 Sharbro the first time, and when it came back I verified  
20 and I did, in fact, have the wrong address. I think I had  
21 a P.O. box in Roswell, and it should have gone to the 105  
22 South Fourth Street address in Artesia, because I was using  
23 a takeoff and I think it might have incorrectly listed an  
24 address for Sharbro.

25 EXAMINER CATANACH: Mr. Brooks, do you have

1 anything?

2 MR. BROOKS: I would like to just correlate these  
3 notices with the interests, because I was having a little  
4 trouble doing that here.

5 Ann Denton, you talked about her, the trustee  
6 situation. In what manner did she get notice of the  
7 hearing? Or -- Some people got notice from Mr. Kellahin,  
8 and some people got notice from Ms. Munds-Dry, and some  
9 people have waived notice, and I'm not sure who falls in  
10 which category here, so I'm going to have to go through and  
11 ask each one.

12 MR. KELLAHIN: Mr. Brooks, I have a summary sheet  
13 for you that, if you'll allow me to share it with you --

14 MR. BROOKS: Okay, that --

15 MR. KELLAHIN: -- it's my notes about where we  
16 are on finding people.

17 MR. BROOKS: Okay, what I'm concerned with is how  
18 they got notice of the hearing. Now Myco waived, correct?

19 MR. KELLAHIN: Myco was sent notice by me. OXY  
20 has waived. Ann Denton, neither Ocean nor I sent them  
21 notice.

22 MR. BROOKS: Okay, so they -- Okay, let me start  
23 over again. Well, I guess Ann Denton is a good one to  
24 start with, since nobody sent her notice. How did she get  
25 -- on what basis does she have notice of the hearing?

1 MR. KELLAHIN: She has no basis for the notice of  
2 the hearing. My understanding is that --

3 MR. BROOKS: She's executed the lease, right?

4 MR. KELLAHIN: That was our belief at the time  
5 the notices were sent.

6 MR. BROOKS: And the question was whether she had  
7 that authority or not?

8 MR. KELLAHIN: Yeah, and then the efforts to  
9 contact the bank. They will take the letters, but then  
10 they tell Mr. Myers that they can't find any trust.

11 MR. BROOKS: Well, has the bank been notified of  
12 the hearing?

13 MR. KELLAHIN: They were not.

14 MR. BROOKS: That would be a concern for me, if  
15 nobody -- if you're not sure that interest has been  
16 committed and no one has been notified of the hearing, that  
17 would be a concern.

18 Okay, let's go down the list. Betty Hadsell,  
19 where do you get notice to her?

20 MR. KELLAHIN: Our information was that they  
21 couldn't find her.

22 MR. BROOKS: Okay, she's one of the ones that you  
23 have no address for?

24 MR. KELLAHIN: Well, Mr. Myers this morning says  
25 he believes the broker has finally found her. But using

1 this address in Washington, the information that -- that  
2 well-proposal letter did come back, and so there's been no  
3 service of notice on her as to the hearing.

4 MR. BROOKS: No effort was made to send the  
5 hearing notice to this address?

6 MR. KELLAHIN: Right, we thought she was a lost  
7 party.

8 MR. BROOKS: And you do not have any other  
9 address for her at this time; is that right?

10 MR. KELLAHIN: I do not.

11 MR. BROOKS: Okay. Sacramento Partners I found  
12 the notice, Spiral I found.

13 EXAMINATION

14 BY MR. BROOKS:

15 Q. Okay, Lobos, did they waive?

16 A. Yes, they did, they --

17 Q. I thought I remembered that.

18 A. -- yeah they were a successor in interest to  
19 Dominion.

20 Q. Which exhibit is that?

21 MR. KELLAHIN: Should be 21.

22 THE WITNESS: 21.

23 MR. BROOKS: Okay, so Lobos waived.

24 Sharbro, I found -- Let's see, Sharbro I found a  
25 notice. I don't have checked that I found a return receipt



1 but I believe there was one; is that correct?

