

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. 13,132

APPLICATION OF DEVON ENERGY PRODUCTION)
 COMPANY, L.P., TO REOPEN CASE NO. 13,132)
 FOR COMPULSORY POOLING, EDDY COUNTY,)
 NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

APR 1 2004

BEFORE: DAVID K. BROOKS, JR., Hearing Examiner, Oil Conservation Division
 1220 S. St. Francis Drive
 Santa Fe, NM 87505

March 18th, 2004

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, March 18th, 2004, 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.

* * *

STEVEN T. BRENNER, CCR
 (505) 989-9317

I N D E X

March 18th, 2004
 Examiner Hearing
 CASE NO. 13,132

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APPLICANT'S WITNESSES:	
<u>KENNETH H. GRAY</u> (Landman)	
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* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	5	(previously admitted)
Exhibit 2	6	(previously admitted)
Exhibit 3	7	(previously admitted)
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Exhibit 13	8	(previously admitted)
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* * *

A P P E A R A N C E S

FOR THE APPLICANT:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
Santa Fe, New Mexico 87504

* * *

ALSO PRESENT:

WILLIAM V. JONES, JR.
Petroleum Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 9:26 a.m.:

3
4
5 EXAMINER BROOKS: Case Number 13,132, Application
6 of Devon Energy Production Company, L.P., to reopen Case
7 Number 13,132 for compulsory pooling, Eddy County, New
8 Mexico.

9 Call for appearances?

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

12 I have one witness.

13 EXAMINER BROOKS: Okay. Would you swear the
14 witness?

15 (Thereupon, the witness was sworn.)

16 MR. BRUCE: Mr. Examiner, this case was
17 previously heard by Examiner Catanach, and an order was
18 issued in the case. But it is kind of an odd little case,
19 and the well location ended up being moved a few hundred
20 feet due to, I think, a residence.

21 And so we'd like to run briefly through the case
22 so you can understand what's happening, even though it's in
23 essence just moving the well location, but there are a few
24 oddities in this matter.

25 EXAMINER BROOKS: Okay, you may proceed.

1 KENNETH H. GRAY,
2 the witness herein, after having been first duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BRUCE:

6 Q. Would you please state your name and city of
7 residence for the record?

8 A. Yes, my name is Ken Gray, I live in Oklahoma
9 City, Oklahoma.

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

11 A. I'm a landman for Devon Energy Production
12 Company.

13 Q. Have you previously testified before the
14 Division?

15 A. Yes, I have.

16 Q. And were your credentials as an expert landman
17 accepted as a matter of record?

18 A. Yes, they were.

19 Q. And are you familiar with the land matters
20 involved in this Application?

21 A. Yes, I am.

22 Q. Mr. Gray, if you could identify Exhibit 1 for the
23 Examiner and tell him about the land involved.

24 A. Well, Exhibit 1 is just a reproduction of the
25 Midland Map Company's version of ownership map, and we've

1 outlined the east half of Section 6, 23 South, 27 East,
2 Eddy County, as the proposed spacing unit for our Joell
3 Number 2 location, which will be located in the Unit Letter
4 H, in the northeast quarter of Section 6.

5 Q. Okay. Now, the original location was going to be
6 in the southwest quarter, northeast quarter of Section 6;
7 is that correct, Mr. Gray?

8 A. Right, right.

9 Q. Okay, so it's being moved now to --

10 A. We had to move it 200 feet east and 200 feet
11 south, to move away from a residence.

12 Q. Okay. So the location is now in the southeast
13 quarter, northeast quarter; is that correct?

14 A. Right.

15 Q. Okay. And Mr. Examiner, for your information,
16 the first four exhibits that are submitted are simply
17 copies of exhibits from the original hearing.

18 Mr. Gray, would you move on to Exhibit 2 and
19 explain the ownership situation in the Morrow formation in
20 this well?

21 A. Well, Exhibit 2 is just a cartoon, if you will,
22 of a wellbore to the Morrow formation. Our previous
23 geological testimony established that the top of the Morrow
24 formation at this location would be at 11,366 feet, and the
25 base would be at 11,883 feet. And within that Morrow

1 formation --

2 Q. Well, just a minute, Mr. Gray, excuse me. The
3 top and the bottom of the Morrow formation, that was
4 testified to by Devon's geologist at the prior hearing,
5 correct?

