

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:)

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

CASE NO. 13,985

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, Jr., Technical Examiner
DAVID K. BROOKS, Jr., Legal Examiner

September 20th, 2007

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, Jr., Technical Examiner, DAVID K. BROOKS, Jr., Legal Examiner, on Thursday, September 20th, 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.

* * *

STEVEN T. BRENNER, CCR
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I N D E X

September 20th, 2007
Examiner Hearing
CASE NO. 13,985

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* * *

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

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By: W. THOMAS KELLAHIN

* * *

1 WHEREUPON, the following proceedings were had at
2 8:21 a.m.:

3 EXAMINER JONES: On page 2 let's call the first
4 case of the day. It's Case 13,985, Application of Parallel
5 Petroleum Corporation for compulsory pooling, Chaves
6 County, New 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 this morning on behalf of the Applicant, and I have one
11 witness to be sworn.

12 EXAMINER JONES: Any other appearances?
13 Will the Applicant please stand to be sworn?
14 (Thereupon, the witness was sworn.)

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

18 DIRECT EXAMINATION

19 BY MR. KELLAHIN:

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

22 A. My name is Aaron Myers. I'm a consulting landman
23 for Parallel Petroleum Corporation.

24 Q. Where do you reside, sir?

25 A. Midland, Texas.

1 Q. On prior occasions have you testified before the
2 Division and been qualified as an expert petroleum landman?

3 A. Yes, I have.

4 Q. Pursuant to your employment, what has been your
5 involvement with the subject spacing unit?

6 A. My involvement with the subject spacing unit
7 basically has been supervising the leasing of the suggested
8 spacing unit and doing all the paperwork and getting
9 everything necessary ready for this hearing today.

10 Q. As part of the process that you engaged in to
11 identify and consolidate all the interest owners in the
12 spacing unit, have you utilized the services of a
13 professional attorney that specializes in title work?

14 A. Yes, we have.

15 Q. Pursuant to that effort, have you obtained a
16 title opinion?

17 A. Yes, we have.

18 Q. Are the exhibits that we are about to present
19 exhibits for which you have knowledge, understanding?

20 A. Yes, I do.

21 MR. KELLAHIN: We tender Mr. Myers as an expert
22 petroleum landman.

23 EXAMINER JONES: Mr. Myers is qualified as an
24 expert in petroleum land matters.

25 Q. (By Mr. Kellahin) Mr. Myers, let's orient the

1 Examiner as to the subject tract and the type of well being
2 drilled. If you'll turn to what is marked as Exhibit
3 Number 1, would you identify that for us?

4 A. This is a locator map outlining the north half of
5 Section 28 in Township 15 South, Range 25 East, as the
6 proposed spacing unit for the gas well we're proposing to
7 drill with a surface location in the northwest quarter of
8 the northwest quarter of Section 28 and our bottomhole
9 location in the northeast quarter of the northeast quarter.

10 Q. Is this to be a Wolfcamp horizontal wellbore?

11 A. Yes, it is.

12 Q. When we look at the north half of Section 28, is
13 that a standard spacing unit for Wolfcamp gas production?

14 A. Yes, it is.

15 Q. Do you subsequently have a map that shows the
16 breakout of the individual tracts within the spacing unit?

17 A. Yes, we do.

18 Q. We'll come to that in a minute.

19 A. Okay.

20 Q. If you'll set aside Exhibit Number 1, turn to
21 what is marked as Exhibit Number 2. Would you identify
22 that for us?

23 A. Exhibit Number 2 is a Form C-102 and the
24 application for permit to drill on this spacing unit that
25 has been approved by the OCD.

1 Q. To the best of your knowledge, does this Form
2 C-102 conform to the Division Rules with regards to
3 horizontal wellbores?

4 A. Yes, it does.

5 Q. Let's turn to Exhibit Number 3. What is that,
6 sir?

7 A. That's the approved application for permit to
8 drill, submitted by Parallel Petroleum Corporation and
9 approved by the OCD.

10 Q. Now attached to Exhibit Number 3 are two
11 additional pages. They're not stapled together, but would
12 you look at those additional pages? Were these submitted
13 with your permit to drill?

14 A. Yes, they were.

15 Q. And what do these represent?

16 A. The first one represents the proposed drilling in
17 which Parallel will drill down to approximately 4750 feet,
18 cement that back up and then use that as a kickoff point
19 for the horizontal well.

