

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

IN THE MATTER OF THE APPLICATION OF  
BURLINGTON RESOURCES OIL & GAS COMPANY LP  
FOR COMPULSORY POOLING  
SAN JUAN COUNTY, NEW MEXICO.

CASE NO. \_\_\_\_\_

APPLICATION

Burlington Resources Oil & Gas Company LP. ("Burlington") by its attorneys, Kellahin & Kellahin, seeks an order pooling all mineral interests in the Mesaverde formation underlying the E/2 of Section 15, T31N, R10W, NMPM, San Juan County, New Mexico, forming a standard 318.86-acre gas spacing and proration unit for the Mesaverde and Dakota formation spaced on 320-acre spacing. This unit is to be dedicated to its Kelly A No. 3E well has been drilled and completed at a standard well location as a downhole commingled wellbore for production from Dakota and Mesaverde formations in Unit P of this section. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and, pursuant to Commission Order R-11992, a charge 200% charge for the risk involved in this well.

In support of its application Burlington states:

- (1) Burlington, an affiliate of ConocoPhillips Company, is a working interest owner and the proposed operator for the Kelly A No. 3E well to be dedicated to the E/2 of Section 15, T31N, R10W, San Juan County, New Mexico.
- (2) Burlington has proposed to drill, complete and operate the Kelly A No. 3E well to be located in Unit letter P of this section and if productive to downhole commingle Dakota and Mesaverde production. See Division form C-102 attached as Exhibit "A"

- (3) All of the interest owners in the Dakota formation have agreed to participate in this well, but two owners in the Mesaverde formation have declined: (a) Laurence B Kelly Living Trust (6.25% WI) and (b) Kelly Living Trust (3.125% WI)
- (4) The subject 318.86-acre spacing unit is located within the Blanco-Mesaverde Gas Pool and the Basin-Dakota Gas Pool.
- (5) Burlington despite reasonable effort has been unable to obtain the voluntary agreement of these two interest owners in this spacing unit. Pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Burlington needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.
- (6) In accordance with the Division's notice requirements, a copy of this application has been sent to the parties whose interest is to be pooled as listed on Exhibit "B" notifying each of this case and of the applicant's request for a hearing of this matter before the Division on the next available Examiner's docket now scheduled for October 2, 2008.

WHEREFORE, Burlington, as applicant, requests that this application be set for hearing on October 2, 2008 before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interest described in the appropriate spacing unit for this well at a standard well location upon terms and conditions which include:

- (1) Burlington Resources Oil & Gas Company LP be named operator.
- (2) Provisions for applicant and all working interest owners to participate in the costs of drilling, completing, equipping and operating the well;

- (3) In the event a mineral interest or working interest owner fails to elect to participate, then provision be made to recover out of production, the costs of the drilling, completing, equipping and operating the well, including a risk factor penalty of 200%;
- (4) Provision for overhead rates per month drilling and per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;
- (5) For such other and further relief as may be proper.

RESPECTFULLY SUBMITTED:

A handwritten signature in dark ink, appearing to read 'W. Thomas Kellahin', written over the typed name.

W. THOMAS KELLAHIN  
KELLAHIN & KELLAHIN  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
(505) 982-4285

**Exhibit "B"**

Kelly Living Trust  
Rosalie H. Kelly, Trustee  
P. O. Box 383  
Amherst, VA 24531

Laurence B. Kelly Living Trust  
839 Summit Rd Montecito  
Santa Barbara, CA 93108

**KELLAHIN & KELLAHIN**  
**Attorney at Law**

**W. THOMAS KELLAHIN**  
**706 GONZALES ROAD**  
**SANTA FE, NEW MEXICO 87501**

**TELEPHONE 505-982-4285**  
**FACSIMILE 505-982-2047**  
**TKELLAHIN@COMCAST.NET**

September 2, 2008

**TO: NOTICE OF THE HEARING OF THE FOLLOWING NEW  
MEXICO OIL CONSERVATION DIVISION CASE:**

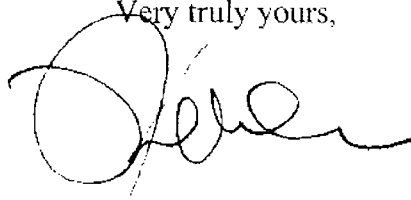
**Re: Application of Burlington Resources Oil & Gas  
Company LP for Compulsory Pooling,  
San Juan County, New Mexico**

On behalf of Burlington Resources Oil & Gas Company LP, please find enclosed our application for a compulsory pooling for the E/2 of Section 15, T31N, R10W that has been set for hearing on the New Mexico Oil Conservation Division Examiner's docket now scheduled for at 8:15 a.m. on October 2, 2008. The hearing will be held at the Division hearing room located at 1220 South Saint Francis Drive, Santa Fe, New Mexico.

