

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 DEVON ENERGY)
PRODUCTION COMPANY, L.P., FOR A)
TEMPORARY EXCEPTION TO DIVISION)
RULE 104.C.(2).(C), LEA COUNTY,)
NEW MEXICO)

CASE NO. 13,241

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Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

April 1st, 2004

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, April 1st, 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.

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I N D E X

April 1st, 2004
 Examiner Hearing
 CASE NO. 13,241

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APPLICANT'S WITNESS:	
<u>RICHARD C. WINCHESTER</u> (Landman)	
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* * *

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS, JR.
Assistant General Counsel
Energy, Minerals and Natural Resources Department
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Santa Fe, New Mexico 87505

FOR THE APPLICANT:

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

* * *

1 WHEREUPON, the following proceedings were had at
2 8:17 a.m.:

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5 EXAMINER CATANACH: At this time I'll call Case
6 13,241, the Application of Devon Energy Production Company,
7 L.P., for a temporary exception to Division Rule Number
8 104.C.(2).(c), Lea County, New Mexico.

9 Call for appearances.

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 Okay, will the witness please stand to be sworn
14 in at this time?

15 (Thereupon, the witness was sworn.)

16 RICHARD C. WINCHESTER,
17 the witness herein, after having been first duly sworn upon
18 his oath, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BRUCE:

21 Q. Would you please state your name for the record?

22 A. Richard Winchester.

23 Q. Where do you reside?

24 A. In Norman, Oklahoma.

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

1 A. I work for Devon Energy as a petroleum landman.

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

4 A. Yes, I have.

5 Q. And were your credentials as an expert petroleum
6 landman accepted as a matter of record?

7 A. Yes, they were.

8 Q. And are you familiar with the land matters
9 involved in this case?

10 A. Yes.

11 MR. BRUCE: Mr. Examiner, I tender Mr. Winchester
12 as an expert petroleum landman.

13 EXAMINER CATANACH: He is so qualified.

14 Q. (By Mr. Bruce) Mr. Winchester, could you
15 identify Exhibit 1 and describe the two wells involved in
16 this case?

17 A. Yes, Exhibit 1 shows Section 1 of Township 21
18 South, Range 34 East, Lea County. It's an irregular
19 section. The two wells under consideration are in Lots 1
20 through -- the proration unit comprised of Lots 1 through
21 8, the State R Number 1 well, located in Lot 6, operated by
22 ConocoPhillips, and then the State R Number 4 well, located
23 in Lot 2, currently being drilled by Devon.

24 Q. And what exactly does Devon seek in this case?

25 A. Devon seeks to be considered as record operator

1 of the State R Number 4 well until payout of the nonconsent
2 penalty under the applicable operating agreement.

3 Q. Okay. What is Exhibit 2?

4 A. Exhibit 2 is the APD, the approved APD, for the
5 State R Number 4 well.

6 Q. Okay. Now, is it your understanding that the
7 Division currently will allow Devon to drill the well but
8 not produce it unless some arrangements are made with
9 respect to Devon operating the well?

10 A. That's correct.

11 Q. Okay. What is Exhibit 3?

12 A. Exhibit 3 is the operating agreement governing
13 the proration unit for the State R Number 1 and 4 wells.

14 And on page 6 of the operating agreement, if
15 you'll look under Article VI.B.2, it shows the applicable
16 nonconsent penalty, which is 300 percent for the cost of
17 drilling and completing the well.

18 Q. Okay. Now, in this well who are the working
19 interest owners?

20 A. ConocoPhillips, Devon Energy and Nearburg.

21 Q. Okay. And which parties have consented to the
22 drilling of the State R Well Number 4?

23 A. Nearburg has consented.

24 Q. Okay, so ConocoPhillips has not?

25 A. That's correct.

1 Q. Okay. And so while this payout period is being
2 -- while the well is being drilled and while it's being
3 produced, until the 300 percent penalty is paid out, Devon
4 seeks to be record operator of the well?