20 Q. And the third page of this exhibit --

21 A. -- is the included survey calculation program
22 attached to the application to drill.

23 Q. Let's turn to Exhibit Number 4. What are we
24 looking at when we see Exhibit Number 4?

25 A. Exhibit Number 4 is a breakdown of all the tracts

1 included within the north half of Section 28, which
2 basically delineates and corresponds to the spreadsheet
3 that follows this as Exhibit Number 5.

4 Q. Well, let's look, in association with Exhibit
5 Number 4, at the spreadsheet, Exhibit Number 5, which
6 consists of -- I have three pages --

7 A. Yes, it's --

8 Q. -- Exhibit 5? Relate the two to each other.

9 A. Exhibit Number 5 corresponds to Exhibit Number 4.
10 It's a breakdown by tract which outlines Parallel's current
11 working interest totals in relation to leases they have
12 taken in the north half of Section 28.

13 Then you have underneath each tract the
14 outstanding acreage.

15 And at the bottom or on the last page, page 3,
16 you have an overall total that shows Parallel with a little
17 over 94 percent of the working interest in relation to the
18 leased tracts and a little over 5 1/2 percent which would
19 be outstanding, which are the interests we're looking to
20 pool today.

21 Q. Identify for the Examiner the tracts associated
22 with the interests to be pooled.

23 A. The tracts associated would be, on the first
24 page, the second tract. It's listed as a 6.238-acre tract
25 out of the northeast quarter of the northeast quarter. The

1 following one would be the south half of the northeast
2 quarter, save and except 6.7175-acre tract and a 2-2/2 acre
3 tract.

4 And then on page 2 and spilling over onto page 3
5 you have those two tracts, the 6.7175-acre tract and the
6 2-1/2-acre tract, which contain the working interests,
7 mineral interests that we're seeking to pool.

8 Q. Have you prepared a further spreadsheet that
9 specifically identifies the individuals or entities
10 associated with the tracts for which you're seeking to be
11 pooled?

12 A. Yes, we have. I believe that appears as Exhibit
13 Number 6.

14 Q. Identify and describe that for us.

15 A. Exhibit Number 6 is just a listing of all the
16 parties we're seeking to have interest pooled for the unit.
17 Everybody that appears highlighted here are people that we
18 were never -- that we were not able to obtain a current or
19 valid address for. The only people -- or the only party
20 that we do have -- could obtain a valid address for, which
21 was the New Mexico Department of Transportation, listed at
22 the bottom.

23 Q. Is there a portion of the title opinion that's
24 associated with this spreadsheet to satisfy the Examiner
25 that you have had -- made an adequate effort to obtain

1 professional opinions about the interests involved?

2 A. Yes, sir, it is what's marked as Exhibit Number
3 7.

4 Q. Exhibit 7 has five pages associated with it?

5 A. Yes, it does.

6 Q. Collectively, those pages as you have analyzed
7 them represent the interests shown on Exhibit Number 6, the
8 spreadsheet?

9 A. Yes, they do.

10 Q. For purposes of illustration as to these
11 interests, Mr. Myer [sic], have you prepared a family tree,
12 Exhibit Number 8, so we can get a visual depiction of the
13 tasks that you were challenged to?

14 A. Yes, Exhibit 8 represents a breakdown of the
15 interests that we're seeking to pool that were originally
16 owned by J.C. Rugel, who appears at the top of that family
17 tree. As outlined in our title opinion that was prepared
18 for Parallel Petroleum Corporation, the only people that
19 our title attorney or examining attorney shows a mineral
20 interest into are the people listed on the second row,
21 starting with Allie Rugel and then moving right across the
22 page and ending with John Rugel, who are also listed on
23 Exhibit Number 6 in the highlighted portion.

24 Q. As a result of your search and efforts, what did
25 you conclude about that chain of interest?

1 A. As far as the chain of interest went, the only
2 verifiable title that we found regarding these mineral
3 interests were as outlined on the second tier of Exhibit
4 Number 8, again starting with Allie Rugel and moving right
5 across the page, ending with John Rugel.

6 Q. To the best of your knowledge, are all these
7 individuals deceased?

8 A. Yes, they are.

9 Q. Let's turn now to the State of New Mexico.
10 There's identified on these spreadsheets an interest held
11 by the New Mexico Department of Transportation. Prior to
12 the pooling case did you submit to the Department of
13 Transportation a well proposal including an AFE?