As an interest owner who may be affected by this application, we are notifying you of your right to appear at the hearing and participate in this case, including the right to present evidence either in support of or in opposition to the application. Failure to appear at the hearing may preclude you from any involvement in this case at a later date.

Pursuant to the Division's Memorandum 2-90, you are further notified that if you desire to appear in this case, then you are requested to file a Pre-Hearing Statement with the Division not later than 5:00 PM on Thursday, September 28, 2008, with a copy delivered to the undersigned.

Very truly yours,



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.  <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.  <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. </p> <p>1. Article Addressed to:</p> <p>           Laurence B. Kelly Living Trust            839 Summit Rd Montecito            Santa Barbara, CA 93108 </p>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Laurence B. Kelly</u> Date of Delivery <u>9-4</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type  <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
2. Article Number (Transfer from service label)	7005 1620 0003 8431 8873
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540

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Postmark Here

Sent To Laurence B. Kelly Living Trust

Street, A or PO Box 839 Summit Rd Montecito

City, State Santa Barbara, CA 93108

PS Form 3800, June 2002

**KELLAHIN & KELLAHIN**  
**Attorney at Law**

**W. THOMAS KELLAHIN**  
**706 GONZALES ROAD**  
**SANTA FE, NEW MEXICO 87501**

**TELEPHONE 505-982-4285**  
**FACSIMILE 505-982-2047**  
**TKELLAHIN@COMCAST.NET**

September 29, 2008

TO: NOTICE OF THE HEARING OF THE FOLLOWING NEW  
MEXICO OIL CONSERVATION DIVISION CASE:

Re: NMOCD CASE 14188  
Application of Burlington Resources Oil & Gas  
Company LP for Compulsory Pooling,  
San Juan County, New Mexico

On behalf of Burlington Resources Oil & Gas Company LP, please find enclosed our application for a compulsory pooling for the E/2 of Section 15, T31N, R10W, to be dedicated to the Kelly A No 3E, that has been set for hearing on the New Mexico Oil Conservation Division Examiner's docket and continued to 8:15 a.m. on October 30, 2008. The hearing will be held at the Division hearing room located at 1220 South Saint Francis Drive, Santa Fe, New Mexico.

As an interest owner who may be affected by this application, we are notifying you of your right to appear at the hearing and participate in this case, including the right to present evidence either in support of or in opposition to the application. Failure to appear at the hearing may preclude you from any involvement in this case at a later date.

Pursuant to the Division's Memorandum 2-90, you are further notified that if you desire to appear in this case, then you are requested to file a Pre-Hearing Statement with the Division not later than 5:00 PM on Thursday, October 23, 2008, with a copy delivered to the undersigned.

Very truly yours,



W. Thomas Kellahin

**Exhibit "B"**

Kelly Living Trust  
Rosalie H. Kelly, Trustee  
141 London Lane  
Amherst, VA 24521

Laurence B. Kelly Living Trust  
Laurence B. Kelly, Trustee  
839 Summit Rd. Montecito  
Santa Barbara, CA 93108

Kelly Family Trust  
Gregory Kelly, Trustee  
3526 Bay Berry Lane  
Malibu, CA 90265



7005 1820 0003 8431 9061

<b>U.S. Postal Service™</b> <b>CERTIFIED MAIL™ RECEIPT</b> (Domestic Mail Only; No Insurance Coverage Provided) For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
OFFICIAL USE		
Postage \$	Postmark Here	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage	Kelly Living Trust Rosalie H. Kelly, Trustee 141 London Lane Amherst, VA 24521	
Sent To	9/29/08	
Street, Apt. # or PO Box #		
City, State, Z.		
PS Form 3800, June 2002		See Reverse for Instructions

