

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

ORIGINAL

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 14188

APPLICATION OF BURLINGTON RESOURCES OIL
AND GAS COMPANY, LP, FOR COMPULSORY
POOLING, SAN JUAN COUNTY,
NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Legal Examiner
TERRY G. WARNELL, Technical Examiner
RICHARD EZEANYIM, Technical Examiner

October 30, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico
Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,
TERRY G. WARNELL, Technical Examiner, and RICHARD EZEANYIM,
Technical Examiner, on Thursday, October 30, 2008, at the
New Mexico Energy, Minerals and Natural Resources Department,
1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: JOYCE D. CALVERT, P-03
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A P P E A R A N C E S

FOR THE APPLICANT:

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1 MR. WARNELL: The next case we'll hear this morning
2 is Case No. 14188, Application of Burlington Resources Oil and
3 Gas Company, LP, for Compulsory Pooling, San Juan County,
4 New Mexico.

5 Call for appearances.

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

10 MR. WARNELL: Will the witness please stand and be
11 sworn.

12 Any other appearances?

13 MR. BRUCE: Jim Bruce of Santa Fe. I'm here on
14 behalf of Hope S. Kelly, who is the trustee of the Lawrence B.
15 Kelly Living Trust. I have no witnesses.

16 MR. WARNELL: Thank you, Mr. Bruce. Please state
17 your name.

18 MR. SIMCOE: My name is Terry Simcoe.

19 MR. WARNELL: Mr. Kellahin, we are ready whenever you
20 are.

21 MR. KELLAHIN: Thank you, Mr. Examiner.

22 TERRY SIMCOE

23 after having been first duly sworn under oath,
24 was questioned and testified as follows:
25

1 DIRECT EXAMINATION

2 BY MR. KELLAHIN:

3 Q. Mr. Simcoe, for the record, sir, would you please
4 state your name and occupation.

5 A. My name is Terry Simcoe. I'm a landman.

6 Q. And where did you reside, sir?

7 A. I live in Farmington, New Mexico.

8 Q. On prior occasions, have you testified and
9 qualified as a land expert before the Division?

10 A. No, sir.

11 Q. Are you a certified petroleum landman?

12 A. Yes, sir, I am.

13 Q. Summarize for us your education.

14 A. I have a Bachelor's degree from the University of
15 Kansas.16 Q. Have you been involved in land title matters in
17 the San Juan Basin for some period of time?18 A. Yes, sir. I began my career in land work in
19 1975, and I've been involved with the San Juan Basin for most
20 of that period either as a direct interest or occasional
21 interest for the parties for whom I was employed.22 Q. What are your current responsibilities for
23 Burlington?24 A. I am a staff landman. That's a senior landman
25 position with our company.

1 Q. As part of your duties, have you made yourself
2 knowledgeable about the ownership within the subject spacing
3 unit?

4 A. Yes, sir. I am the principal landman for this
5 well. That means that I did the title work and prepared the
6 documents that were sent forth.

7 Q. As part of discharging your land duties, were you
8 also the principal landman responsible for contacting the
9 parties that had not voluntarily committed themselves to
10 participate in the well?

11 A. Yes, sir.

12 Q. And you are able to report to the Examiner today
13 the status of those voluntary parties?

14 A. Yes, I am.

15 MR. KELLAHIN: At this point, we tender Mr. Simcoe as
16 an expert petroleum landman.

17 MR. WARNELL: We accept Mr. Simcoe as an expert
18 petroleum landman.

19 THE WITNESS: Thank you.

20 Q. (By Mr. Kellahin): Mr. Simcoe, let's turn to the
21 exhibit book. The exhibits are arranged behind tab numbers.
22 And for purposes of the record, would you identify for the
23 Examiner what he's going to find behind Tab No. 1?

24 A. Yes, sir. Behind Tab No. 1 is the application
25 for this case, and within that tab is the request to continue

1 this case, because we found that inadvertently we had left off
2 one of the respondents.

3 Q. So as part of that process, the information
4 behind Tab No. 1 will include an original application and an
5 amended application?