6 A. That's correct.

7 Q. And he had conferred with the OCD's Artesia
8 office on the tops and bottoms, had he not?

9 A. That's correct.

10 Q. Okay, go ahead.

11 A. And the ownership within the Morrow formation, as
12 you can see, at least from 11,366 feet to 11,761 feet, is a
13 certain ownership, and then we have a five-foot interval
14 from 11,761 to 11,766 with yet another ownership, and below
15 11,766 even another ownership.

16 Q. And then one other thing on this matter. The top
17 two zones are subject to a JOA, are they not?

18 A. There is a joint operating agreement in effect
19 down to 11,766 feet, but not below that.

20 Q. Okay. So the interest owners and the names in
21 blue, the Zone C, those interests are not subject to a JOA?

22 A. That's correct.

23 Q. What is Exhibit 3?

24 A. Well, Exhibit 3 is a spreadsheet which, given the
25 percentage ownership under Exhibit Number 2, being Zone A,

1 Zone B, Zone C, we allocated -- or I guess I should say
2 Exhibit 3 would be an allocation based on the percentage
3 ownership in each of the A, B and C zones, so that we have
4 one -- basically one ownership for the working interest
5 owners and one for the overriding royalty interest owners.
6 And the reason for that obviously is, we don't know where
7 we're going to complete in the Morrow, so we have proposed
8 this allocation, and that's basically what Exhibit Number 3
9 is.

10 Q. And the allocation is based simply on the footage
11 of the three zones; is that correct?

12 A. That's correct.

13 Q. Okay. Next is a copy of the prior Exhibit 10,
14 which is simply an AFE for the well?

15 A. That's correct.

16 Q. Okay, with a -- what, a completed well cost of
17 close to a million and a half dollars?

18 A. Right.

19 Q. Is that AFE still relatively current?

20 A. It is, yes.

21 Q. Okay. Next, Mr. Examiner, is Exhibit 13 from the
22 prior hearing, and this was testified to by the geologist.
23 It is submitted to you simply to show that -- and the
24 geologist testified about this -- that there is production
25 from the middle Morrow and from the lower Morrow.

1 And the geologist testified that drilling at this
2 location, the only reasonable thing to do is to test the
3 entire Morrow, rather than just, you know, the lower Morrow
4 which is not subject to a JOA or the middle Morrow, which
5 is subject to a JOA. So the only reasonable thing to do is
6 to test both Morrow zones. And there is, as you can see,
7 production surrounding this well, both from the lower and
8 middle Morrow.

9 Now, the first go-around when we notified
10 everyone, Mr. Gray, there are a number of people involved
11 in this, as shown on your Exhibit 2. Have the bulk of the
12 interest owners entered into a voluntary agreement
13 regarding splitting of well costs and production?

14 A. Well, from a percentage standpoint, yes.

15 Q. Okay.

16 A. Between Devon and Magnum-Hunter that would
17 account for more than 50 percent of the working interest
18 ownership. But there are some that have not.

19 Q. Okay. But is Exhibit A a copy of the voluntary
20 agreement that has been entered into by certain of the
21 parties?

22 A. Yes, it is.

23 Q. And which parties have -- And they have agreed to
24 the percentages and interests shown on your Exhibits 2 and
25 3, have they not?

1 A. Yes, they have.

2 Q. Who has signed Exhibit A?

3 A. Let's see, Magnum-Hunter has signed it, Devon has
4 signed it, and the Steed interest has signed it.

5 Q. And Mobil?

6 A. I'm sorry, Mobil has signed it as well.

7 Q. Okay.

8 A. Mr. Scott as an overriding royalty interest owner
9 has signed it, and that would be all.

10 Q. Okay. So at this point Wainoco and Citation have
11 not signed it; is that correct?

12 A. That's correct. And the successor to Mabee
13 Petroleum has not signed it.

14 Q. Okay. And Mr. Examiner, if you could pull out
15 Exhibit 2, keep that in front of you for a minute to
16 explain who we are seeking to pool and for other purposes.

