

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 NM&O OPERATING COMPANY )  
 FOR COMPULSORY POOLING, RIO ARRIBA )  
 COUNTY, NEW MEXICO )

CASE NO. 12,028

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

August 20th, 1998

Santa Fe, New Mexico

**RECEIVED**  
 SEP 15 1998  
 Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, August 20th, 1998, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

## I N D E X

August 20th, 1998  
Examiner Hearing  
CASE NO. 12,028

	PAGE
EXHIBITS	3
APPEARANCES	3
APPLICANT'S WITNESSES:	
<u>DEBORAH GREENICH</u> (Landman)	
Direct Examination by Mr. Bruce	4
Examination by Examiner Catanach	10
Examination by Mr. Carroll	12
REPORTER'S CERTIFICATE	14

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	6	10
Exhibit 2	7	10
Exhibit 3	7	10
Exhibit 4	8	10
Exhibit 5	9	10

\* \* \*

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

## FOR THE DIVISION:

RAND L. CARROLL  
 Attorney at Law  
 Legal Counsel to the Division  
 2040 South Pacheco  
 Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

JAMES G. BRUCE, Attorney at Law  
 612 Old Santa Fe Trail, Suite B  
 Santa Fe, New Mexico 87501  
 P.O. Box 1056  
 Santa Fe, New Mexico 87504

## ALSO PRESENT:

MARK W. ASHLEY  
 NMOCDC Petroleum Geologist  
 2040 South Pacheco  
 Santa Fe, New Mexico 87505

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 10:50 a.m.:

3           'EXAMINER CATANACH: Call the hearing back to  
4 order and we'll call Case 12,028.

5           MR. CARROLL: Application of NM&O Operating  
6 Company for compulsory pooling, Rio Arriba County, New  
7 Mexico.

8           EXAMINER CATANACH: Call for appearances in this  
9 case.

10          MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
11 representing the Applicant. I have one witness.

12          EXAMINER CATANACH: Any additional appearances?  
13 Will the witness please stand to be sworn in?

14          (Thereupon, the witnesses were sworn.)

15                         DEBORAH GREENICH,

16 the witness herein, after having been first duly sworn upon  
17 her oath, was examined and testified as follows:

18                                 DIRECT EXAMINATION

19 BY MR. BRUCE:

20           Q.    Would you please state your name and city of  
21 residence?

22           A.    My name is Deborah Greenwich, and I reside in  
23 Broken Arrow, Oklahoma.

24           Q.    Who do you work for and in what capacity?

25           A.    I work for NM&O Operating Company as a landman.

1 Q. Have you previously testified before the  
2 Division?

3 A. No, sir, I have not.

4 Q. Would you please outline your work experience?

5 A. I worked for Sun Production Oil Company for about  
6 11 years as a production analyst -- I filed regulatory  
7 reports -- and also as an engineering for Vantage Point  
8 Energy. So I've had over 20 years experience in the oil  
9 and gas.

10 Q. Including regulatory-compliance matters?

11 A. Yes.

12 Q. And where have -- How long have you worked for  
13 NM&O?

14 A. For about a year.

15 Q. And your job with them is as a landman?

16 A. Yes.

17 Q. And are you familiar with the land matters  
18 involved in this Application?

19 A. Yes, I am.

20 MR. BRUCE: Mr. Examiner, are the witness's  
21 credentials acceptable?

22 EXAMINER CATANACH: They are.

23 Q. (By Mr. Bruce) Briefly, what does NM&O seek in  
24 this case?

25 A. NM&O seeks to pool all the interests in the Basin

1 Fruitland Coal Gas Pool, which underlies the east half of  
2 Section 14, 25 North, 2 West.

3 Q. What is Exhibit 1?

4 A. Exhibit 1 is a land plat which is covering the  
5 east half of Section 14. It covers the northeast quarter  
6 -- the fee land covers the northeast quarter, the northeast  
7 southeast and also the south half of the southeast, and  
8 then we have a federal lease which covers the northwest  
9 quarter of the southeast quarter and also our Koon Well is  
10 located on the plat.