6 A. That's correct. And there's also proof of
7 service.

8 Q. Once you review the documents behind Exhibit Tab
9 No. 1, are you satisfied that all the parties that you intend
10 to include in this pooling case receive notice of this hearing
11 and the applications?

12 A. Yes, I am.

13 Q. Let's turn the Examiner's attention now to the
14 well bore itself. If you look behind Exhibit Tab No. 2, let's
15 start with the locator map. Describe what we're seeing here
16 with this map?

17 A. This is a map of the San Juan Basin showing the
18 townships. If you look at the three squiggly lines -- purple,
19 red and brown -- those are the towns of Farmington, Aztec and
20 Bloomfield. The little blue line that's diagonally running
21 across the town of Aztec and up near the well site, which is
22 identified by a red spot, is the Las Animas River. The well
23 site is approximately eight miles from the Colorado state line.

24 Q. Let's turn to the next display behind the locator
25 map. Describe for us what we're seeing when we look at this

1 nine-section plat.

2 A. This is a plat, which is typically called in the
3 land business, a nine-spot. It shows the nine sections: The
4 one that the well is in and the eight surrounding sections, and
5 it shows on this particular plat the production in the sections
6 surrounding the plat.

7 Q. Let's concentrate on the Section 15. What is the
8 orientation of the spacing unit?

9 A. The spacing unit for this well, which
10 incidentally is named the Kelly A #3E, is the E/2 of
11 Section 15.

12 Q. What type of well bore does Burlington intend to
13 drill at this location?

14 A. We'll be drilling a well to the base of the
15 Dakota with the intention to commingle production from the
16 Mesaverde formation and the Dakota formation.

17 Q. When you look at the E/2 of 15, are there other
18 wells, either in the Dakota or the Mesaverde formation, within
19 that spacing unit?

20 A. Yes, sir. If you look at the blue circles with
21 the star symbol, gas symbol, within them, those are Mesaverde
22 wells. You'll see that there's numerous Mesaverde wells around
23 the section and in each of the other sections. There are,
24 however, only a couple of Dakota wells. There's a Dakota well
25 one mile south of this location and one to the southwest

1 approximately two miles, so this well as to the Dakota will be
2 a step out.

3 Q. Is this the first Dakota well in the spacing
4 unit?

5 A. Yes, sir.

6 Q. When you look at your well bore symbol in
7 Section 15, there appears to be a P&A gas well symbol just to
8 the west of your --

9 A. Yes, sir. We're actually twinning a Pictured
10 Cliffs well. If you gentlemen will refer to the cover of this
11 book, there's actually an aerial photo of that well site. And
12 we will be drilling this well from that same pad that's shown
13 in the center of the photograph.

14 Q. When you look at the nine-section plat,
15 Mr. Simcoe, have you satisfied yourself that the proposed
16 location for the subject well is a standard -- includes density
17 well as to the location and density for both the Mesaverde and
18 the Dakota pools?

19 A. Yes, sir. It is in a legal, standard location.

20 Q. Let's turn now to Tab No. 3. Again we start with
21 a map. Identify for me what the map is behind Exhibit Tab No.
22 3.

23 A. This is actually a plat showing the spacing unit
24 which has the diagonal blue stripes across the eastern half of
25 Section 15. There are two red spots on the well. The one in

1 the lower right-hand corner is the well under discussion. The
2 one in the NW/4 of 15 is another proposed location, which is
3 not part of this process.

4 Q. Describe for the Examiner in the E/2 of 15 the
5 configuration of the tracts that consist of the spacing unit
6 that you're consolidating?

7 A. We have two federal leases, which comprise the NW
8 of the SE and the S/2, SE, and also the NW/NW. Another federal
9 lease, which is the NE/NW, and then five fee leases in the
10 intervening space in between. That's shown as a white space
11 between the blue spaces on this plat.

12 Q. What working interest owner controls the fee
13 leases in white?

14 A. That's BP Corporation.

15 Q. Has Burlington reached an agreement with BP
16 Corporation for the consolidation of these tracts?

17 A. Yes, sir, we certainly have.

18 Q. When we look at the parties to be pooled, what
19 kind of interest do they have and where is it associated within
20 these tracts?