<b>SENDER: COMPLETE THIS SECTION</b> <ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul> <p>1. Article Addressed to:</p> <p style="text-align: center;">             Kelly Living Trust              Rosalie H. Kelly, Trustee              141 London Lane              Amherst, VA 24521           </p> <p>2. Article Number (Transfer from service label)</p>	<b>COMPLETE THIS SECTION ON DELIVERY</b> <p>A. Signature  <input checked="" type="checkbox"/> <i>Rosalie H. Kelly</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)  <i>Devery Co.</i></p> <p>C. Date of Delivery  <i>10-3-08</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p> <p>3. Service Type  <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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PS Form 3811, February 2004

7005 1820 0003 8431 9061

Domestic Return Receipt

102595-02-M-1540

7005 1820 0003 8431 9061

<b>U.S. Postal Service™</b> <b>CERTIFIED MAIL™ RECEIPT</b> (Domestic Mail Only; No Insurance Coverage Provided) For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
OFFICIAL USE		
Postage \$	Postmark Here	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
	Kelly Family Trust Gregory Kelly, Trustee 3526 Bay Berry Lane Malibu, CA 90265	
	9/29/08	
PS Form 3800, June 2002		See Reverse for Instructions

# FedEx US Airbill

Tracking Number

8610 9502 5887

1 From Pharmaceuticals Inc. Sender's FedEx Account Number 1002-0934-9

Date 10/10/94 Sender's Name KELLAHIN & KELLAHIN

Company 706 GONZALES RD

Address SANTA FE

City SANTA FE State NM ZIP 87501-6530

2 Your Internal Billing Reference For 30 day advance bill appear on invoice.

3 To Recipient's Name Pharmaceuticals Inc. Phone 3194563603

Company Gregory Kelly, Trevisio

Recipient's Address 3526 W. Berry Lane

City Malibu State CA ZIP 90265

0357034204



Find drop-off locations at [fedex.com](http://fedex.com)  
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0215

4a Express Package Service Packages up to 150 lbs.

☐ FedEx Priority Overnight ☒ FedEx Standard Overnight ☐ FedEx First Overnight

☐ FedEx 2Day ☐ FedEx Express Saver ☐ FedEx 3Day Freight

☐ FedEx 10Day Freight ☐ FedEx 30Day Freight ☐ FedEx 3Day Freight

☐ FedEx 10Day Freight ☐ FedEx 30Day Freight ☐ FedEx 3Day Freight

5 Packaging ☐ FedEx Envelope ☐ FedEx Pak ☐ FedEx Box ☐ FedEx Tube ☐ Other

6 Special Handling ☐ SATURDAY Delivery ☐ HOLD Weekday ☐ HOLD Saturday

☐ NOT Available for ☐ Signature Required ☐ Signature Required

☐ Signature Required ☐ Signature Required ☐ Signature Required

☐ Signature Required ☐ Signature Required ☐ Signature Required

7 Payment Bill to: ☐ Sender ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

Total Packages ☐ Total Weight ☐ Total Declared Value\*

8 Residential Delivery Signature Options ☐ No Signature ☒ Direct Signature ☐ Indirect Signature

☐ Signature Required ☐ Signature Required ☐ Signature Required

☐ Signature Required ☐ Signature Required ☐ Signature Required

☐ Signature Required ☐ Signature Required ☐ Signature Required

☐ Signature Required ☐ Signature Required ☐ Signature Required

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**KELLAHIN & KELLAHIN**  
**Attorney at Law**

**W. THOMAS KELLAHIN**  
**706 GONZALES ROAD**  
**SANTA FE, NEW MEXICO 87501**

**TELEPHONE 505-982-4285**  
**FACSIMILE 505-982-2047**  
**TKELLAHIN@COMCAST.NET**

October 14, 2008

**HAND DELIVERED**

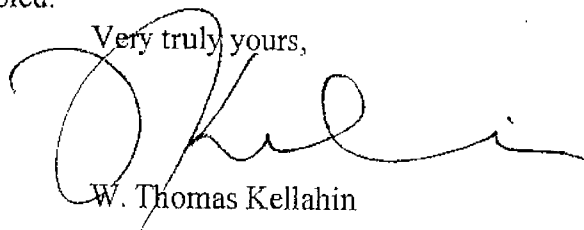
Mr. Mark Fesmire, P.E., Director  
Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

