

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. 13,280

APPLICATION OF CHESAPEAKE PERMIAN, L.P.,)
FOR COMPULSORY POOLING, LEA COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

July 8th, 2004

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, July 8th, 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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WVJ-7/27/04

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 Examiner Hearing
 CASE NO. 13,280

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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
Deputy General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

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

FOR MATRIX PRODUCTION COMPANY
and MATRIX EXPLORATION COMPANY:

MONTGOMERY & ANDREWS, P.A.
Attorneys at Law
325 Paseo de Peralta
P.O. Box 2307
Santa Fe, New Mexico 87504-2307
By: PAUL R. OWEN

* * *

1 WHEREUPON, the following proceedings were had at
2 8:18 a.m.:

3 EXAMINER JONES: Okay, let's call Case 13,280,
4 Application of Chesapeake Permian, L.P., for compulsory
5 pooling, Lea County, New Mexico.

6 Call for appearances.

7 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
8 the Santa Fe law firm of Kellahin and Kellahin, appearing
9 this morning on behalf of the Applicant, and I have one
10 witness to be sworn.

11 EXAMINER JONES: Any other appearances?

12 MR. OWEN: Paul Owen of the Santa Fe law firm of
13 Montgomery and Andrews, appearing on behalf of Matrix
14 Production Company and Matrix Exploration Company. I have
15 no witnesses and don't anticipate any cross.

16 EXAMINER JONES: Any other appearances?

17 With that, will the witnesses please stand to be
18 sworn?

19 (Thereupon, the witness was sworn.)

20 MR. KELLAHIN: Mr. Examiner, a point of procedure
21 before we begin. I have not received an entry of
22 appearance from Mr. Owen, no phone calls, no contact from
23 him on behalf of his client, and I'm curious as to how
24 we'll proceed today.

25 MS. MacQUESTEN: We recently amended the Rules of

1 Procedure regarding entries of appearance, and one of the
2 issues before the Commission at that time was whether we
3 should exclude as a matter of course parties who did not
4 enter an appearance timely, and the Commission did not
5 adopt that provision, so it is up to the Examiner in his
6 discretion whether to accept the entry of appearance at the
7 hearing or not.

8 EXAMINER JONES: Okay, I think we'll accept the
9 entry of Mr. Owen at this time.

10 MR. KELLAHIN: We had not prepared for a
11 contested case, and would proceed as if it was unopposed.

12 MR. OWEN: And I have no objection to that. The
13 case was brought to my attention this morning, and I'll
14 proceed as if it were an uncontested case. I don't
15 anticipate any cross in this matter.

16 EXAMINER JONES: Is Matrix and Matrix Exploration
17 -- are they the same people?

18 MR. OWEN: Matrix Production Company and Matrix
19 New Mexico Holdings, L.L.C., and Matrix Exploration all
20 have similar principals, if not identical. I'm not sure of
21 the exact ownership makeup.

22 EXAMINER JONES: That's all right.

23 MR. KELLAHIN: Mr. Jones, our first witness is
24 Michael Braun. Mr. Braun is a consulting petroleum
25 landman.

1 MICHAEL S. BRAUN,
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. KELLAHIN:

6 Q. For the record, sir, would you please state your
7 name and occupation?

8 A. My name is Michael S. Braun and I'm a petroleum
9 landman, an independent petroleum landman.

10 Q. Where do you reside, sir?

11 A. Midland, Texas.

12 Q. On prior occasions have you testified as an
13 expert petroleum landman before the Division?

14 A. Yes.

15 Q. Have you been retained by Chesapeake Permian,
16 L.P. and their predecessor in interest, Concho, as a
17 petroleum landman with regards to this well?

18 A. Yes.

19 Q. Are you knowledgeable about the interest within
20 the 40-acre spacing unit?

21 A. Yes.

22 Q. And were you responsible for making the contacts
23 with the parties in order to consolidate their interest on
24 a voluntary basis?

25 A. Yes.

1 MR. KELLAHIN: We tender Mr. Braun as an expert
2 petroleum landman.

3 EXAMINER JONES: Mr. Braun is qualified as an
4 expert petroleum landman.

5 Q. (By Mr. Kellahin) Mr. Braun, would you turn to
6 Exhibit Number 1? Is this a spreadsheet that you have
7 prepared?

8 A. Yes.

9 Q. The docket proposes that Chesapeake Permian,
10 L.P., will dedicate a standard 40-acre spacing unit,
11 consisting of the southwest of the northwest of Section 26.
12 Are you familiar with that 40-acre tract?