21 A. When we go behind this plat, there's an Exhibit
22 A, which was the Exhibit A to the proposed operating agreement,
23 it shows the interest of the parties. At this point, I'd like
24 to reinforce the information the Division probably has that
25 Burlington Resources Oil and Gas Company is a wholly-owned

1 subsidiary of ConocoPhillips. Interestingly, in this well,
2 working interest is owned by both companies, so we show both
3 Burlington with an ownership of 37.5 percent in the Mesaverde
4 and 49.89 percent in the Dakota. But we also show
5 ConocoPhillips Company nothing in the Mesaverde, but
6 12.4749 percent in the Dakota.

7 The other major owner, as we stated, is BP America
8 Production Company. They, too, have 37.5 percent in the
9 Mesaverde, but 37.634 percent in the Dakota. The other parties
10 in the well, and the cause for this hearing today, are
11 interests of various members of the Kelly Family, which in the
12 case of this well is represented by the Kelly Living Trust, the
13 Kelly Family Trust, the Lawrence B. Kelly Living Trust and the
14 Lawrence C. Kelly Trust.

15 And those percentages are shown on the second page of
16 Exhibit A. The Kelly Living Trust has 3.125 percent. The
17 Kelly Family Trust has 3.125 percent. The Lawrence B. Kelly
18 Living Trust has 6.25 percent, and the Lawrence C. Kelly Trust
19 has 12.5 percent only in the Mesaverde formation.

20 Q. Mr. Simcoe, of the population of Kelly Trusts,
21 are there any of these trusts that are committed to participate
22 with their Mesaverde interest in the well?

23 A. Yes, sir. One of the trusts did agree to go
24 along with the well and pay their share. Three of the trusts
25 did not wish to participate.

1 Q. Which one will be participating?

2 A. I hope you'll forgive me. I'm confused by all
3 the different names. The Kelly Family Trust is the one, I
4 believe, that went.

5 Q. If you look at your indicator that says yes and
6 no?

7 A. Lawrence C. Kelly Trust. I forgot we put that on
8 there. How embarrassing.

9 Q. So the Lawrence C. Kelly Trust is committed?

10 A. Yes, sir.

11 Q. Let's talk about the other three. Mr. Bruce's
12 client is the Lawrence B. Kelly Living Trust with the Santa
13 Barbara, California, address. Have you been in contact with
14 those people responsible for that trust?

15 A. My contact with all of the trusts has been in
16 writing through the mail. This well was originally proposed in
17 December of 2007. The ballot was sent forth with an AFE.
18 There was no response from several of the parties in the well,
19 and the well was re-balloted in May of this year with requests
20 that they approve or disapprove the well.

21 At the time, the three shown -- Kelly Living Trust,
22 Kelly Family Trust and Lawrence B. Kelly Living Trust -- all
23 indicated disapproval of the proposal.

24 Q. Let's turn to Tab 4 now. As part of your efforts
25 to document your efforts to obtain the commitment of these

1 three remaining trusts, have you prepared a chronology of your
2 contacts that begins immediately following Tab No. 4?

3 A. Yes, sir. This chronology begins, as you can
4 see, December 7th of 2007.

5 Q. If you'll turn past the two pages, you come to
6 what you were describing a while ago. There's a series of
7 letters.

8 A. Yes, sir.

9 Q. Did you cause, on behalf of your company, well
10 proposal letters including AFEs to be sent to those three
11 various Kelly Trusts?

12 A. Yes, sir. That is my signature on the proposal
13 letter. We call this a ballot letter.

14 Q. As part of that process, did you actually get
15 green cards or confirmation of receipt from the three trusts?

16 A. Yes, sir. And they are elsewhere in this
17 booklet.

18 Q. Let's turn to the last two pages of the documents
19 behind Exhibit Tab No. 4. At that point in my book, I find an
20 AFE use?