5 A. That's correct.

6 Q. At which time the operatorship would be turned
7 over to ConocoPhillips?

8 A. That's correct.

9 Q. ConocoPhillips at that time would back into its
10 working interest?

11 A. That's correct.

12 Q. Okay. Now, have you had discussions with
13 ConocoPhillips about this issue?

14 A. Yes, I have.

15 Q. Now, Mr. Winchester, one way that companies have
16 gotten around this is to enter into a side agreement where,
17 in this instance, ConocoPhillips would be record operator,
18 Devon would actually physically operate the well, but the
19 filings would be done under the name of ConocoPhillips.

20 ConocoPhillips would not execute an agreement
21 like that, would they?

22 A. That's correct.

23 Q. Okay. But do they object to you operating the
24 well during the nonconsent payout period?

25 A. No, they do not.

1 Q. What is Exhibit 4?

2 A. It's a letter of support executed by
3 ConocoPhillips, where they supported Devon Energy in this
4 Application. And if you'll notice down at the bottom,
5 there was some additional language that they had, that said
6 basically, "provided that ConocoPhillips...is permitted to
7 remain as operator of the State 'R' Number 1 well" during
8 the payout period.

9 Q. And Devon doesn't object to that?

10 A. Not at all.

11 Q. They don't object to what you're seeking, they
12 just don't want to sign a separate side agreement?

13 A. That's correct, they don't want to have to handle
14 the administrative issues associated with the filings when
15 they are not the operator and have no interest in the well.

16 Q. Okay. One thing, regarding -- during the payout
17 period, what are the approximate working interests between
18 Devon and Nearburg?

19 A. Devon with 50 percent and Nearburg with about 50
20 percent.

21 Q. Okay.

22 A. Samson Resources also has an interest in it, but
23 they are not a party to that. They were brought in to
24 share for the cost purposes.

25 Q. Okay.

1 A. At that time they will be out.

2 Q. Okay. So they would only own a contractual
3 interest during the payout period?

4 A. That's correct.

5 Q. Were Conoco and Nearburg notified of this
6 Application?

7 A. Yes, they were.

8 Q. And is that reflected in the affidavit marked
9 Exhibit 5?

10 A. Yes, it is.

11 Q. And what is Exhibit 6?

12 A. That's a letter from Nearburg where they're
13 supporting Devon Energy in this Application.

14 Q. Were Exhibits 1 through 6 prepared by you or
15 under your supervision, or compiled from company business
16 records?

17 A. Yes, they were.

18 Q. And in your opinion is the granting of this
19 Application in the interests of conservation and the
20 prevention of waste?

21 A. Yes, it is.

22 MR. BRUCE: Mr. Examiner, I'd move the admission
23 of Devon Exhibits 1 through 6.

24 EXAMINER CATANACH: Exhibits 1 through 6 will be
25 admitted.

EXAMINATION

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BY EXAMINER CATANACH:

Q. Mr. Winchester, do you know why ConocoPhillips wouldn't agree to be the operator of record for the well?

A. As I referred to previously, they just did not want to have -- since they do not own an interest in the well until it pays out, they did not want to have to handle the administrative burden of the filings during that time. And I'm sure, as you know, there's a little bit of flux there because of the merger of Conoco and Phillips, and it's just something that they didn't want to handle at that time.

Q. Under the JOA I guess they are the operator of this unit?

A. That's correct.

Q. And did Devon actually propose the State R Number 4?

A. Yes.

Q. And they just elected to go nonconsent?

A. They elected not to participate.

Q. Okay, this is West Osudo-Morrow Gas Pool. There is no allowable situation that we have to be concerned with; is that your understanding?

A. That's correct.

Q. Both wells would be allowed to produce as much

1 gas as they could.

2 A. Yes, the R 1 is currently producing from the
3 Atoka and the Morrow formations.

4 Q. Now, what is the Number 4 going to produce from?
5 Do you know?

6 A. Well, we hope from the Morrow and Atoka
7 formations. The Morrow formation is our primary objective
8 in the well.

9 Q. So if it's completed in the Atoka, it would be a
10 separate Atoka pool; is that correct? This looks like it's
11 just a Morrow pool, West Osudo-Morrow?

12 MR. BRUCE: That is correct, Mr. Examiner.

13 EXAMINER CATANACH: You're not asking at this
14 time for the Atoka. I don't know, does it sound incomplete
15 to you, Mr. Bruce?