Re: NMOCD Case 14188: First Amended Application of Burlington  
Resources Oil & Gas Company LP For Compulsory Pooling, San Juan  
County, New Mexico  
E/2 Section 15, T31N, R10W to be dedicated to  
Kelly A Well 3E (Unit Letter P) for Mesaverde and Dakota Production

Dear Mr. Fesmire:

On behalf of Burlington Resources Oil & Gas Company LP, please  
find enclosed our referenced First Amended Application that has been  
continued and set for hearing on the Examiner's docket now scheduled for  
October 30, 2008. The amended application reflects that Burlington has  
added an additional party to be pooled.

Very truly yours,



W. Thomas Kellahin

cc: Burlington Resources Oil & Gas Company LP  
Attn: Alan Alexander

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OCT 14 AM 8 35

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

2008 OCT 14 PM 8 36

RECEIVED

IN THE MATTER OF THE APPLICATION OF  
BURLINGTON RESOURCES OIL & GAS COMPANY LP  
FOR COMPULSORY POOLING  
SAN JUAN COUNTY, NEW MEXICO.

CASE NO. 14188

FIRST AMENDED APPLICATION

Burlington Resources Oil & Gas Company LP. ("Burlington") by its attorneys, Kellahin & Kellahin, seeks an order pooling all mineral interests in the Mesaverde formation underlying the E/2 of Section 15, T31N, R10W, NMPM, San Juan County, New Mexico, forming a standard 318.86-acre gas spacing and proration unit for the Mesaverde and Dakota formation spaced on 320-acre spacing. This unit is to be dedicated to its Kelly A Well No. 3E well has been drilled and completed at a standard well location as a downhole commingled wellbore for production from Dakota and Mesaverde formations in Unit P of this section. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and, pursuant to Commission Order R-11992, a charge 200% charge for the risk involved in this well.

In support of its application Burlington states:

- (1) Burlington, an affiliate of ConocoPhillips Company, is a working interest owner and the proposed operator for the Kelly A Well No. 3E to be dedicated to the E/2 of Section 15, T31N, R10W, San Juan County, New Mexico.

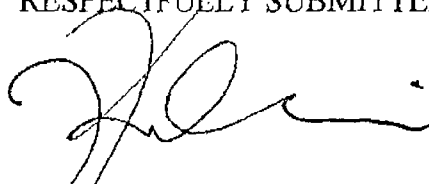
- (2) Burlington has proposed to drill, complete and operate the Kelly A Well No. 3E to be located in Unit letter P of this section and if productive to downhole commingling Dakota and Mesaverde production. See Division form C-102 attached as Exhibit "A"
- (3) All of the interest owners in the Dakota formation have agreed to participate in this well, but three owners in the Mesaverde formation have declined: (a) Laurence B Kelly Living Trust (3.13% WI), (b) Kelly Living Trust (6.25% WI) and Kelly Family Trust, Gregory Kelly, Trustee (3.125% WI)
- (4) The subject 318.86-acre spacing unit is located within the Blanco-Mesaverde Gas Pool and the Basin-Dakota Gas Pool.
- (5) Burlington despite reasonable effort has been unable to obtain the voluntary agreement of these two interest owners in this spacing unit. Pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Burlington needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.
- (6) In accordance with the Division's notice requirements, a copy of this application has been sent to the parties whose interest is to be pooled as listed on Exhibit "B" notifying each of this case and of the applicant's request for a hearing of this matter before the Division on the next available Examiner's docket now scheduled for October 30, 2008.

WHEREFORE, Burlington, as applicant, requests that this application be set for hearing on October 30, 2008 before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interest described in the appropriate spacing unit for this well at a standard well location upon terms and conditions which include:

- (1) Burlington Resources Oil & Gas Company LP be named operator.

- (2) Provisions for applicant and all working interest owners to participate in the costs of drilling, completing, equipping and operating the well;
- (3) In the event a mineral interest or working interest owner fails to elect to participate, then provision be made to recover out of production, the costs of the drilling, completing, equipping and operating the well, including a risk factor penalty of 200%;
- (4) Provision for overhead rates per month drilling and per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;
- (5) For such other and further relief as may be proper.