21 A. Yes, sir, it's actually the last three pages.

22 Q. Let's take the last three pages, then. Generally
23 describe how you obtained this estimated well cost?

24 A. These AFEs are prepared by our engineers and
25 accountants in ConocoPhillips by looking at the actual costs

1 for the wells that we drill. In the past few years, we've
2 drilled approximately 200 wells per year in the Mesaverde
3 Dakota and have, we believe, a very good handle on the costs of
4 drilling and completing these wells. And these AFEs are
5 reflective of our actual experience.

6 Also we found that from other operators asking us to
7 join them, these costs are quite similar, if not identical, to
8 the costs that they propose.

9 Q. Is this the AFE that you sent to the various
10 Kelly Trusts?

11 A. It is indeed.

12 Q. Have you received any objection from any of those
13 parties as to the well costs?

14 A. No.

15 Q. I'll ask you the next question, then. To the
16 best of your knowledge, this AFE is fair and reasonable?

17 A. I believe it is.

18 Q. When we look at the AFE, one of the topics of
19 discussion was not the cost but how they were allocated between
20 the Dakota and Mesaverde?

21 A. Yes, sir.

22 Q. Does this say that they do that?

23 A. It shows the cost, the top page here, in the
24 Mesaverde. The second page is the Dakota. There's two
25 different amounts shown, one for each well. And then the third

1 page summarizes those.

2 MR. BROOKS: Excuse me. Which exhibit are we looking
3 at?

4 MR. KELLAHIN: We're looking at Exhibit 4. At the
5 last three pages at the end.

6 MR. BROOKS: Thank you. Sorry to interrupt you.
7 Proceed.

8 Q. (By Mr. Kellahin): You're looking at that
9 portion of the three documents that are the AFE, and you're
10 looking at the one associated with the Mesaverde?

11 A. Yes, sir.

12 Q. Is there also a table in the AFE that allocates
13 the cost associated with the Dakota?

14 A. Yes, sir. Each page has a summary for that
15 formation and then the third page summarizes both of those
16 pages.

17 Q. Let's go back to the three trusts that you intend
18 to pool by this application. One of the trustees, the trustee
19 for the Kelly Family Trust, is Gregory Kelly?

20 A. Yes, sir.

21 Q. Are you familiar with that individual?

22 A. Yes, I am.

23 Q. Have you been in contact with him on the phone?

24 A. I have. Since the ballots were both sent, I've
25 had occasion to speak with him personally on the telephone on

1 two occasions.

2 Q. Did he voice to you any concerns that caused you
3 to take action with regards to his concerns?

4 A. Yes. You noticed I hesitated about the question:
5 Did anyone show any discomfort with the AFE?

6 I would assume that that was the basis of Mr. Kelly
7 and perhaps other members of the family's interest in this
8 well. They don't apparently want to spend money. And it
9 wasn't the AFE itself; it was the fact that they did not wish
10 to participate in the well.

11 They, apparently, did not understand the opportunity
12 they had in this particular well. Because we're adding the
13 Dakota for the first time in this spacing unit, an operating
14 agreement was necessary to conduct operations, and I sent them
15 a new operating agreement. We have an operating agreement with
16 them on the Mesaverde, but we needed a mechanism to include the
17 Dakota and to allocate production and costs.

18 I think they may have been confused by that and did
19 not realize they could non-consent the well under the
20 provisions of the operating agreement had they chosen to
21 execute it and return it. So we find ourselves here today to
22 do an administrative procedure to allow us to include the
23 Dakota in this well.

24 Q. Let's turn now to Exhibit Tab No. 5. Before we
25 talk about some of the key points of this, describe for us what

1 we're seeing behind Exhibit Tab No. 5.

2 A. This is, in fact, the proposed operator agreement
3 that was sent to these family trusts. You'll notice the date
4 of May 1 on it. I had hoped to arrive at an amendment of the
5 Mesaverde operator agreement or an agreement to go ahead with a
6 new operating agreement prior to this, but when I was
7 unsuccessful in eliciting any kind of response, I went ahead
8 and prepared an operating agreement, then mailed it out with
9 the second group of ballots, which required a response.

