

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

CASE 9974

EXAMINER HEARING

IN THE MATTER OF:

Application of Meridian Oil, Inc., for Compulsory
Pooling, Rio Arriba County, New Mexico

TRANSCRIPT OF PROCEEDINGS

BEFORE: DAVID R. CATANACH, EXAMINER

STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

June 27, 1990

ORIGINAL

A P P E A R A N C E S

FOR THE DIVISION:

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E X H I B I T S

APPLICANT'S EXHIBITS:

Exhibit 1	6
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1 WHEREUPON, the following proceedings were had
2 at 10:43 a.m.:

3 EXAMINER CATANACH: Call the hearing back to
4 order, and at this time Call Case 9974.

5 MR. CARROLL: Application of Meridian Oil,
6 Inc., for compulsory pooling, Rio Arriba County, New
7 Mexico.

8 EXAMINER CATANACH: Appearances in this case?

9 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin
10 of the Santa Fe law firm of Kellahin, Kellahin and
11 Aubrey, appearing on behalf of the Applicant.

12 We have one witness to be sworn.

13 EXAMINER CATANACH: Any other appearances?

14 Will the witness please stand to be sworn in?

15 (Thereupon, the witness was sworn.)

16 MR. KELLAHIN: Mr. Examiner, a brief
17 explanation of what we're proposing for this case.

18 It is not the typical pooling case. The
19 working interest is entirely committed to the well.
20 This is proposed for a coal-gas well. The three
21 parties to be pooled have a working-interest ownership
22 in the well that has already been committed by
23 voluntary agreements.

24 However, they also have a record title
25 interest pursuant to the federal lease.

1 Those three parties have refused to sign the
2 communitization agreement.

3 The BLM has requested that in absence of the
4 agreements, they want a compulsory pooling order from
5 the Division to satisfy the requirements that we have
6 all record title ownership committed.

7 We do not need a risk-factor component to the
8 Order. There are no working-interest owners to share
9 in the cost pursuant to the pooling order. And so it
10 would be very much like treating a royalty owner being
11 pooled in which there is a lease that doesn't have a
12 pooling clause. It's that kind of mechanism, if you
13 will.

14 Mr. Alexander is present to tell you his
15 efforts and explain to you how we got to where we are.
16 But I wanted to alert you that we're not presenting the
17 conventional pooling case. This deals with a very
18 specific, narrow question, and it has to do with the
19 record title ownership of a federal lease.

20 ALAN ALEXANDER,
21 the witness herein, after having been first duly sworn
22 upon his oath, was examined and testified as follows:

23 EXAMINATION

24 BY MR. KELLAHIN:

25 Q. Mr. Alexander, let me ask you, sir, to state

1 your name and occupation?

2 A. My name is Alan Alexander. I'm employed as a
3 senior land advisor by Meridian Oil in the Farmington,
4 New Mexico, office.

5 Q. Mr. Alexander, on prior occasions have you
6 testified as a petroleum landman?

7 A. I have.

8 Q. And pursuant to your employment by your
9 company, have you made a study of the land-title
10 matters with regards to this compulsory-pooling case?

11 A. I have.

12 MR. KELLAHIN: We tender Mr. Alexander as an
13 expert petroleum landman.

14 EXAMINER CATANACH: He is so qualified.

15 Q. (By Mr. Kellahin) Mr. Alexander, let me turn
16 to your exhibit book. It's been divided into three
17 portions, Exhibits 1, 2, 3 and 4. If you will turn to
18 the exhibit book and identify and describe for us the
19 information contained behind the tab that says Exhibit
20 Number 1.

21 A. Exhibit Number 1 consists of our Application
22 to the Commission to set the proposed pooling for this
23 case. That Application also contains an Exhibit A that
24 came out of the communitization agreement. It's a land
25 plat. And in the last page of the Application it

1 contains or describes as Exhibit B the parties that
2 we're desiring to pool this morning.

3 Q. Let's use Exhibit A, the plat that's behind
4 the Application in Exhibit 1, as a basis to describe
5 and summarize for the Examiner the arrangement by which
6 we have now come to have these three record title
7 owners uncommitted as far as communitization of their
8 interests?