RESPECTFULLY SUBMITTED:



W. THOMAS KELLAHIN  
KELLAHIN & KELLAHIN  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
(505) 982-4285

**Exhibit "B"**

Kelly Living Trust  
Rosalie H. Kelly, Trustee  
141 London Lane  
Amherst, VA 24521

Laurence B. Kelly Living Trust  
Laurence B. Kelly, Trustee  
839 Summit Rd. Montecito  
Santa Barbara, CA 93108

Kelly Family Trust  
Gregory Kelly, Trustee  
3526 Bay Berry Lane  
Malibu, CA 90265

## Thomas Kellahin

---

**From:** Thomas Kellahin [tkellahin@comcast.net]  
**Sent:** Wednesday, October 15, 2008 1:33 PM  
**To:** 'Steve Coldwell'  
**Cc:** Alexander, Alan E; Simcoe, Terry B  
**Subject:** RE: Terry..... W. Thomas Kellahin  
**Attachments:** Burlington-Kelly A3E First amended application .pdf

Dear Mr.. Coldwell,

Please find attached a copy of the amended application to correct para 3 of page 2 to remove any confusion about Burlington's intent to compulsory pool the Kelly Family Trust interest.

Tom Kellahin  
Kellahin & Kellahin  
Attorneys at Law  
706 Gonzales Road  
Santa Fe, NM 87501  
ph 505.982.4285  
Fax 505.982.2047  
Email [tkellahin@comcast.net](mailto:tkellahin@comcast.net)

---

**From:** Steve Coldwell [mailto:scoldwell@csc CPA.com]  
**Sent:** Monday, October 13, 2008 1:52 PM  
**To:** 'Simcoe, Terry B'  
**Cc:** Tkellahin@comcast.net  
**Subject:** Terry..... W. Thomas Kellahin

Mr. Greg Kelly received notice from the law firm of Kellahin and Kellahin regarding the notice of the hearing of the NMOCD Case 14188

This relates to the owners who have declined to participate in the drilling .....

My question is as follows:

You list in Exhibit B the three working interests that do not want to participate.

i.e. Kelly Living Trust, Laurence B Kelly Living Trust and Kelly Family Trust.....

I believe these are correct.....

However, in the application under Paragraph (3) you state.....

"All of the interests owners in the Dakota formation have agreed to participate in this well,  
But two owners in the Mesaverde formation have declined: (a) Laurence B Kelly Living Trust (6.25% WI) and (b) Kelly Living Trust (3.125% WI)....

This paragraph does not make reference to the Kelly Family Trust....

Please advice if this needs to be changed or ???

Thanks,

Steve Coldwell

10/15/2008

16



**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 BURLINGTON RESOURCES      CASE NO. 14188  
OIL & GAS COMPANY LP FOR  
COMPULSORY POOLING  
SAN JUAN COUNTY, NEW MEXICO**

**PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by Burlington Resources Oil & Gas Company LP as required by the New Mexico Oil Conservation Division.

**APPEARANCES OF THE PARTIES**

**APPLICANT**

Burlington Resources Oil & Gas Company  
3535 West 32<sup>nd</sup> Street  
Farmington, NM 87501  
Attn: Alan Alexander  
Phone 505-326-9757

**ATTORNEY**

W. Thomas Kellahin  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
phone 505-982-4285  
Fax 505-982-2047

**OTHER PARTIES**

Laurence B. Kelly Living Trust  
("LBK Trust")

**ATTORNEY**

Peter L. Candy, Esq.  
Hollister & Brace  
P.O. Box 630  
Santa Barbara A 93102  
Phone 805-963-6711  
Fax 805-965-0329

## STATEMENT OF THE CASE

### APPLICANT:

Burlington Resources Oil & Gas Company LP. ("Burlington") seeks an order pooling all mineral interests in the Mesaverde formation underlying the E/2 of Section 15, T31N, R10W, NMPM, San Juan County, New Mexico, forming a standard 318.86-acre gas spacing and proration unit for the Mesaverde and Dakota formation spaced on 320-acre spacing.

This unit is to be dedicated to its Kelly A No. 3E well has been drilled and completed at a standard well location as a downhole commingled wellbore for production from Dakota and Mesaverde formations in Unit P of this section. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and, pursuant to Commission Order R-11992, a charge 200% charge for the risk involved in this well.