10 You'll notice in the lower right-hand corner it says
11 "BP Form." The reason for that is the number of wells we drill
12 in the basin frequently includes other operators, and for each
13 of those where they have a "dog in the fight," they may want
14 certain clauses in their operating agreements. Because BP is
15 our other major partner in here, we chose to use the BP form
16 that we've already negotiated with them. So you'll see that
17 this is the BP form, and they have agreed to this operating
18 agreement.

19 Q. Mr. Simcoe, the various Kelly trusts have what
20 type of interest in this well bore?

21 A. Interestingly, they have a working interest. The
22 patriarch of the family many years ago actually acquired
23 leasehold interest himself. He traded in leases. I can't say
24 that he was actually a wildcatter, but he did participate in
25 many wells back in the 1950s and 60s. In fact, we've mentioned

1 the name Greg Kelly. Greg Kelly is a petroleum engineer and
2 did work in the basin in the past.

3 Q. Let me direct your attention to Mr. Bruce's
4 client. He's entered an appearance on the behalf of the
5 Lawrence B. Kelly Living Trust. As part of that activity, have
6 you received communications from a California attorney by the
7 name of Candy?

8 A. Yes, sir. I have.

9 Q. As part of Mr. Candy's concerns, have you
10 reexamined your procedures, and is there in place a method to
11 allocate costs and production between the Mesaverde and the
12 Dakota?

13 A. Yes, sir. Within the operating agreement, we
14 include as article 15-F.

15 Q. Have you put in the exhibit book a tab so that
16 the Examiner can find the portion?

17 A. Yes. That would be the first green --

18 Q. And that should allow you to find what is
19 numbered page 16?

20 A. Correct.

21 Q. And the heading on that page starts "Cost
22 Allocation Procedures"?

23 A. That is correct.

24 Q. Without going into detail, Mr. Simcoe, give us a
25 general summary of what is intended to be accomplished by these

1 series of documents associated with the JOA.

2 A. This is a complicated cost allocation formula,
3 and it allows drilling to different horizons. There's, as you
4 know, numerous horizons within the San Juan Basin, but the
5 nuts-and-bolts of where we're trying to go is the second tab
6 here, which is page 20. And by agreement, based on actual
7 historic oil costs and the experience that ourselves and other
8 operators have had in the basin, it costs about 60 percent to
9 reach the basin of the Dakota; 40 percent is then allocated to
10 the Mesaverde.

11 And it makes it easier for the operator and everyone
12 involved if they understand that we're drilling these wells on
13 a 60/40 basis and not have to go through this formula with
14 every single cost involved. And this historically is accurate.

15 Q. You've described the allocation of costs
16 associated with the two formations. Is there a procedure in
17 place in the company that is utilized by your company and
18 others to allocate the production between the two pools?

19 A. Yes. And I believe that Mr. Candy was equally as
20 concerned about that. The costs of drilling a well may be
21 pretty formulaic, as this is. It's not so much that case with
22 production, so we actually do a production test, and it's
23 called, in our case -- we've used the technology that's been
24 available recently called a spinner test. Would you like me to
25 describe that?

1 Q. No, sir. As part of your efforts, do you believe
2 that you have addressed all of Mr. Candy's concerns about how
3 his client will be impacted in the event the Division issued a
4 compulsory pooling order?

5 A. I believe so.

6 Q. As part of your JOA, are there overhead rates
7 associated with this JOA?

8 A. Yes, sir.

9 Q. And how do we find the page that shows those?

10 A. That will be the next tab which is in the COPAS
11 procedure, page number 8.

12 Q. Are these the rates agreed to by BP and
13 Burlington associated with the drilling of this well?

14 A. That's correct. The drilling well rate is \$6,500
15 and the producing well rate is \$650.

16 Q. Is that the current rate the company has been
17 using in the San Juan Basin?

18 A. Yes, sir. This is common by most operators in
19 the basin. Interestingly, it also is the number that's
20 compatible if you were to take the old operating rates from
21 history and escalate them according to the COPAS procedure.

