

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

COPY

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

APPLICATION OF ENERVEST OPERATING, LLC, CASE NOS. 14242,
FOR A UNIT AGREEMENT FOR A WATERFLOOD 14243, 14270
PROJECT AND TO QUALIFY THE WATERFLOOD
PROJECT FOR THE RECOVERED OIL TAX RATE,
EDDY COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

BEFORE: DAVID K. BROOKS, Legal Examiner
WILLIAM V. JONES, Technical Examiner
TERRY G. WARNELL, Technical Examiner

February 5, 2009

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico
Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,
WILLIAM V. JONES, Technical Examiner, and TERRY G. WARNELL,
Technical Examiner, on Thursday, February 5, 2009, 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
Paul Baca Court Reporters
500 Fourth Street, NW, Suite 105
Albuquerque, New Mexico 87102

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A P P E A R A N C E S

FOR THE APPLICANT:

James G. Bruce, Esq.
ATTORNEY AT LAW
P.O. Box 1056
Santa Fe, New Mexico 87504

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EXHIBITS 11A, 13A, 20 & 21 ADMITTED INTO EVIDENCE

6

1 MR. JONES: And we'll call Case Nos. 14242, 14243,
2 and 14270. This is the Application of Enervest Operating, LLC,
3 for a Unit Agreement for a Waterflood Project and to Qualify
4 the Waterflood Project for the Recovered Oil Tax Rate, Eddy
5 County, New Mexico.

6 Call for appearances.

7 MR. BRUCE: Mr. Examiner, Jim Bruce, of Santa Fe
8 representing the applicant. I just have some exhibits to
9 submit.

10 Mr. Examiner, this case was originally heard in
11 December. Cases 14242 and 14243 were originally heard in
12 December, and witnesses were presented, and evidence was made a
13 part of the record.

14 At the time we originally filed, we did not have the
15 information available for the recovered oil tax rate. So as a
16 result, Enervest subsequently filed Case 14270 to qualify the
17 waterflood project for the recovered oil tax rate. With
18 respect to that case, Robert Lee, the engineer, did present
19 evidence in that case which would apply to 14270, so I simply
20 request that that evidence be incorporated into the record of
21 Case 14270 for purposes of the tax rate.

22 In addition, as far as I could tell, notice was not
23 required to be given to anybody of the oil recovered tax rate
24 case, so I have not given notice to anyone regarding that
25 particular application.

1 I've given you Exhibits 11A and 13A. The original
2 Exhibit 11 contained copies of signatures to the unit operating
3 agreement by working interest owners. And Exhibit 11A is
4 simply an additional signature page by Thompson Petroleum
5 Corporation, one of the working interest owners. Thompson
6 Petroleum had ratified the unit -- or signed the unit operating
7 agreement but not the unit agreement. So this is just clearing
8 up some data.

9 Exhibit 13 in the original hearing contained copies
10 of ratifications from fee royalty and overriding royalty
11 owners. Additional ratifications have arrived, and those are
12 submitted as Exhibit 13A.

13 Submitted as Exhibit 20 is the Affidavit of Notice in
14 Case 14242, which is the unitization case. Affidavit is signed
15 by the landman.

16 Exhibit A lists -- was taken from the unit operating
17 agreement -- but lists all working interest owners in the unit.

18 Exhibit B was a notice letter sent to them and
19 contains the green cards. All of the working interest owners
20 received notice of the application, written notice.

21 Exhibit C is a list of the fee royalty and overriding
22 royalty owners. And the exhibit behind that are green cards
23 sent to all of the -- are green cards received from the fee
24 interest owners. I have gone through them all, and I think
25 either through written -- all of the fee owners either received

1 written notice of the application and have signed ratifications
2 in Exhibits 13 and 13A or received publication notice, and I
3 forget what exhibit number that was, but there was a lengthy
4 publication notice in this matter. So I believe they received
5 notice.

6 Exhibit 21 is an Affidavit of Notice from the landman
7 in Case 14243, the waterflood project. If you would turn back
8 to Exhibit A. In this case notice, if you'll recall, there is
9 going to be an initial phase of the waterflood project. And
10 Exhibit A shows in blue the area of review for the initial
11 phase of the waterflood project. Outlined in red are portions
12 of the unit boundary.

13 If you turn to Exhibit B, Exhibit B contains all
14 wells -- a list of all wells which penetrate the injection zone
15 which are not operated by Enervest. And there are five offset
16 interest owners. A lot of those are, except for one well, I
17 believe -- the one operated by Thunderbolt Petroleum at the
18 bottom of the list -- all of the other wells are within the
19 boundaries of the unit area.

20 Looking at Exhibit A, there is certain acreage
21 outside the boundaries of the unit area but still entitled to
22 receive notice. The well operated by Thunderbolt Petroleum is
23 in the NW/NE -- it doesn't give the section, but I believe
24 that's Section 14. The remainder of the acreage outside of the
25 unit in the NW/4 of Section 13 and the N/2 of Section 14, there

1 is no operator. So as a result, Exhibit C lists the interest
2 owners in the NW/4 of Section 13 and the N/2 of Section 14
3 except for the NW/NE/4 of Section 14, which is the tract
4 operated by Thunderbolt Petroleum.

