

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:) CASE NO. 13,002
)
APPLICATION OF BURLINGTON RESOURCES)
OIL AND GAS COMPANY, LP, FOR COMPULSORY)
POOLING, SAN JUAN COUNTY, NEW MEXICO)
_____)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

RECEIVED

BEFORE: DAVID K. BROOKS, JR., Hearing Examiner FEB 20 2003

Oil Conservation Division

February 6th, 2003

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, JR., Hearing Examiner, on Thursday, February 6th, 2003, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

I N D E X

February 6th, 2003
Examiner Hearing
CASE NO. 13,002

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| APPEARANCES | 3 |
| REPORTER'S CERTIFICATE | 11 |

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E X H I B I T S

| Applicant's | Identified | Admitted |
|-------------|------------|----------|
| Exhibit 1 | 7 | - |
| Exhibit 2 | 8 | - |
| Exhibit 3 | 9 | - |
| Exhibit 4 | 9 | - |
| Exhibit 5 | 9 | - |

* * *

A P P E A R A N C E S

FOR THE APPLICANT:

KELLAHIN & KELLAHIN
117 N. Guadalupe
P.O. Box 2265
Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

* * *

ALSO PRESENT:

MICHAEL E. STOGNER
Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 8:20 a.m.:

3 EXAMINER BROOKS: At this time we will call Case
4 Number 13,002, the Application of Burlington Resources Oil
5 and Gas Company, LP, for compulsory pooling, San Juan
6 County, New Mexico.

7 Call for appearances.

8 MR. KELLAHIN: Examiner Brooks, my name is Tom
9 Kellahin. I'm with the Santa Fe law firm of Kellahin and
10 Kellahin. I'm appearing this morning on behalf of the
11 Applicant, Burlington Resources.

12 EXAMINER BROOKS: We received a letter -- or a
13 fax, from Mr. Bruce, Mr. Kellahin, on behalf of Maralex
14 Resources, indicating that it was his understanding that
15 this case was to be continued to February 20th. Is that
16 correct?

17 MR. KELLAHIN: That's not my understanding, Mr.
18 Brooks. We have a problem in this case, and I can describe
19 it to you.

20 EXAMINER BROOKS: Okay, please do so.

21 MR. KELLAHIN: Several months ago, Burlington
22 force pooled Maralex, obtained an order and did not get it
23 extended, so the order expired, and we're seeking to
24 reinstate the same order. There are no changes to the
25 order.

1 Maralex's interest that's being pooled is
2 specific as to the Mesaverde. Maralex has an interest in
3 the Mesaverde, also has one in the Dakota. The Dakota is
4 contractually committed. The well is an old Dakota well.
5 Burlington is simply seeking to recomplete and add the
6 Mesaverde.

7 I served Maralex, they filed no prehearing
8 statement on Friday. Yesterday about 11:00 o'clock, Mr.
9 Rick Keller with Maralex called me and said that he wanted
10 to clarify that we were only pooling the Mesaverde. I
11 advised him of that. I went through some detail to explain
12 to him his options under the pooling order. He said he
13 understood all those things.

14 I asked him, did he want to appear and contest
15 any of the issues? He said no. He said, Go ahead and
16 force pool me.

17 And at four o'clock yesterday afternoon Mr.
18 Brooks called -- I mean Mr. --

19 EXAMINER BROOKS: -- Bruce?

20 MR. KELLAHIN: -- Bruce, called me on a cell
21 phone somewhere near Hobbs, I guess, or wherever he was, in
22 Roswell, and I advised him that his client had already told
23 me that he waived any objection to being pooled. Jim said
24 he would talk to his client, and that's the last I heard
25 from Jim.

1 EXAMINER BROOKS: Well --

2 MR. KELLAHIN: I don't know with it when the
3 prehearing statement means nothing. Can he come in at the
4 last minute and file an objection?

5 EXAMINER BROOKS: Microsoft Word's grammar check
6 repeatedly objects to use of the passive voice, and in this
7 case I think that I have some problem with it too. Mr.
8 Bruce's letter reads, I have been informed that Burlington
9 will continue this case to the February 20th docket.

10 MR. KELLAHIN: I did not tell him that.

11 EXAMINER BROOKS: No statement as to who informed
12 him of that.

13 MR. KELLAHIN: It was not me.

14 EXAMINER BROOKS: If it was anyone with
15 Burlington or anyone with the OCD, then perhaps he has some
16 equity in his behalf. If he's just relying on rumors,
17 that's another matter.

18 MR. KELLAHIN: I checked with the Burlington
19 people that had dealt directly with Maralex.

20 EXAMINER BROOKS: Yeah.

21 MR. KELLAHIN: They confirmed for me yesterday
22 that they would talk again with Maralex, and nobody
23 committed that we were going to continue this case. I
24 expected Mr. Bruce to be here this morning.