22 Q. Do the operators in the basin periodically meet
23 and agree upon the rates?

24 A. I can't say that we meet and agree, but we do
25 negotiate among ourselves when we do operating agreements and

1 the procedure is amicable.

2 Q. Are these the rates that you recommend that the
3 Examiner include in the compulsory pooling?

4 A. It is. And these are the rates that we receive
5 from other companies. We believe them to be reasonable.

6 Q. Let's turn now to the last exhibit tab that we
7 have, the documents with Exhibit Tab No. 6. When we turn to
8 that page, what do we see?

9 A. This is our application and the plat that goes
10 with the application. You'll see that the E/2 of Section 15 is
11 stippled. This is Township 31 North 10 West. The legal
12 location is 810 feet from the South Line, 815 feet from the
13 East Line, which is a standard location. We've dedicated the
14 E/2 of the section on a 320-acre basis.

15 Q. Have you actually obtained an approved APD at
16 this point?

17 A. No, sir.

18 Q. That process is still ongoing?

19 A. Yes. Due to the nature of this hearing and the
20 lack of response, I stopped the process so that we wouldn't be
21 having an APD that was issued and then no ability to move ahead
22 with the well.

23 Q. In addition to a compulsory pooling order, will
24 Burlington undertake to file and obtain approval of the
25 Division's downhole commingling procedures?

1 A. That is correct, sir.

2 MR. KELLAHIN: Mr. Examiner, that concludes my
3 examination of Mr. Simcoe. We move the introduction of his
4 Exhibits 1 through 6.

5 MR. WARNELL: Any objections.

6 MR. BRUCE: No objections.

7 MR. WARNELL: Okay. We'll accept Exhibits
8 1 through 6.

9 [Applicant's Exhibits 1 through 6 admitted into
10 evidence.]

11 MR. WARNELL: Any cross-examination?

12 MR. BRUCE: Just a couple of questions.

13 CROSS-EXAMINATION

14 BY MR. BRUCE:

15 Q. Your Exhibit 2, Mr. Simcoe, the second page -- I
16 just want to clarify something. Looking at Section 15, the
17 Mesaverde wells, when drilled, were those strictly Mesaverde
18 wells, they did not test the Dakota and the Dakota was later
19 abandoned.

20 A. No, sir, they did not test the Dakota.
21 Incidentally, the Kelly's are members of those two wells. They
22 are interest owners.

23 Q. Next, this looking at your AFE, the last three
24 pages of Exhibit 4, I just want to verify something. Looking
25 at the first page, which is the Mesaverde, that whether my

1 client went consent or non-consent, they would be charged
2 6.25 percent of the costs shown on this page; is that correct?

3 A. That is correct.

4 Q. Okay. And then under this JOA, I couldn't find
5 it quickly, but what non-consent penalties are there under the
6 propose JOA?

7 A. This would be a 300 percent non-consent penalty
8 for drilling operations.

9 MR. KELLAHIN: You find it on page 6.

10 MR. WARNELL: Page 6.

11 MR. KELLAHIN: Page 6 of the JOA under Tab No. 5.

12 THE WITNESS: 100 percent of the share of cost of
13 newly acquired equipment, 300 percent of the cost and expense
14 of drilling and reworking and plugging back and testing and
15 completing. And 300 percent of a portion of newly acquired
16 equipment for the well.

17 Q. (By Mr. Bruce): Okay. And that 300 percent
18 is -- that's the equivalent of the cost plus 200 percent on
19 drilling expenses under a pooling order, correct?

20 A. That's correct. Typically it noticed at
21 300 percent penalty, but actually the penalty is 200 percent.

22 Q. Correct.

23 A. Cost plus 200.

24 Q. Right. I think that's all I have. Just one
25 final question: Why are you beating up on these poor people

1 from Malibu and Santa Barbara?

2 A. Sir, I don't believe I'm beating up on anybody.
3 I solicited a response, it was not forthcoming, and I would
4 like to have avoided this. Many people find it unpleasant.
5 There is a mechanism. If they had agreed to the operating
6 agreement, they could certainly have gone non-consent.