14 A. Yes, we did. That's Exhibit Number 9, with the
15 AFE being Exhibit Number 10. We previously sent notice to
16 the New Mexico Department of Transportation and have been
17 told on more than one occasion that they do not recognize
18 any ownership of the mineral interests on any lands
19 regarding the highway rights-of-way.

20 Q. You've been through this process on numerous
21 occasions with the Highway Department?

22 A. Yes, we have.

23 Q. And what has been the result of those prior
24 efforts?

25 A. The result of the prior efforts was basically

1 listing them as a party to be pooled and having the
2 interests pooled, since they don't recognize ownership.

3 Q. Did you provide the Department of Transportation
4 with a proposed AFE?

5 A. Yes, we did. That's Exhibit Number 10.

6 Q. To the best of your knowledge, is this AFE
7 current and accurate with regards to the costs associated
8 with this well?

9 A. Yes, it is.

10 Q. Are these the proposed costs that you recommend
11 to the Examiner be adopted as reasonable costs associated
12 with this pooling order?

13 A. Yes, we do.

14 Q. Do you have a recommendation to the Examiner for
15 overhead rates to be charged to the nonconsenting parties
16 pursuant to a pooling order?

17 A. Yes, we would. We would suggest the overhead
18 rates of \$5000 a month drilling and \$500 a month producing,
19 which we've suggested on other well locations as well.

20 Q. Are those rates rates that the Division has
21 accepted based upon Parallel's prior testimony in other
22 pooling cases?

23 A. Yes, they are.

24 Q. Do you see any reason to change those?

25 A. Not at this time, no.

1 Q. Do you propose the Examiner include a provision
2 that will allow those rates to be escalated, consistent
3 with the attachments to the COPAS accounting procedures and
4 a joint operating agreement?

5 A. Yes, we would.

6 MR. KELLAHIN: Mr. Examiner, Exhibit Number 10
7 [sic] is the certificate from the newspaper in Roswell, New
8 Mexico, certifying the publication of notice of hearing.
9 We've identified by name all the individuals deceased or
10 unknown with regards to all the names associated with Mr.
11 Myers' spreadsheet, Exhibit Number 6.

12 And then finally, Exhibit 12 is my certificate of
13 notice of hearing sent to the Transportation Department.

14 And with those explanations, Mr. Examiner, we
15 move the introduction of Exhibits 1 through 12.

16 EXAMINER JONES: Exhibits 1 through 12 will be
17 admitted.

18 MR. KELLAHIN: That concludes my examination of
19 Mr. Myers.

20 EXAMINATION

21 BY EXAMINER JONES:

22 Q. Mr. Myers, we issued a couple of previous
23 compulsory poolings for Parallel in the past, didn't we?
24 Did you read those after you got them back?

25 A. The orders?

1 Q. The orders.

2 A. Yes, that's correct.

3 Q. Do you have any problem with them?

4 A. No, I don't. I've never seen a problem with one.

5 Q. The State Highway Department, they actually own
6 the minerals there, don't they?

7 A. Yeah, that's -- it's kind of hit or miss. You
8 see instances where the State was taking rights away and
9 the minerals weren't reserved by the land owners, so
10 obviously they're going to pass to the State, but the State
11 won't recognize the ownership of the minerals underneath
12 their rights-of-way.

13 Q. Because they don't -- they didn't --

14 A. Yeah, we --

15 Q. -- talk to you about it?

16 A. Well, they've talked to the brokers that we use
17 for our leasing, and I've been present when they've had
18 conversations, and their answer basically was, We just
19 don't. We never really got an answer other than, We don't
20 recognize the ownership.

21 Q. But they're going to -- they will get some --
22 even if they get a poor well, they'll get revenue, if you
23 make a well?

24 A. I would assume so, yeah. We'd have to hold it in
25 suspense, as they're not recognizing any ownership. We're

1 trying to figure out exactly what we're supposed to do.
2 I'm assuming ultimately that the funds held would escheat
3 back to the State of New Mexico.

4 Q. Okay. They could build roads with them or
5 something.

6 MR. KELLAHIN: It's a long-standing problem, Mr.
7 Examiner. For years we've not been able to persuade the
8 Highway Department that they have these ownerships, and
9 they profess not to have either the statutory authority or
10 the rules and regulations to administer any way, to lease
11 and handle this. They've chosen not to defer to the
12 Commissioner of Public Lands. It's just -- It's a quagmire
13 that we can't extract ourselves from.