17 Mr. Gray, first of all you mentioned the Mabee
18 interest. Who is claiming that interest?

19 A. Well, Citation is actually claiming it, although
20 they don't have title to it. Mabee Petroleum Corporation
21 is the record title owner, but they attempted to assign
22 that interest to Citation, but it didn't work out that way.
23 And subsequent to that, Mabee was either acquired or merged
24 -- I'm not sure what the transaction was -- and the
25 Secretary of State in the State of Texas has Shell Offshore

1 Ventures, Inc., as the successor to Mabee, and we have also
2 noticed Shell in this matter --

3 Q. Okay, so --

4 A. -- but they're not claiming the interest.

5 Q. -- Shell is -- yeah, you have -- either you have
6 contacted Shell or Shell has contacted you, and they do not
7 claim the interest?

8 A. No, they do not. Citation claims it.

9 Q. Citation claims it, but there's no instrument of
10 record?

11 A. Right.

12 Q. Okay. Now, with respect to Citation you are not
13 seeking to force pool them, because all of their interest
14 is under the JOA; is that correct?

15 A. All of their interest?

16 Q. In other words --

17 A. No, they're -- well, they wouldn't -- no, their
18 interest -- That's right, that's correct, they don't own an
19 interest below 11,766.

20 Q. Okay. So they own interest in Zones A and B,
21 which are subject to the JOA?

22 A. Yeah, and we would only be --

23 Q. And so the purpose of notifying them for this
24 hearing is only to --

25 A. For allocation purposes.

1 Q. -- allocate between the zones.

2 And then Wainoco owns interests in all three
3 zones; is that correct?

4 A. That's correct.

5 Q. So you have notified them for purposes, number
6 one, of force pooling their interest in the non-JOA zone,
7 Zone C --

8 A. Right.

9 Q. -- and to -- and for purposes of allocation among
10 the three zones?

11 A. Correct.

12 MR. BRUCE: Okay. I told you it was a little
13 confusing, Mr. Examiner.

14 EXAMINER BROOKS: Yes, it is.

15 Q. (By Mr. Bruce) And you also went through this in
16 the original hearing, did you not, Mr. Gray?

17 A. Yes, we did.

18 Q. Now -- And the original exhibits in the hearing
19 did contain your correspondence with the people, did it
20 not?

21 A. Yes, it did.

22 Q. Did you -- After the well was moved, did you then
23 notify Citation, Wainoco and Shell Offshore of the change
24 in the well location?

25 A. Yes, we did.

1 Q. And is that marked as your Exhibit B?

2 A. Yes, it is.

3 Q. And again, in your opinion, have you made a good
4 faith effort to obtain the voluntary joinder of these
5 interest owners in the well?

6 A. I think we have, yes.

7 Q. Okay. And Devon -- Just so you are aware of
8 what's going on, Mr. Examiner, under the JOA, Mr. Gray, who
9 is the operator?

10 A. The operator of record is Chaparral -- I'm trying
11 to think of the full name -- Chaparral Oil and Gas, I
12 think, or Chaparral Energy.

13 Q. Chaparral -- I think we notified them --
14 Chaparral Energy, L.L.C.?

15 A. Right.

16 Q. They are the operator of record under the JOA, in
17 other words, in Zones A and B?

18 A. Correct.

19 Q. Okay. Obviously, they're not the operator in
20 Zone C?

21 A. Correct.

22 Q. And have you been in touch with Chaparral?

23 A. Numerous times, yes.

24 Q. And you could never -- you could not come to
25 terms with them; is that --

1 A. Well, the problem is, Chaparral owns no interest
2 whatsoever in the Morrow formation. Chaparral's only
3 interest under these leases is in the Strawn formation. So
4 yes, I guess contractually they are the operator down to
5 11,766 feet, but below that there is no operating
6 agreement, no established operator. So we can't have two
7 operators in the same formation, and in our previous
8 hearing we asked the Commission to enter as part of the
9 order that Devon would be designated as the operator.