11 Q. What is the status of the Koon Well Number 1?

12 A. Well, it's producing right now. It was  
13 originally drilled in the -- I believe in the 1950s, in the  
14 Pictured Cliff formation, and the recompleted by NM&O in  
15 1992 as a Fruitland Coal.

16 Q. Have all the working interest owners joined in  
17 this well?

18 A. Yes, they have.

19 Q. Who do you seek to pool?

20 A. Well, we seek all the interest owners in the  
21 Fruitland Coal. They were under a lease in 1947 that did  
22 not have a pooling clause, so we seek to pool all those  
23 interests, force-pool them.

24 MR. BRUCE: Mr. Examiner, looking at Exhibit 1,  
25 even though it's broken down into two tracts, the -- except

1 for the northwest quarter of the southeast quarter, the  
2 entire well unit is covered by one fee lease. There is  
3 slightly different interest ownership, and we'll get to  
4 that here in a second.

5 Q. (By Mr. Bruce) Ms. Greenwich, to go into that  
6 just briefly, identify Exhibit 2 for the Examiner.

7 A. Okay, Exhibit 2 shows the interest owner, the  
8 royalties and overriding interest owners in that B lease.

9 Q. Okay, and there's about -- what? Seventy-five  
10 interest owners --

11 A. Yes.

12 Q. -- overall?

13 A. Uh-huh.

14 Q. Which of the interest owners have not voluntarily  
15 joined in the well or ratified a communitization agreement?

16 A. I have a list of about 30 that are shown on  
17 Exhibit 3, and those that we were unable to contact, some  
18 were just un- -- they were not locatable at all; we did not  
19 have an address for them. And by various means I tried to  
20 contact those or get a good address.

21 Q. Okay, and on Exhibit 3, the people who you were  
22 unable to contact are noted with an asterisk?

23 A. That's correct.

24 Q. Okay. Now, most of these interest owners  
25 acquired very small interests -- what? About 40 or 50

1 years ago?

2 A. Yes.

3 Q. And so over the last 40 or 50 years, some of  
4 their addresses have become bad, and you can't locate them?

5 A. That's correct.

6 Q. Okay. Now, none of these interest owners you  
7 seek to pool are responsible for well costs, are they?

8 A. No, sir.

9 Q. Okay. Let's briefly discuss your efforts to  
10 obtain the voluntary joinder of these interest owners,  
11 these royalty interest owners in the well. What is Exhibit  
12 4?

13 A. These are copies of the letters. The initial  
14 letter was sent to them in August of 1997, and subsequent  
15 letters to follow, to get their ratification of the  
16 communitization agreement. The last attempt I had for them  
17 was June -- or July, actually, of 1998, and --

18 Q. Okay.

19 A. -- a lot of those were returned and no response.

20 Q. So without going into detail, you've been trying  
21 to contact these interest owners for approximately a year?

22 A. That's correct.

23 Q. And many of the letters were returned with bad  
24 addresses?

25 A. That's right.

1 Q. And you've contacted some of them several times,  
2 and they just refuse to return the signature pages?

3 A. That's right.

4 Q. In your opinion, has NM&O made a good-faith  
5 effort to obtain the voluntary joinder of all interest  
6 owners in the well?

7 A. Yes, I believe so.

8 Q. And were the nonconsenting interest owners  
9 notified of this hearing?

10 A. Yes, they were. I sent out a certified letter  
11 July 31st of this year.

12 Q. And is the affidavit of notice and your letters  
13 and the certified return receipts marked Exhibit 5?

14 A. Yes, sir.

15 Q. And were Exhibits 1 through 5 prepared by you or  
16 under your supervision or compiled from company business  
17 records?

18 A. I compiled those, so they're under my  
19 supervision.

20 Q. In your opinion, is the granting of NM&O's  
21 Application in the interests of conservation and the  
22 prevention of waste?

23 A. Yes, I believe it is.

24 MR. BRUCE: Mr. Examiner, I'd move the admission  
25 of Exhibits 1 through 5.

1 EXAMINER CATANACH: Exhibits 1 through 5 will be  
2 admitted as evidence.

3 EXAMINATION

4 BY EXAMINER CATANACH:

5 Q. What method did you guys use to try and determine  
6 any current addresses of these parties?

7 A. Well, with directory assistance, trying to get a  
8 phone number, a current phone number, so I could locate  
9 them. I used some software, American Yellow Pages, in  
10 trying to get some addresses. Or if there were any  
11 interest owners with relatives, then I tried to contact  
12 them as -- in regard to others that they may have a current  
13 address for.