2 MR. KELLAHIN: Yes, I have a return receipt from  
3 Sharbro.

4 Q. (By Mr. Brooks) Okay, and Jessie Ruth Barr you  
5 sent a notice to, but it was returned?

6 A. Yeah --

7 MR. KELLAHIN: Right.

8 THE WITNESS: -- it came back undelivered and  
9 unopened.

10 Q. (By Mr. Brooks) Elaine -- And you have no other  
11 address for Jessie Ruth Barr, other than a P.O. Box in  
12 Ballinger, Texas?

13 A. Last known address is a P.O. box, that's correct.

14 Q. Okay, Elaine Flint, I see a notice. I didn't see  
15 a return receipt. Is there --

16 MR. KELLAHIN: The envelope came back -- Ocean  
17 sent the envelope, and it came back.

18 MR. BROOKS: Okay, and you have no other address  
19 for Elaine Flint other than this address in Las Cruces --

20 MR. KELLAHIN: No, sir.

21 MR. BROOKS: -- on Thomas Drive?

22 Okay, Thomas Boyd --

23 MR. KELLAHIN: He leased.

24 MR. BROOKS: -- Junior? Pardon me?

25 MR. KELLAHIN: He leased.

1 MR. BROOKS: Leased, okay.

2 And Margaret Louise Doyle and John Stevens, you  
3 testified that this is not a good address?

4 MR. KELLAHIN: No, apparently not. We couldn't  
5 find them despite the effort, and Ocean sent notice to this  
6 address and it came back.

7 MR. BROOKS: Okay, notice of the hearing?

8 MR. KELLAHIN: Yeah, right.

9 MR. BROOKS: Okay. Well, it sounds like you've  
10 basically complied except -- Well, now what about Hadsell?  
11 I forgot, I didn't make a note on it. Betty Hadsell? Did  
12 you -- Oh, you had not -- this is not a valid address,  
13 right?

14 MR. KELLAHIN: Yes.

15 MR. BROOKS: Okay, so the only we'd really be  
16 concerned about here would be the Ann Denton interest. Of  
17 course, there having been given some notice of the  
18 hearing -- Okay, thank you.

19 FURTHER EXAMINATION

20 BY EXAMINER CATANACH:

21 Q. Again, the Hadsell interest, you cannot -- that's  
22 not a valid address, and even for Karen Allen you cannot  
23 locate either?

24 A. I was using the takeoff, and this is the last  
25 known address that they had listed on there, was Betty

1 Hadsell with Karen Allen as her agent and attorney-in-fact  
2 at that address in Washington.

3 Q. And you've gotten that back as not signed for?

4 A. I can double-check that. At this point in time  
5 we hadn't received a return receipt, so I don't know if  
6 that's even been picked up yet. If it's undeliverable, I  
7 know the post office will hang onto it before returning it,  
8 but as of Monday when I made copies of this stuff I hadn't  
9 received the return receipt, or there wasn't one in the  
10 file.

11 Q. Did you send a notice of the hearing to that  
12 address, or just the lease proposal?

13 A. I would have sent the well proposal to the --

14 MR. KELLAHIN: Are you talking about the Betty  
15 Hadsell --

16 MR. BROOKS: Yeah.

17 MR. KELLAHIN: Neither Ocean or I sent notice of  
18 the hearing, so that's another suspect one.

19 MR. BROOKS: Okay.

20 MR. KELLAHIN: So that one and the Ann Denton are  
21 the two that I have as problems.

22 MR. BROOKS: Okay.

23 MR. KELLAHIN: I guess the issue is, I can go  
24 through the exercise of sending a notice that comes back,  
25 or we can delete their interest at this point and do

1 further work to try to find them. One seems to be an  
2 administrative task that accomplishes nothing, and the  
3 other one might result in some actual work happening.