9 A. All right. The Exhibit A plat illustrates
10 that the south half of Section 35, 31 North, 4 West,
11 Rio Arriba County, is the dedicated spacing unit for
12 the Chicosa Canyon Number 1 Well. Now, that well is
13 located over in tract 1, which is in the southeast
14 quarter of the section.

15 The well was originally drilled pursuant to
16 two farmout agreements and in connection with the
17 ownership that Southland Royalty Company already had in
18 the drill block.

19 Now, the two tracts are owned, such as --
20 Tract Number 1 is owned by Southland Royalty Company,
21 100 percent, and Tract Number 2 is owned by the Cone
22 family members.

23 Q. Tract Number 2 is a federal lease?

24 A. Tract Number 2 is a federal lease.

25 Q. And the Cone family, Kathleen Cone was the

1 original federal lessee?

2 A. Kathleen Cone and her sons and daughters.
3 She owns 50 percent record title, and the remainder of
4 the sons and daughters own ten percent each. There
5 were five of them.

6 Q. What then happened?

7 A. The -- Southland reached an agreement with
8 the Cones. They entered into the farmout agreement
9 that I was talking about previously, and they drilled
10 the Chicosa Canyon Number 1 Well.

11 It was originally drilled as a Dakota well on
12 this same drilling unit. However, the well was not
13 productive in the Dakota and was plugged back to 160-
14 acre Gallup Pool, which consisted of the southwest
15 quarter.

16 We have subsequently recompleted the well in
17 the Fruitland Coal Formation and have gone back to a
18 320-acre dedication, which is described as the south
19 half of this section.

20 The Cones and the Thoroughfare Resources,
21 which purchased -- One of the Cone family members,
22 that's how they became involved. We have entered into
23 voluntary agreements. There are existing operating
24 agreements covering this tract. They have made their
25 elections to join in the well, and we have gone down

1 the road from that point.

2 We ran into trouble when we could not get the
3 communitization agreement pages signed and returned to
4 us, and that is the reason that we're here today.

5 Q. Let me have you turn to Exhibit Number 2, and
6 identify and describe the documents contained.

7 A. Exhibit Number 2 consists of the federal
8 communitization agreement, the actual agreement
9 covering this well. I've included the entire text,
10 plus the signature pages of the parties that have
11 signed to date. And it contains exhibits showing the
12 breakdown of the lands, and it also shows the same land
13 plat which is attached as Exhibit A again.

14 Q. Will the Bureau of Land Management accept the
15 communitization agreement in the absence of the
16 signatures of Kathleen Cone and Kenneth Cone and
17 Clifford Cone?

18 A. No, they will not. Only through the pooling
19 proceedings today will they accept them as being deemed
20 to have signed through the Order issued here at the
21 Commission.

22 Q. Describe for us, then, what efforts you have
23 made on behalf of your company to obtain on a voluntary
24 basis the execution of the communitization agreement by
25 the three Cones.

1 A. Well, please refer to the Exhibit 3 and
2 material behind Exhibit 3. That consists of the
3 various letters that I have sent these parties.

4 The same letters were sent to the other
5 parties also. Three separate letters, three separate
6 dates, commencing in November of 1989. Well, actually,
7 we have a November, 1989, we have October 3rd of 1989,
8 and then we have April the 5th of 1990. Those are the
9 three separate occasions that I contacted these parties
10 and attempted to get them to sign and return these
11 signature pages to the communitization agreement.

12 Q. As of the date of this hearing, have you been
13 successful in obtaining the appropriate signatures of
14 any of the Cones identified in this case?

15 A. No, I have not.

16 Q. Identify for us the information contained
17 behind the tab marked Exhibit 4.

18 A. Exhibit 4 consists of the NM OCD Form C-105,
19 which is the completion report for the Chicosa Canyon
20 Well, showing that it has been recomplected in the Basin
21 Fruitland Coal Pool.

22 Behind that you will see NM OCD Form C-102,
23 which is the -- basically the location plat describing
24 where the well is located, and it again shows the
25 spacing unit for this well.

1 Q. In your opinion, Mr. Alexander, is it
2 necessary to have the assistance of a pooling order in
3 order to complete the requirements for having an
4 effective communitization agreement for the Fruitland
5 coal gas production from this well?