16 MR. BRUCE: Yeah, perhaps I should amend the
17 Application.

18 EXAMINER CATANACH: Okay, as for the Atoka, as
19 well as -- I assume that the State R Number 1 is dedicated
20 in the Atoka as well; is that correct?

21 MR. BRUCE: I believe it is. I'll double-check
22 on that.

23 EXAMINER CATANACH: I don't know that it makes
24 any difference to anybody. It's not going to affect
25 anybody, I don't think, as long as you're --

1 MR. BRUCE: It might be at the payout if they are
2 produced at the same time.

3 EXAMINER CATANACH: Oh, certainly. Yeah, but in
4 terms of notice, I'm thinking that both Conoco -- are both
5 Conoco and Nearburg aware of what your plans are, that you
6 may possibly complete it in the Atoka?

7 THE WITNESS: Oh, yes.

8 MR. BRUCE: I don't know if it needs to be
9 readvertised.

10 EXAMINER CATANACH: Yeah, I don't -- It doesn't
11 seem to affect anybody.

12 MR. BROOKS: What is there? Is there a defect in
13 the legal description?

14 EXAMINER CATANACH: Well, they just -- it just
15 describes the West Osudo-Morrow Gas Pool.

16 MR. BROOKS: Yeah.

17 EXAMINER CATANACH: And it may be completed in
18 the Atoka Pool.

19 MR. BROOKS: Well, apparently all the parties --
20 the testimony is that all the parties at interest have
21 actual notice of your intentions; is that correct?

22 THE WITNESS: That's correct.

23 MR. BROOKS: Okay, I don't see any need to go
24 through the procedure of readvertising under those
25 circumstances.

1 EXAMINER CATANACH: But I may want to include --
2 You don't know what Atoka pool --

3 MR. BRUCE: No, I don't, I'll find that out.

4 Q. (By Examiner Catanach) Okay. Do you know, Mr.
5 Winchester, how the production is going to be -- Do you
6 know if it's going to be commingled at all to surface, or
7 how is it going to be handled? Is it going to have its own
8 facilities?

9 A. I can't answer that question at this time.

10 EXAMINER CATANACH: Mr. Bruce, can you find that
11 out for me and maybe provide something about how that's
12 going to be done? Is it going to be measured separately
13 from the State R Number 1?

14 MR. BRUCE: Yes, sir.

15 EXAMINER CATANACH: Now, historically, I know the
16 problem that we've had with this kind of situation was the
17 ONGARD computer system. I don't know what the current
18 status of that is.

19 MR. BRUCE: And I was going to have Mr.
20 Winchester go upstairs and discuss it with the people who
21 handle that in the Division.

22 MR. BROOKS: I am told that it's not a problem,
23 but that's -- I don't understand the ins and outs of these
24 things, but I've been told by the people upstairs that are
25 into that business that it's not considered a problem at

1 this time.

2 EXAMINER CATANACH: Okay. Well, what I'll do is,
3 I'll check -- I will check with Ms. Prouty, who will be the
4 person to check with on that issue, and see if there is any
5 problems with that, but that's the reason that we've not
6 done them in the past, is my understanding.

7 Q. (By Examiner Catanach) Do you know about how
8 long it will be before payout on this well?

9 A. The R 1 has produced about 3 BCF, and it was
10 drilled in 1998, and we're anticipating certainly within --
11 if it works out like we hope, within two years.

12 Q. Now, under the terms of the JOA, is it well cost
13 plus 300 percent?

14 A. No, it's 300 percent total, and so that's --

15 Q. Okay, 300 percent total.

16 A. That's right, so it's -- That's the way it's
17 stated within the operating agreement. It's really like
18 under a drilling order where you have cost plus 200
19 percent.

20 EXAMINER CATANACH: Okay, I believe that's all I
21 have.

22 MR. BRUCE: I have nothing further.

23 EXAMINER CATANACH: Do you have anything --

24 MR. BROOKS: No.

25 EXAMINER CATANACH: -- Mr. Brooks?

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Okay, there being nothing further in this case,
Case 13,241 will be taken under advisement.

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

* * *

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 13241.
heard by me on April 1, 2004.
David T. Cabot, Examiner
Oil Conservation Division