4 (Off the record)

5 EXAMINER CATANACH: Are those the only interests  
6 that are suspect right now, Mr. Kellahin? The Denton and  
7 the Hadsell interests, or are there other --

8 MR. KELLAHIN: Yes, sir. No, those are the two  
9 that concern me, because we've got bad addresses. And we  
10 do have contact with Denton, but she's signed individually  
11 and not as trustee. And this is the one where Wells Fargo  
12 has no record on file that there's a trust that was ever  
13 funded. So we can send the notices again and come back to  
14 the same position we are in a month.

15 EXAMINER CATANACH: Well, the Denton and the  
16 Wells Fargo, you can get notice to them.

17 MR. KELLAHIN: I understand, but it does no good.  
18 They're not going to tell us anything more than they've  
19 already told us. And I can do that if you desire to do  
20 that, or we can just carve the interest out and carry it.

21 The suggestion is, we would suspend that interest  
22 and do further work to make sure that we could get Ann  
23 Denton or the trust to confirm either the trust doesn't  
24 exist, or that she ratifies the agreements in her capacity  
25 as a trustee for these trusts.

1           One avenue appears to me to be simply hitting a  
2 peg and it means nothing, and the other is real work to try  
3 to see if that interest can be fixed.

4           EXAMINER CATANACH: Well, is there a time limit  
5 that you might -- is there an estimate that you might have  
6 this done --

7           MR. KELLAHIN: Could take months --

8           EXAMINER CATANACH: -- a time period?

9           MR. KELLAHIN: -- could take months. And I  
10 didn't want to delay the pooling order over two interests  
11 that are so small that it's hardly worth fussing with.

12           EXAMINER CATANACH: Uh-huh. So your proposal is  
13 to just -- the interest of -- the Denton and the Hadsell  
14 interest, to just carve it out?

15           MR. KELLAHIN: Well, we'd make a finding in the  
16 order as to those interests, and then once we cure that  
17 work, we come back in, if it wasn't successful, and amend  
18 the pooling order and pick them up. In the meantime, we  
19 may be able to solve it voluntarily and there's no reason  
20 to come back.

21           MR. BROOKS: So the timing would be that those  
22 people have not had notice, and that then we would put a  
23 provision in the order that their interest would be  
24 suspended until such time as it's resolved, either by an  
25 amendment -- either by their committing their interests or

1 the order being amended?

2 MR. KELLAHIN: Yes, sir.

3 MR. BROOKS: That's your proposal?

4 MR. KELLAHIN: Yes, sir.

5 EXAMINER CATANACH: Hm. I don't know, Mr.

6 Kellahin, I'm just not comfortable with issuing an order  
7 saying that somebody has not been provided notice of the  
8 hearing, when clearly you can do that with Wells Fargo and  
9 the Ann Denton interest.

10 So maybe what we do is at least attempt to  
11 provide that notice of the hearing. And, you know, if they  
12 don't get notice, that's fine. At least you've made an  
13 attempt, or at least you've provided notice. I'm just not  
14 comfortable issuing an order that --

15 MR. KELLAHIN: Well, then you'll have to continue  
16 it for us until the hearing in March to give us our 20  
17 days. That would be what, the 15th, I think?

18 MR. BROOKS: March 15th, yeah.

19 EXAMINER CATANACH: Well, let's do that, then,  
20 and then you can come back at that time and report that  
21 you've made any progress with regards to either tying this  
22 interest up or --

23 MR. KELLAHIN: All right.

24 EXAMINER CATANACH: -- whatever.

25 Anything further?

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MR. KELLAHIN: No, sir.

EXAMINER CATANACH: Okay. There being nothing,  
Case 13,864 will be continued to March 15th.

(Thereupon, these proceedings were concluded at  
9:05 a.m.)

\* \* \*

I do hereby certify that the foregoing is  
a complete and correct transcript of the proceedings in  
the Examination of Case No. 13864  
heard by me on February 15, 2007.  
David R. Catanch, 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 February 16th, 2007.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2010