14 Q. This well was recompleted in 1992?

15 A. Yes, sir.

16 Q. Can you explain, why wasn't this done at that  
17 time?

18 MR. BRUCE: Mr. Examiner, if I could answer that.  
19 As you can see from Exhibit 2, the interest ownership is  
20 pretty complex. Although all of the working interest  
21 owners have now joined in the well, the working-interest  
22 ownership was quite complex also, and it took several years  
23 to come to terms with all the working-interest owners.

24 These people are not responsible -- I think over  
25 the last five years, there have been about five different

1 land people who have worked on this, getting everyone to  
2 join in. Ms. Greenwich is only the last of those five. And  
3 since they're not responsible for well costs, this was just  
4 kind of a last resort, to get everything done.

5 EXAMINER CATANACH: These interests -- I mean,  
6 the working interests weren't originally pooled into this  
7 unit?

8 MR. BRUCE: No, they were never pooled.

9 EXAMINER CATANACH: How were those interests  
10 consolidated at the time the well was recompleted?

11 MR. BRUCE: They were contacted before and after  
12 the well was drilled, but all of them eventually  
13 voluntarily agreed to either farm out or join in the well.

14 They had been in an existing well, but there were  
15 some changes of record which were not known at the time the  
16 well was recompleted. In other words, there was some poor  
17 record keeping by the prior operator on these matters, and  
18 it took a couple of years just to deal with the working  
19 interest owners who popped up after the fact. But they  
20 were never pooled, and they were never subject to a  
21 penalty.

22 Q. (By Examiner Catanach) I notice that in some of  
23 the letters that you wrote to these interest owners you say  
24 that you have their, I guess, royalty interests in  
25 suspense?

1 A. Yes.

2 Q. Has that been since the time the well was  
3 recompleted to the --

4 A. Yes, sir.

5 Q. -- Fruitland Coal? That's what's attributable --

6 A. That's correct.

7 Q. -- since that time?

8 Do you anticipate any other parties signing the  
9 communitization agreement at this point?

10 A. No, sir, I do not.

11 EXAMINATION

12 BY MR. CARROLL:

13 Q. When do these moneys get released to the parties,  
14 the moneys held in suspense?

15 A. Whenever we have an executed com agreement  
16 Division order.

17 Q. And if they never sign those documents?

18 A. It will remain in suspense for a period of time.

19 Q. And then what happens after that period of time?  
20 Do you know, Mr. Bruce?

21 A. No, I --

22 MR. BRUCE: I mean, if they're not willing to  
23 sign a Division order under the Proceeds Payment Act, you  
24 can legitimately refuse to pay them. You know, you can  
25 write to them and tell the money is there; you can't force

1 them to take it, I guess. But the money is held in  
2 suspense.

3 EXAMINER CATANACH: Okay. The witness may be  
4 excused.

5 Anything further, Mr. Bruce?

6 MR. BRUCE: No, sir.

7 EXAMINER CATANACH: There being nothing further,  
8 Case Number 12,028 will be taken under advisement.

9 (Thereupon, these proceedings were concluded at  
10 11:03 a.m.)

11 \* \* \*

12  
13  
14  
15 I do hereby certify that the foregoing is  
16 a complete record of the proceedings in  
17 the examination hearing of Case No. 12028,  
18 heard by me on August 20, 1997.  
19 David R. Catnach, Examiner  
20 On Conservation Division  
21  
22  
23  
24  
25

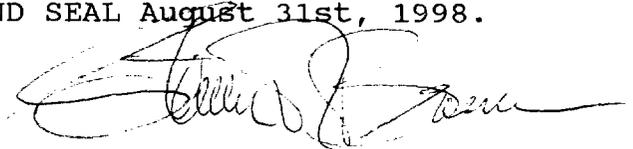
CERTIFICATE OF REPORTER

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 August 31st, 1998.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 1998