Burlington, an affiliate of ConocoPhillips Company, is a working interest owner and the proposed operator for the Kelly A No. 3E well to be dedicated to the E/2 of Section 15, T31N, R10W, San Juan County, New Mexico.

Burlington has proposed to drill, complete and operate the Kelly A No. 3E well to be located in Unit letter P of this section and if productive to downhole commingle Dakota and Mesaverde production.

All of the interest owners in the Dakota formation have agreed to participate in this well, but two owners in the Mesaverde formation have declined: (a) Laurence B Kelly Living Trust (6.25% WI) and (b) Kelly Living Trust (3.125% WI)

The subject 318.86-acre spacing unit is located within the Blanco-Mesaverde Gas Pool and the Basin-Dakota Gas Pool.

Burlington despite reasonable effort has been unable to obtain the voluntary agreement of these two interest owners in this spacing unit. Pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Burlington needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.

## **OTHER PARTIES**

Burlington's records show that Laurence B. Kelly Living Trust ("LBK Trust") owns a 6.25% mineral interest in the Mesaverde formation of the spacing unit.

In this pre-hearing statement dated September 24, 2008, LBK Trust has no objection to this case provided that the order incorporates the following items:

(1) As to any working interest owner that elects not to pay its proportionate share of reasonable "well costs" in advance, the sole and exclusive source of recovery of "well costs" and the charge for risk shall be made from the share of production allocable to said non-consenting working interest owner. (Section 19.15.1.35 A.)

(2) Because the LBK Trust holds no ownership interest in the Dakota formation, the LBK Trust, and other working interest owners similarly situated, shall be charged only for those "well costs" associated with the Mesaverde formation, and shall not be charged "well costs" associated with the Dakota formation. (Section 19.15.1.35 A(1).)

(3) Any "well costs" imposed on a non-consenting working interest owner, including any risk charge imposed, shall be consistent with the definition of "well costs" set forth in subsections (1) and (2) of Section 19.15.1.35 A.

## **SUMMARY**

It is Burlington's understanding that this wellbore will be downhole commingling in accordance with the Division Rule 303 and the costs allocation between the Mesaverde and Dakota formation such that the "cost common to both zones" will be apportioned and the production attributed to the appropriate formation all of which requires the approval of the Division.

Burlington concludes that there is no objection to this application because the items raised by LBK Trust have historically been parts of either a standard compulsory pooling order or a downhole commingling order.

Burlington requests that this case be presented by affidavit as allowed by Rule 19.15.14.1210.A(1)-(e)

**PROPOSED EVIDENCE**

**APPLICANT**

**WITNESSES**

**EST. TIME**

**EST. EXHIBITS**

Shon Robinson, petroleum engineer  
(by affidavit)

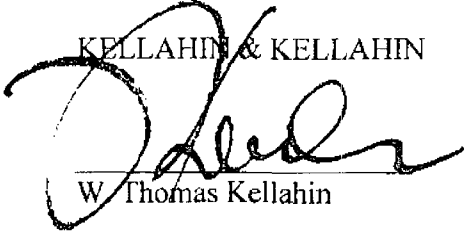
@ 25 -min.

@ 8-10

**PROCEDURAL MATTERS**

None

KELLAHIN & KELLAHIN



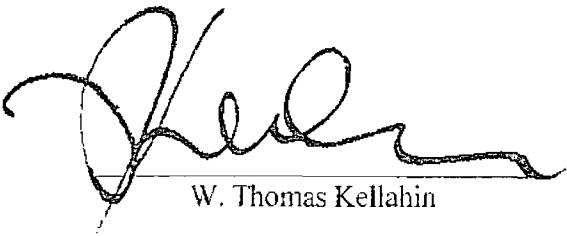
W. Thomas Kellahin

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of this pleading was served upon the following counsel of record this 25th day of September 2008, by facsimile.

Peter L. Candy, Esq.  
Attorney for Laurence B. Kelly Living Trust  
Fax 805-965-0329

David K. Brooks, Esq.  
Oil Conservation Division  
1220 South St. Francis Drive  
Fax: 505-476-3462



W. Thomas Kellahin

**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 BURLINGTON RESOURCES      CASE NO. 14188  
OIL & GAS COMPANY LP FOR  
COMPULSORY POOLING  
SAN JUAN COUNTY, NEW MEXICO**

**AMENDED PRE-HEARING STATEMENT**

This amended pre-hearing statement is submitted by Burlington Resources Oil & Gas Company LP as required by the New Mexico Oil Conservation Division.