14 EXAMINER JONES: So it's a long-standing deal?
15 Okay.

16 Q. (By Examiner Jones) Well, I'm surprised you guys
17 don't -- Are these risky wells or what? I mean, these are
18 horizontal wells in the Wolfcamp.

19 A. They're kind of hit or miss. I mean, it's --
20 you've got to -- you take the good with the bad,
21 ultimately.

22 Q. You're just happy with the 200-percent penalty,
23 you don't want to make a case for anything more than that?

24 A. Exactly.

25 EXAMINER JONES: Okay, and you've got the well

1 permitted already, you've got an API number. I know Bryan
2 is really -- in Artesia, our geologist, he's been after
3 people, once they've finished drilling the well, to give
4 him the final survey of the well, because sometimes you're
5 projecting this, when to stop, you know, 660 from the east
6 line, if you go beyond that or something, well, your survey
7 will show it, and Bryan in Artesia will need to know that.

8 David, do you have anything?

9 EXAMINATION

10 BY EXAMINER BROOKS:

11 Q. I was trying to go over this public notice, and
12 it's hard to do these during a hearing, but I'm wondering
13 if -- Let's see, you go through -- you have Ann Rugel --
14 Allie Rugel, I mean, Pauline Sowell, C.E. Rugel.

15 Then where we get mixed up here is L.E. Gross,
16 because you say -- in your list, Exhibit 6, you've got
17 Carrie Gross and/or the unknown heirs of Carrie Gross,
18 including L.E. Gross, deceased. And you go over here to
19 the notice, you have L.E. Gross, deceased, and/or the
20 unknown heirs of L.E. Gross, but I don't see Carrie Gross.

21 A. I don't see Carrie Gross listed in there either.
22 Carrie Gross was the mother to L.E. Gross, who we do know
23 is deceased --

24 Q. Okay, was L.E. Gross the only heir -- can you
25 establish -- Did you establish somewhere that L.E. Gross

1 inherited all the interest of Carrie Gross?

2 A. L.E. Gross was -- the only, I guess, information
3 we ever found on him that he was an apparent heir to Carrie
4 Gross, but we were never able to discern if there was
5 anybody other than L.E. Gross that should have taken under
6 Mrs. Gross's estate.

7 We were also able to determine that she had a
8 husband, Ernest Gross, that predeceased her.

9 Q. But you didn't -- your title opinion doesn't --
10 let's see, the title opinion doesn't give -- the title
11 opinion credits the interest to Carrie Gross, right?

12 A. Yes, that's correct.

13 EXAMINER BROOKS: Okay. Well, it looks to me
14 like you've got a defective notice as to Carrie Gross,
15 then, unless you've got something to establish that L.E.
16 Gross was the sole heir there.

17 I think you've got all the others, let me just be
18 sure here. L.E. Gross, Daniel F. Rugel, Joe Rugel, John
19 Rugel, Chapman Webb, Edna Earl Chapman, Frieda Chapman, and
20 J.C. Chapman.

21 Well, I guess I would recommend that we continue
22 this for four weeks to republish the notice to include
23 Carrie Gross, unless you've got some other evidence on
24 that.

25 MR. KELLAHIN: We'll double-check and make sure,

1 but I think -- this is what I received from the newspaper,
2 and I assumed it was accurate.

3 EXAMINER BROOKS: Okay.

4 MR. KELLAHIN: I'm not sure where the glitch came
5 in, but we'll go ahead and do that.

6 EXAMINER BROOKS: Okay, thank you.

7 EXAMINER JONES: Okay, thanks, Mr. Myers.

8 THE WITNESS: Thank you.

9 EXAMINER JONES: With that, we'll -- We've heard
10 this case, but we'll continue it to the 18th of October.
11 And don't run off, because it sounds like you've got a new
12 case here.

13 MR. KELLAHIN: Different witness.

14 EXAMINER JONES: Different witness, okay. I'm
15 sorry.

16 (Thereupon, these proceedings were concluded at
17 8:37 a.m.)

18 * * *

19

20 I do hereby certify that the foregoing is
21 a complete record of the proceedings in
22 the Examiner hearing of Case No. _____
heard by me on _____

23

24

25

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 September 22nd, 2007.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2010