5 Exhibit D is the notice letter sent to the offset
6 interest owners, and all of them did receive actual notice.

7 And it took me about a month and a half to get all of
8 this stuff put together.

9 MR. JONES: It was a lot of work.

10 MR. BRUCE: Anyway, I would move the admission of
11 Exhibits 11A, 13A, 20, and 21 and ask that these matters be
12 taken under advisement.

13 MR. JONES: Okay. We'll admit Exhibits 13A, 11A, 20,
14 and 21.

15 [Applicant's Exhibits 11A, 13A, 20 & 21 admitted into
16 evidence.]

17 MR. JONES: So that's the notice, as far as the area
18 of review, to everybody that -- now, that's notice to just --
19 is that just covering the wells in the first phase?

20 MR. BRUCE: That is correct.

21 MR. JONES: So we still don't have a notice -- if we
22 expand --

23 MR. BRUCE: Notice will have to be given when and if
24 that initial phase is expanded; that is correct.

25 MR. JONES: Okay. And that covers the notice within

1 the unit -- to every interest owner in the unit. The unit was
2 actually already created anyway, wasn't it?

3 MR. BRUCE: That is correct. It is an existing unit.

4 MR. JONES: Existing unit.

5 MR. BRUCE: So notice was not given to every interest
6 owner in the well. Actually, it was given to every -- every
7 working interest owner in the unit received -- every -- I
8 should say every unit working interest owner is aware of the
9 injection application.

10 Exhibit 21 is to non-interest owners in the unit.

11 MR. JONES: Okay. Okay. And I guess we'll let the
12 record show that we'll incorporate the relevant testimony in
13 Case 14242 and Case 14243 into Case 14270 for purposes of the
14 EOR tax credit in case oil prices go down.

15 MR. BRUCE: Yeah.

16 MR. BROOKS: It seems likely at this point.

17 MR. JONES: Just for a little while, maybe.

18 MR. BRUCE: What is the current price and the tax
19 rate?

20 MR. BROOKS: I don't remember. I think it's probably
21 26 or 28. But I don't remember for sure.

22 MR. JONES: Do you know how soon they want these out?
23 I'm sure they're in a hurry.

24 MR. BRUCE: Well, they're not -- I mean, I forget.
25 When we went to hearing, prices were probably still 75 or

1 something like that -- or 70. And they dropped even further.
2 They're still moving forward with the development. Obviously,
3 with the prices, everybody is waiting for drilling costs to
4 come down. And so it's not like this needs to be done next
5 week.

6 MR. BROOKS: One would expect that drilling costs
7 would come down, but they really haven't.

8 MR. BRUCE: They haven't yet, and I've been told
9 there were a lot of companies -- even though they put rigs
10 down -- a lot of companies had contracts extending into March.
11 Most of the contracts extended into March of this year.

12 So probably after that you'll start seeing more.
13 I've heard that prices are coming down. But after March or
14 mid-March, they're expected to come down quite a bit more.
15 Although with those prices, -- I think you'll recall about five
16 or six years ago people -- if you would have asked any
17 operator, "Hey, if we've got \$25 oil and \$2.50 gas, we'll be
18 happy as clams for the rest of our lives."

19 MR. JONES: It used to be if you had \$19, \$20 oil,
20 you could justify a CO₂ project. But maybe that's not the case
21 anymore.

22 MR. BRUCE: That was the one Avalon-Delaware unit,
23 which is the two phase. Exxon is the operator of that. That
24 was a decade ago, a little bit more than a decade ago that that
25 was initiated. And they said, "Yep, if oil prices are \$23 a

1 barrel, we can initiate CO₂."

2 Well, that's come and gone. There's no CO₂ flood in
3 the Avalon-Delaware unit. Although, I think with CO₂ the
4 problem is more supply than the oil pricing.

5 MR. JONES: Do you have any more questions on this
6 case?

7 MR. BROOKS: No questions.

8 MR. JONES: Well, let's take Case 14242 and
9 Case 14243 and Case 14270 under advisement.

10 And that being the last case, this hearing is
11 adjourned.

12 * * *

13
14
15
16 I do hereby certify that the foregoing is
17 a complete record of the proceedings in
18 the Examiner hearing of Case No. _____,
19 heard by me on _____.

20 _____, Examiner
21 Oil Conservation Division
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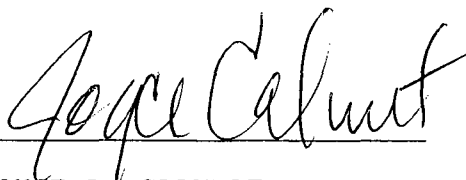
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REPORTER'S CERTIFICATE

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.

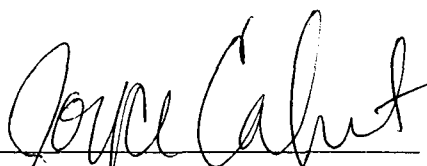
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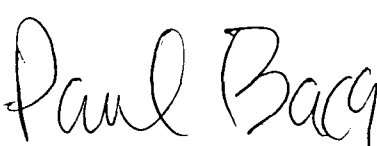

JOYCE D. CALVERT
New Mexico P-03
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1 STATE OF NEW MEXICO)
2 COUNTY OF BERNALILLO)

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
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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, 5th day of
12 February, 2009.

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4 ORIGINAL

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