**APPEARANCES OF THE PARTIES**

**APPLICANT**

Burlington Resources Oil & Gas Company  
3535 West 32<sup>nd</sup> Street  
Farmington, NM 87501  
Attn: Alan Alexander  
Phone 505-326-9757

**ATTORNEY**

W. Thomas Kellahin  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
phone 505-982-4285  
Fax 505-982-2047

**OTHER PARTIES**

Laurence B. Kelly Living Trust  
("LBK Trust")

**ATTORNEY**

Peter L. Candy, Esq.  
Hollister & Brace  
P.O. Box 630  
Santa Barbara A 93102  
Phone 805-963-6711  
Fax 805-965-0329

**Kelly Family Trust**

Gregory Kelly, Trustee  
c/o Steve Coldwell  
Coldwell, Sclafani & Company. CPA  
3239 North Verdugo Road  
Glendale CA 91208-1633  
Ph 818-249-2085  
Fx 818-248-7233  
Email [scoldwell@csc CPA.com](mailto:scoldwell@csc CPA.com)

**STATEMENT OF THE CASE**

**APPLICANT:**

Burlington Resources Oil & Gas Company LP. ("Burlington") seeks an order pooling all mineral interests in the Mesaverde formation underlying the E/2 of Section 15, T31N, R10W, NMPM, San Juan County, New Mexico, forming a standard 318.86-acre gas spacing and proration unit for the Mesaverde and Dakota formation spaced on 320-acre spacing.

This unit is to be dedicated to its Kelly A No. 3E well to be drilled and completed at a standard well location as a downhole commingled wellbore for production from Dakota and Mesaverde formations in Unit P of this section. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and, pursuant to Commission Order R-11992, a 200% charge for the risk involved in this well.

Burlington, an affiliate of ConocoPhillips Company, is a working interest owner and the proposed operator for the Kelly A No. 3E well to be dedicated to the E/2 of Section 15, T31N, R10W, San Juan County, New Mexico.

Burlington has proposed to drill, complete and operate the Kelly A No. 3E well to be located in Unit letter P of this section and if productive to downhole commingle Dakota and Mesaverde production.

All of the interest owners in the Dakota formation have agreed to participate in this well, but three owners in the Mesaverde formation have declined: (a) Laurence B Kelly Living Trust (6.25% WI); (b) Kelly Living Trust (3.125% WI); and Kelly Family Trust, Gregory Kelly trustee (3.125% WI)

The subject 318.86-acre spacing unit is located within the Blanco-Mesaverde Gas Pool and the Basin-Dakota Gas Pool.

Burlington despite reasonable effort has been unable to obtain the voluntary agreement of these two interest owners in this spacing unit. Pursuant to Section 70-2-17.C NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Burlington needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.

#### **OTHER PARTIES**

(A) Burlington's records show that Laurence B. Kelly Living Trust ("LBK Trust") owns a 6.25% mineral interest in the Mesaverde formation of the spacing unit.

In this pre-hearing statement dated September 24, 2008, LBK Trust has no objection to this case provided that the order incorporates the following items:

(1) As to any working interest owner that elects not to pay its proportionate share of reasonable "well costs" in advance, the sole and exclusive source of recovery of "well costs" and the charge for risk shall be made from the share of production allocable to said non-consenting working interest owner. (Section 19.15.1.35 A.)

(2) Because the LBK Trust holds no ownership interest in the Dakota formation, the LBK Trust, and other working interest owners similarly situated, shall be charged only for those "well costs" associated with the Mesaverde formation, and shall not be charged "well costs" associated with the Dakota formation. (Section 19.15.1.35 A(1).)

(3) Any "well costs" imposed on a non-consenting working interest owner, including any risk charge imposed, shall be consistent with the definition of "well costs" set forth in subsections (1) and (2) of Section 19.15.1.35 A.