10 Q. Okay. And Chaparral was notified of the original
11 hearing and did not show up; is that correct?

12 A. Correct.

13 Q. And in this hearing were Chaparral, Shell
14 Offshore, Wainoco and Citation notified of this hearing?

15 A. Yes, they were.

16 Q. And is that submitted as Exhibit C?

17 A. Yes.

18 Q. And Devon does request that it be appointed --
19 named operator by the Division of the Morrow formation.

20 Were Exhibits A, B and C prepared by you or under
21 your supervision or compiled from company business records?

22 A. Yes, they were.

23 Q. And in your opinion is the granting of this
24 Application in the interests of conservation and the
25 prevention of waste?

1 A. Yes, it is.

2 MR. BRUCE: And Mr. Examiner, in this hearing --
3 I should have started off with this -- there are basically
4 three requests by Devon: number one, force pooling of
5 certain interests in the non-JOA zone, Zone C; number two,
6 allocation of costs and production among the three zones as
7 shown on Exhibits 2 and 3; and then the third item would be
8 naming of Devon as operator of the well.

9 Although this reopening involved merely the
10 moving of the well location a few hundred feet, because the
11 original order didn't put a specific location in it, we
12 thought it best to come forward and change the -- amend the
13 order. And we also thought it best to re-present the land
14 matters just in case. Otherwise it would have been a
15 little confusing just looking at the file and figuring out
16 what's going on.

17 EXAMINER BROOKS: I think that's a very
18 reasonable conclusion since you had a different Examiner.

19 THE WITNESS: One thing we might want to point
20 out that was presented in the original hearing, we have
21 received a demand from the mineral owners, both Chaparral
22 and Devon -- well, the working interest owners, let me put
23 it that. Chaparral as, quote, unquote, the operator, and
24 Devon and the rest of the working interest owners as --
25 have received a demand from offset production.

1 Q. (By Mr. Bruce) A demand for development?

2 A. Right.

3 EXAMINER BROOKS: That what I was -- Yeah, when
4 you said offset production that suggested that.

5 Are you through?

6 MR. BRUCE: I am through, Mr. Examiner. I would
7 move the admission of the exhibits, A, B and C.

8 EXAMINER BROOKS: Okay, Exhibits A, B and C will
9 be admitted. I was somewhat confused by the designation of
10 the exhibits, but the numbers are from the prior hearing.

11 MR. BRUCE: That is correct.

12 EXAMINER BROOKS: And all the exhibits -- Exhibit
13 A collectively include all of the -- no, wait, Exhibit A is
14 the agreement, and the exhibits from the prior hearing are
15 already in the record, and you're just offering them for --

16 MR. BRUCE: Just for points of clarification.

17 EXAMINER BROOKS: -- demonstrative purposes.

18 EXAMINATION

19 BY EXAMINER BROOKS:

20 Q. Okay, did you notify all of the working interest
21 owners?

22 A. Of this hearing?

23 Q. Yeah.

24 A. Well, initially we did, yes.

25 MR. BRUCE: For the first hearing we did notify

1 everyone, and then after the original notice went out,
2 Devon did enter into the written agreement that's submitted
3 as Exhibit A, with everyone except the --

4 EXAMINER BROOKS: Okay.

5 MR. BRUCE: -- four people that we've notified
6 for this hearing.

7 Q. (By Examiner Brooks) Okay, yeah. So you're not
8 relying in any sense on the previous joint operating
9 agreement, from a notice standpoint?

10 A. No.

11 Q. Okay. I haven't read the prior order, and I
12 assume it does the same thing in this regard, but you are
13 in effect asking for a vertical pooling, as I understand
14 it, in order to provide -- to establish the interests of
15 these owners that do not own in all formations, so far as
16 the amount that they will be -- that will be treated as
17 their interest in the well for the purposes of contributing
18 to the drilling expenses?

19 A. And for those who own in all three formations,
20 but in different percentages, perhaps, yeah.

21 Q. Yeah. And --

22 MR. BRUCE: And Mr. Examiner, my thought on that
23 -- and we did go into this in the previous hearing -- is, I
24 think before the well -- I mean, you could do it either on
25 a footage basis and allocate production, or you could look

1 at what you actually completed and after the fact, but to
2 do that you couldn't allocate costs beforehand, costs of
3 drilling the well.