13 A. Yes, sir.

14 Q. Does that 40-acre tract constitute a single
15 leasehold, or is it made up of multiple different, divided
16 interests?

17 A. Multiple divided interests.

18 Q. Are those divided interests consistent with the
19 40 acres?

20 A. Yes, sir.

21 Q. So we don't have a subdivided 40-acre tract --

22 A. No, sir.

23 Q. -- composed of multiple lots or subdivisions?

24 A. No.

25 Q. Within the 40-acre spacing unit, have you

1 tabulated all of the working interest owners on this
2 spreadsheet?

3 A. Yes, sir.

4 Q. When we look at that spreadsheet and read over to
5 the far right column, there's an indication of "yes"
6 associated with all the names except the first one on the
7 entry?

8 A. That's correct.

9 Q. What does the "yes" mean?

10 A. The "yes" represents an agreement to participate
11 and join in the drilling of the well, following our
12 proposal of drilling a well.

13 Q. Are there any interest owners in the spacing unit
14 that have not yet committed their interest?

15 A. Just the interest of Matrix.

16 Q. Matrix is indicated by two different names here?

17 A. Yes, the record title is in the name of Matrix
18 Production Company. However, they have farmed out their
19 interest through a couple of different instruments, and now
20 it's a question as to whether Matrix Production Company or
21 Matrix New Mexico Holdings is the actual owner of the
22 interest.

23 Q. In either instance, have you taken action to
24 attempt to obtain those companies' commitment to this well
25 on a voluntary basis?

1 A. Yes, the well was proposed and addressed to both
2 companies.

3 Q. Let's turn to Exhibit Number 2. Would you
4 identify that for us?

5 A. This is a letter dated April the 7th, 2004, where
6 Chesapeake Permian proposed the drilling of a 9800-foot
7 Wolfcamp test in the southwest quarter of the northwest
8 quarter of Section 26, 12 South, 38. And it was addressed
9 and delivered by return receipt, certified mail, to all the
10 parties listed on that spreadsheet.

11 Q. This is a letter that you signed?

12 A. Yes.

13 Q. And you caused it to be mailed?

14 A. Yes.

15 Q. It says "Concho Resources, Inc." on the
16 letterhead?

17 A. Yes, sir, I believe it's effective February the
18 1st, Concho Resources was merged into Chesapeake Permian,
19 L.P. However, just from a letterhead standpoint they
20 continued to use Concho Resources' letterhead.

21 Q. When the letter says it's addressed to all the
22 working interest owners on an attached exhibit, does the
23 list include all of the working interest owners shown on
24 Exhibit Number 1?

25 A. Yes, it does.

1 Q. When you proposed this well on behalf of
2 Chesapeake Permian to the working interest owners, did you
3 also submit to them an estimated AFE for the cost of the
4 well?

5 A. Yes.

6 Q. Please refer to Exhibit Number 3. Would you
7 identify that for us?

8 A. This is an authorization for expenditure and
9 estimated cost of drilling and completing the well.

10 Q. Have you received any objection from any of the
11 working interest owners to the well cost?

12 A. No.

13 Q. Have you received any objection from either
14 Matrix company as to the well cost?

15 A. No.

16 Q. Let's turn over to Exhibit Number 4. Do you have
17 a recommendation to the Examiner for overhead charges
18 associated with the pooling order in this case?

19 A. Yes, this Exhibit 4 is a copy of the first page
20 and then another page from the COPAS exhibit to the
21 operating agreement. This particular operating agreement
22 is an operating agreement that governs the drilling and
23 operations for many wells in this immediate area, including
24 two direct offsets, and --

25 Q. Let me ask you, sir, is this the operating

1 agreement that has been approved by the Matrix company in
2 association with what they consented to for overhead rates
3 for other wells?

4 A. Yes.

5 Q. Do you have a recommendation to the Examiner as
6 to the overhead rates, then, to apply against Matrix in
7 this pooling order?

8 A. Well, I would recommend that the same drilling
9 well and producing well rates be applied as -- due to the
10 fact that these are the overhead rates that we're operating
11 under in wells in the immediate area.