(B) In addition, Burlington has been contacted by Peter L. Candy, the accountant for the Kelly Family Trust requesting confirmation that this interest is also intended to be compulsory pooled. Burlington has so confirm and has amended and re-served its amended application on Kelly Family Trust

## SUMMARY

It is Burlington's understanding that this wellbore will be downhole commingling in accordance with the Division Rule 303 and the costs allocation between the Mesaverde and Dakota formation such that the "cost common to both zones" will be apportioned and the production attributed to the appropriate formation all of which requires the approval of the Division.

Burlington concludes that there is no objection to this application because the items raised by LBK Trust have historically been parts of either a standard compulsory pooling order or a downhole commingling order.

## PROPOSED EVIDENCE


### APPLICANT

WITNESSES	EST. TIME	EST. EXHIBITS
Terry B. Simcoe, CPL (landman)	@ 25 -min.	@ 8

## PROCEDURAL MATTERS

None

KELLAHIN & KELLAHIN

  
W. Thomas Kellahin



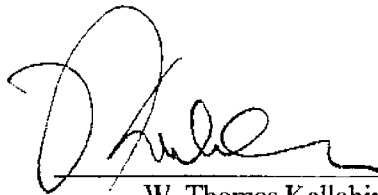
## CERTIFICATION OF SERVICE

I hereby certify that a copy of this pleading was served upon the following parties and attorneys this 21st day of October 2008, by email

David K. Brooks, Esq.  
Oil Conservation Division  
1220 South St. Francis Drive  
[david.brooks@state.nm.us](mailto:david.brooks@state.nm.us)

Peter L. Candy, Esq.  
Attorney for Laurence B. Kelly Living Trust  
[pcandy@hbsb.com](mailto:pcandy@hbsb.com)

Steve Coldwell,  
CPA for Kelly Family Trust  
[scoldwell@csc CPA.com](mailto:scoldwell@csc CPA.com)

  
W. Thomas Kellahin

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

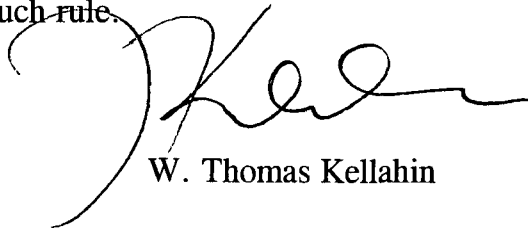
**APPLICATION OF BURLINGTON RESOURCES  
OIL & GAS COMPANY LP  
FOR COMPULSORY POOLING,  
SAN JUAN COUNTY, NEW MEXICO.**

**CASE NO. 14188**

**CERTIFICATE OF MAILING  
AND  
COMPLIANCE WITH ORDER R-8054**

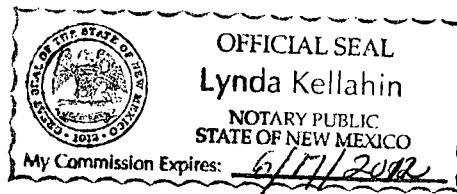
STATE OF NEW MEXICO       )  
  ) SS.  
COUNTY OF SANTA FE       )

W. Thomas Kellahin, being first duly sworn, hereby certifies that he is an attorney for the Applicant and is responsible for notification in this matter and that the notice provisions of Division Rule 1207 (Order R-8054) have been complied with, that Applicant has caused to be conducted a good faith diligent effort to find the correct addresses of all interested parties entitled to receive notice, that on September 2, 2008 and again on September 29, 2008 he caused to be send first by certified mail return-receipt requested and then by Federal Express the attached notice of this hearing and a copy of the application for the above referenced case, at least twenty days prior to the hearing of this case originally scheduled for October 2, 2008, and then continued to October 30, 2008 to the parties shown in said application and amended application, and as evidenced by the attached copies of return receipt cards and/or receipts of certified mailing, and that pursuant to Division Rule 1207, notice has been given at the correct addresses provided by such rule.

  
W. Thomas Kellahin

SUBSCRIBED AND SWORN to before me this 29th day of October 2008, by W. Thomas Kellahin.





Lynda Kellahin, Notary Public  
My Commission Expires:

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kelly Family Trust  
Gregory Kelly, Trustee  
3526 Bay Berry Lane  
Malibu, CA 90265

9/29/08

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

*Gregory Kelly*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

*Gregory Kelly*

C. Date of Delivery

*10-10-08*

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Ar

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