7 MR. BRUCE: Mr. Examiner, as I've been informed, one
8 reason why my client couldn't make a decision is that Lawrence
9 B. Kelly fairly recently died and his wife took over as
10 trustee, and she is unfamiliar with oil and gas matters. So
11 that's, unfortunately, one reason why Mr. Simcoe had to come up
12 here. But they're not aggravated at Burlington in any way.

13 That's all the questions I have.

14 MR. WARNELL: Okay. Mr. Brooks?

15 MR. BROOKS: Yes.

16 EXAMINATION

17 BY MR. BROOKS:

18 Q. If I understand correctly, you are going to
19 allocate all of the expenses; 40 percent to the Mesaverde and
20 60 percent to the Dakota in lieu of -- or this is what you're
21 doing under the operating agreement? You allocate 40 percent
22 to the Mesaverde and 60 percent to the Dakota in lieu of trying
23 to work out an actual allocation?

24 A. Yes, sir. It's very difficult to do that, as you
25 can imagine. When you're in the operations of drilling, and

1 certain things may cover both zones, how do you figure which
2 went to which? This seems to be the most fair and equitable,
3 and most of the companies agree to this.

4 Q. This is something that you've agreed on with BP?

5 A. Absolutely. This agreement is a two-way
6 agreement.

7 Q. Now, you said if you complete in both zones, then
8 you anticipate applying for downhole commingling?

9 A. Yes, sir.

10 Q. And your downhole commingling application will
11 propose to allocate production on the basis of production
12 tests?

13 A. On a test, yes, sir.

14 Q. Would you -- Mr. Kellahin didn't ask you to
15 describe the spinner test, and I probably won't understand it,
16 but for the record, would you briefly describe --

17 A. I'm not an engineer. I'm a landman, so it'll be
18 simple.

19 Q. Okay.

20 A. Basically, we put a retrievable bridge plug
21 packer in the hole to isolate the Dakota. This is after the
22 fracing of the well and initial flow back. At that time, then,
23 the well is opened to the Mesaverde against a production plate
24 to simulate pipeline pressures and readings taken of how much
25 the Mesaverde produces.

1 At that point, there is tubing lowered in the hole
2 past the Mesaverde and above the Dakota. And at that time, the
3 bridge plug is retrieved, and the spinner is lowered down that
4 pipe. And the spinner itself has been shown to accurately
5 reflect the amount of production from the lower zone which is
6 producing against the pressure from the upper zone. So we know
7 the pressure from testing of the Mesaverde.

8 The Dakota is then the additional pressure that has
9 been seen by the spinner in the well. And it's added to that,
10 and the allocation is based on those two different numbers.

11 Q. Now, this again, is this something that you've
12 agreed upon with other industry partners in the well?

13 A. Yes, it's a common practice.

14 Q. Okay. The overhead charges, will those also be
15 allocated between the zones?

16 A. Yes, sir.

17 Q. So that of the 6500, or 40 percent, will be
18 allocated to the Mesaverde?

19 A. Correct.

20 Q. There's nobody you're pooling in the Dakota,
21 right?

22 A. No, sir.

23 Q. So you're asking for a pooling order for the
24 Mesaverde only?

25 A. Just for the Mesaverde and the ability to apply

1 for commingling.

2 MR. BROOKS: That's all I have. Thank you.

3 MR. WARNELL: Richard?

4 MR. EZEANYIM: No questions.

5 MR. WARNELL: I have a question or two here.

6 EXAMINATION

7 BY MR. WARNELL:

8 Q. You mentioned that this would be the only Dakota
9 well in this area.

10 A. No, sir. It'll be the first one. There is one
11 Dakota to the south one mile away and one to the southwest two
12 miles away.

13 Q. So if I look at your nine-spot here --

14 A. That green square that's in Section 22 in the
15 SE/SE is a Dakota well.

16 Q. Okay.

17 A. And then SW/SW of 21 there's several wells
18 grouped together. One of those is a Dakota well.

19 Q. All right. Who operates that Dakota well, do you
20 know -- directly to the south?

21 A. I'm sorry, sir. I don't have that information.

22 Q. That's all right. That's probably not a fair
23 question.

24 MR. WARNELL: I have no further questions.

25 MR. BRUCE: Could I ask just one question of

1 Mr. Simcoe?

2 MR. WARNELL: Yes, sir.

3 MR. BRUCE: Mr. Simcoe, would you still accept a
4 signature on the JOA from the Lawrence B. Kelly Trust in lieu
5 of force-pooling them?