6 A. Yes, it is.

7 Q. And the proposed spacing unit would be the
8 south half of Section 35?

9 A. That is correct.

10 Q. With the entry of a compulsory pooling order
11 against these three individual interests, will you then
12 have the necessary documentation and orders to allow
13 you to effectively and efficiently produce this well
14 and dedicate the south half of this section to that
15 well?

16 A. That's correct.

17 MR. KELLAHIN: That concludes my examination
18 of Mr. Alexander.

19 In addition you'll find, Mr. Examiner, that
20 we're requesting the admission of Exhibit Number 5,
21 which is the certificate of mailing notice to the three
22 Cones for the hearing today. We will move the
23 introduction of Exhibits 1 through 5.

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

EXAMINATION

BY EXAMINER CATANACH:

Q. Mr. Alexander, when you say that the working interest is all committed to the well, were the Cone interests carried in this well, or --

A. Yes, sir. They failed to elect, pursuant to the operating agreements, and the operating agreements provide that if you do not elect, you will be carried nonconsent.

This is a complicated unit. The original payout effect for the original borehole is still in effect when it was produced on the 160-acre tract. When we expanded it to the 320-acre tract, then it brought in additional acreage that the Cone family had, that they owned outright. So therefore they had an election to join into the well for that acreage.

They did not join in the well, and they are set up and are currently carried in a nonconsent mode for that acreage. They are still being carried under the payout account for the original wellbore.

Q. I see. So all the -- They're still subject to an operating agreement?

A. Yes, sir.

Q. They're all subject to an operating agreement?

1 A. They're subject to two operating agreements.

2 Q. Two separate operating agreements?

3 A. Yes, sir.

4 Q. They have just failed to execute a
5 communitization agreement?

6 A. That's correct.

7 Q. Do you have any knowledge as to why they
8 don't want to execute the agreement?

9 A. Generally it's due to -- We have dealt with
10 the Cone family in other matters, and it's generally
11 just their inability or their desire not to correspond
12 back on matters.

13 I do know that Kathleen Cone was ill for some
14 period of time, and in fact I did receive a call
15 yesterday from her bookkeeper, and she has passed away,
16 passed away in May. And we have information, if you so
17 desire, concerning her probate. They have not set an
18 executor of the estate yet, or anybody that's
19 authorized to sign.

20 She indicated that when they did have an
21 authorized person to sign on behalf of the estate, that
22 they did intend to go ahead and sign the
23 communitization agreement.

24 Q. What effect does the pooling order have on
25 their interest, if anything?

1 A. It has no revenue effect on their interest
2 whatsoever. It's -- We are only doing this to
3 accommodate the Bureau of Land Management.

4 That does in turn accommodate us, because
5 obviously we cannot produce the well without an
6 approved communitization agreement. But they have no
7 revenue interest involved in this pooling action.

8 EXAMINER CATANACH: I have no further
9 questions of the witness.

10 Mr. Kellahin, would you be so kind as to
11 submit a rough draft order on this case?

12 MR. KELLAHIN: I'd be happy to, Mr. Examiner.

13 By comparison, some time ago the Division
14 entered a similar order for Fred Yates. It's Order
15 Number R-7873. We will provide you a copy of that
16 order and give you a draft order in this case, but this
17 is something that you've dealt with in the past.

18 EXAMINER CATANACH: Okay, anything further in
19 this case?

20 Case 9974 will be taken under advisement.

21 (Thereupon, these proceedings were concluded
22 at 11:00 a.m.)

23

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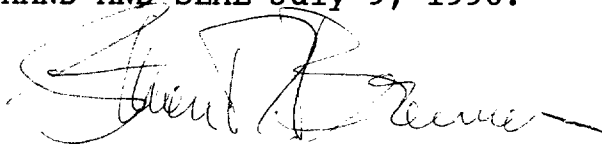
CERTIFICATE OF REPORTER

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

I, Steven T. Brenner, Certified Shorthand 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 July 9, 1990.



STEVEN T. BRENNER
CSR No. 106

My commission expires: October 14, 1990

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 997, heard by me on June 27 1990.

David R. Catant, Examiner
Oil Conservation Division