4 EXAMINER BROOKS: Right.

5 MR. BRUCE: And we thought that was unfair. And
6 furthermore, my thought was that when it comes to pooling
7 under the statute, it has to be on, you know, an acreage
8 basis. And my thought was, in using the footage would be
9 kind of similar to allocating production on an acreage
10 basis --

11 EXAMINER BROOKS: And what you did was simply
12 take the percentage working interest and percentage net
13 revenue interest that each party had in a particular depth,
14 multiply it by a ratio, being the number of feet to which
15 that interest applied, times the number of feet in the
16 Morrow based on the established top and bottom?

17 MR. BRUCE: That is correct.

18 EXAMINER BROOKS: Okay. Well, that's an
19 imaginative use of the compulsory pooling statute, but if
20 it works... Okay, Mr. Jones?

21 EXAMINER JONES: I've got two questions.

22 EXAMINER BROOKS: Go ahead.

23 EXAMINATION

24 BY EXAMINER JONES:

25 Q. I notice in through the East Carlsbad-Morrow it

1 probably should be the South Carlsbad-Morrow? That's not a
2 big deal, but that's --

3 MR. BRUCE: Yeah, maybe --

4 EXAMINER JONES: That's something to check on
5 anyway, but it looked to me like --

6 MR. BRUCE: You are correct, it is the South
7 Carlsbad-Morrow in my notes.

8 Q. (By Examiner Jones) And another question I had
9 -- maybe I was asleep, but how would you envision this well
10 be completed if it -- In other words, you hit the lower
11 Morrow first, right?

12 A. Uh-huh, hopefully, yeah.

13 Q. And produce it for years and years, or are you
14 going to produce all of them and commingle --

15 A. Oh, I think you can do either one of those, you
16 can -- you know, it just depends on -- You would know more
17 about that than I. But yeah, you can commingle Morrow
18 production.

19 Q. Yeah, it's all the same pool --

20 A. Right.

21 Q. -- so there's nothing to stop you there. It's
22 just the ownership --

23 A. It would be an operational issue more than
24 anything.

25 Q. Yeah. Now, if you're producing -- Okay, so once

1 this --

2 MR. BRUCE: And Mr. Examiner, I believe the
3 geologist in the first go-around indicated that he would
4 probably perforate any prospective zones at the same time.

5 EXAMINER JONES: Okay, at the same time. So
6 basically commingle them, and the order would take care of
7 the -- so everybody, once they get pooled, voluntarily or
8 not, they would share in the production of all the three
9 zones --

10 MR. BRUCE: That's correct.

11 THE WITNESS: Right.

12 EXAMINER JONES: -- whether they were all
13 producing or not. Okay, that was my question. Thank you
14 very much.

15 MR. BRUCE: One final thing, and I think the
16 geologist pointed this out. If you look at the first
17 exhibit, there is a -- it's now a plugged and abandoned
18 Morrow well down in the southwest quarter of Section 6 --
19 that was the well that the geologist said caused this
20 problem in the first place. That's where the depth
21 severance occurred under the JOA, so...

22 EXAMINER BROOKS: Where is this in relation to
23 the blowout?

24 THE WITNESS: I think the blowout is a couple of
25 -- two or three miles just due north, yeah.

1 EXAMINER BROOKS: I thought it was pretty
2 close --

3 THE WITNESS: Yeah.

4 EXAMINER BROOKS: -- close to the Carlsbad
5 airport.

6 MR. BRUCE: Mr. Examiner, I believe it's the
7 south half of 19, right at the top of the plat.

8 EXAMINER BROOKS: Okay.

9 EXAMINER JONES: Wow, that is close.

10 EXAMINER BROOKS: Okay. Well, good luck. Case
11 Number 13,132 will be taken under advisement.

12 (Thereupon, these proceedings were concluded at
13 9:48 a.m.)

14 * * *

15
16
17 I do hereby certify that the foregoing is
18 a complete record of the proceedings in
19 the Examiner hearing of Case No. 13132
heard by me on 3/18 2004.
20 David K. Brooks, Examiner
Oil 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 March 19th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006