6 THE WITNESS: Certainly.

7 MR. BRUCE: Thank you.

8 MR. WARNELL: Mr. Kellahin?

9 MR. KELLAHIN: That concludes our presentation.

10 MR. WARNELL: Okay. Very well. You may step down,
11 Mr. Simcoe.

12
13 THE WITNESS: Thank you, gentlemen.

14 MR. WARNELL: Case No. 14188 will be taken under
15 advisement.

16 Let's take a ten-minute break, and we'll start again
17 at 9:30 according to the clock in this room.

18 * * *

19
20 I do hereby certify that the foregoing is
21 a complete and true record of the proceedings in
22 the hearing of Case No. _____,
heard by me on _____.

23 _____, Examiner
24 Oil Conservation Division
25

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REPORTER'S CERTIFICATE

I, JOYCE D. CALVERT, Provisional Court Reporter for the State of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case and that I have no interest in the final disposition of this proceeding.

DATED this 30th of October, 2008.

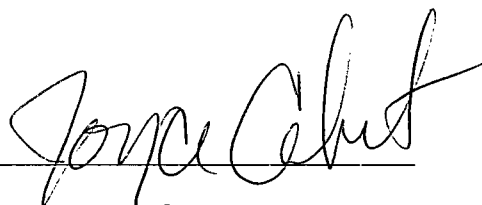


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New Mexico P-03
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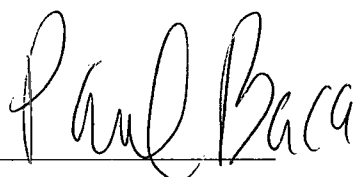
1 STATE OF NEW MEXICO)
2 COUNTY OF BERNALILLO)

3
4 I, JOYCE D. CALVERT, a New Mexico Provisional
5 Reporter, working under the direction and direct supervision of
6 Paul Baca, New Mexico CCR License Number 112, hereby certify
7 that I reported the attached proceedings; that pages numbered
8 1-28 inclusive, are a true and correct transcript of my
9 stenographic notes. On the date I reported these proceedings,
10 I was the holder of Provisional License Number P-03.

11 Dated at Albuquerque, New Mexico, 30th day of
12 October, 2008.

13
14 

15 Joyce D. Calvert
16 Provisional License #P-03
17 License Expires: 7/31/09

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20 Paul Baca, RPR
21 Certified Court Reporter #112
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1 STATE OF NEW MEXICO

2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

3 OIL CONSERVATION DIVISION

4
5 IN THE MATTER OF THE HEARING CALLED
6 BY THE OIL CONSERVATION DIVISION FOR
7 THE PURPOSE OF CONSIDERING:

CASE NO. 14188

8 APPLICATION OF BURLINGTON RESOURCES OIL
9 AND GAS COMPANY, LP, FOR COMPULSORY
10 POOLING, SAN JUAN COUNTY,
11 NEW MEXICO12
13 REPORTER'S TRANSCRIPT OF PROCEEDINGS14 EXAMINER HEARING15
16 BEFORE: DAVID K. BROOKS, Legal Examiner
17 TERRY G. WARNELL, Technical Examiner
18 RICHARD EZEANYIM, Technical Examiner

19 October 30, 2008

20 Santa Fe, New Mexico

21 This matter came on for hearing before the New Mexico
22 Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,
23 TERRY G. WARNELL, Technical Examiner, and RICHARD EZEANYIM,
24 Technical Examiner, on Thursday, October 30, 2008, at the
25 New Mexico Energy, Minerals and Natural Resources Department,
1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.26 REPORTED BY: JOYCE D. CALVERT, P-03
27 Paul Baca Court Reporters
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29 Albuquerque, New Mexico 87102