25 EXAMINER BROOKS: Do you have witnesses here?

1 MR. KELLAHIN: No, I was doing this by affidavit.

2 EXAMINER BROOKS: Okay. Well, here's what I will
3 do, then. I will let you go ahead and present your case,
4 and then rather than taking it under advisement I'll
5 continue it to the February 20th docket, and if Mr. Bruce
6 wants to come and present something on that date he can do
7 so. Otherwise, it will be considered ready for a decision.
8 That way we can get it probably disposed of as quickly as
9 we would if we took it under advisement today, and still
10 give Mr. Bruce a chance to do whatever he -- or at least to
11 clarify whatever the source of his understanding was on
12 this subject.

13 Okay, you may proceed.

14 MR. KELLAHIN: Mr. Brooks, the first exhibit,
15 Number 1, is the affidavit from Jim Troiano and David
16 Clark. They were the two witnesses that originally
17 appeared in this case when it was heard by you in May of
18 last year. Behind their affidavit, Exhibit Number 2 is the
19 order that you issued. That's the order we're seeking to
20 reinstate.

21 Mr. Troiano is a landman. He narrates for you in
22 his affidavit his various conversations with Maralex.

23 Patrick Keller is the representative of Maralex,
24 and Mr. Troiano and I also have confirmed with Maralex that
25 we're seeking only to pool the Mesaverde interest. That's

1 what the docket says, that's what the Application refers
2 to.

3 Mr. Troiano says that all the facts and
4 circumstances remain the same as they existed when he
5 testified before you back in May of last year, and there
6 are no changes other than having you to reinstate this
7 order. He explains in his affidavit why they failed to get
8 an extension of the order and what transpired in causing
9 the delay and why he now seeks to have it reinstated.

10 Following the affidavit is a copy of the order
11 you issued. This is an existing well, it's an existing
12 Dakota well, and it's to be recompleted to add the
13 Mesaverde.

14 The Application by Burlington for downhole
15 commingling of the Dakota and the Mesaverde has not yet
16 been filed. We will file one pursuant to Rule 303.

17 That commingling should not affect Maralex.
18 Maralex's interest is the same in the Dakota as well as the
19 Mesaverde. So the cost and the value of product won't
20 change based upon downhole commingling.

21 EXAMINER BROOKS: Okay, what is the situation
22 with regards to the title in the Dakota? Is that force
23 pooled or --

24 MR. KELLAHIN: That was by unanimous agreement.

25 EXAMINER BROOKS: Oh, okay. But agreement

1 limited to the Dakota?

2 MR. KELLAHIN: Yes, sir.

3 EXAMINER BROOKS: Thank you.

4 MR. KELLAHIN: And Maralex has chosen not reach a
5 voluntary agreement on the Mesaverde rights. And as I
6 mentioned a while ago, Mr. Keller has confirmed to both Mr.
7 Troiano and me as late as yesterday that he was going to be
8 force pooled, didn't have any objection to it and would go
9 nonconsent.

10 EXAMINER BROOKS: Okay.

11 MR. KELLAHIN: Exhibit 3 is the affidavit, return
12 receipt card from Keller and Maralex. There's a copy of
13 the notice letter, followed by the Application. The only
14 party to be pooled is Maralex.

15 The last two pages, Exhibit 3, is a breakout for
16 you from the original pooling case, and it shows you the
17 various interests involved.

18 And then finally out of that same case, Exhibit 5
19 is simply a plat that shows you the well and the spread of
20 the interests.

21 I would ask you at this time to admit these
22 exhibits, as well as incorporate by reference the
23 transcript and the exhibits from Case 12,869, which is the
24 case that was originally heard by you.

25 EXAMINER BROOKS: Very well, we will take

1 administrative notice of the record in Case Number 12,869.

2 MR. KELLAHIN: That concludes our presentation.

3 EXAMINER BROOKS: Very good. Pursuant to my
4 indication of intention at the beginning of this
5 proceeding, we will incorporate today's proceeding into the
6 record and the case will be continued until the February 20
7 docket.

8 MR. KELLAHIN: Thank you, Mr. Brooks.

9 EXAMINER BROOKS: At which time, if there's no
10 objection presented at that time, in the absence of
11 objection, the case will be taken under advisement.

12 MR. KELLAHIN: Thank you.

13 (Thereupon, these proceedings were concluded at
14 8:30 a.m.)

15 * * *

16
17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
the Examiner hearing of Case No. 13002,
heard by me on Feb 6, 2003.

20 David K. Brooks, Examiner
21 Oil Conservation Division
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 February 6th, 2003.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006