12 Q. In addition, these are wells in which Matrix also
13 has an interest?

14 A. Yes.

15 Q. Let's turn to Exhibit Number 5, Mr. Braun, and
16 have you summarize for the Examiner the transfer of
17 interest from Concho to Chesapeake. What is represented in
18 Exhibit 5?

19 A. Well, this is a certificate of merger, and I
20 believe it is the merger between Concho Resources, Inc.,
21 and Chesapeake Permian, L.P.

22 Q. When you turn to the second page of the
23 certificate and look at the bottom signature page, Mr. Hood
24 has signed this?

25 A. Yes.

1 Q. In what capacity has he executed this
2 certificate?

3 A. As Senior Vice President, Land and Legal, for
4 Chesapeake Operating, Inc., which is the sole general
5 partner of Chesapeake Permian, L.P.

6 Q. To the best of your knowledge, what is the
7 current status of this well?

8 A. To the best of my knowledge, the drilling has
9 begun and it's in its later stages of drilling and
10 completion.

11 Q. Would you turn to Exhibit Number 6? When you go
12 through the certificate, have we notified the appropriate
13 entities to be pooled, the Matrix companies, and have we
14 used the address that you have utilized in your
15 communications with them?

16 A. Yes.

17 Q. At this point, Mr. Braun, in your opinion is it
18 necessary to have the Division enter a compulsory pooling
19 order to allow Chesapeake to consolidate the remaining
20 uncommitted working interest owners to this well?

21 A. Yes, sir.

22 MR. KELLAHIN: Mr. Examiner, that concludes my
23 examination of Mr. Braun. We would move the introduction
24 of Exhibits 1 through 6.

25 EXAMINER JONES: Mr. Owen, do you have any

1 objection?

2 MR. OWEN: No objection.

3 EXAMINER JONES: Okay, Exhibits 1 through 6 will
4 be admitted to evidence.

5 Mr. Owen?

6 MR. OWEN: No questions, Mr. Examiner.

7 EXAMINATION

8 BY EXAMINER JONES:

9 Q. Okay, Mr. Braun, the 40-acre tract got divided up
10 into all these different working interest owners. How did
11 that happen?

12 A. Historically, all these working interest owners
13 owned similar interests in a number of leases in this
14 immediate area. When they originally acquired their
15 interest, they acquired it under a number of leases, under
16 a number of sections in this immediate area.

17 Q. Okay, and the royalty owner is who now? Let's
18 see here.

19 A. Well, there are many, many undivided royalty
20 owners.

21 Q. All fee?

22 A. Yes, sir, all fee.

23 Q. Okay. And your biggest working interest owner
24 didn't sign, and your letter to them is on the second page,
25 right, Exhibit 2, to all the working interest owners? And

1 your address didn't change any when you changed from -- In
2 other words, Matrix' address that they have -- would have
3 on file, you have no idea of knowing what that is,
4 obviously, but would it be a similar address as what it was
5 under Concho, Chesapeake? Was it -- say a lot of
6 consolidation of Chesapeake, whenever they --

7 A. This address for Concho Resources, Inc., is no
8 longer applicable to Chesapeake Permian, L.P. It was the
9 physical address for Concho Resources, Inc., prior to the
10 merger into Chesapeake Permian.

11 Q. But it was only February the 1st of this year,
12 right?

13 A. The actual legal closing of the merger was
14 February the 1st. However, they maintained this physical
15 address for a few months to consolidate the files and the
16 different projects that they were working on.

17 Q. I guess the point is, Matrix's communication with
18 Concho wouldn't have been hampered by the change of
19 address?

20 A. No, sir.

21 Q. Okay.

22 A. No, we were in constant contact with Matrix on a
23 number of different issues, and they were aware of both,
24 the temporary Chesapeake address in Midland, Texas, and the
25 permanent Chesapeake address in Oklahoma City.

1 Q. Okay, they -- so you're not aware of their -- Are
2 you aware of their objection to this and what they're
3 objecting to?

4 A. I had a couple of phone conversations with them
5 on various wells that we've proposed in the area, and each
6 of the wells has a different issue, but many times it's
7 either a geological question as to whether to drill or
8 something of that regard. But they don't seem to be able
9 to get their decision made in a timely manner.

10 Q. Is the interest common from the surface to the
11 basement out here?

12 A. The working interest is, and I believe the
13 mineral ownership is also.

14 Q. And you're going for a Wolfcamp test, you may
15 have your well already drilled?

16 A. Yes, sir.

17 Q. Well, the API number, do you know what that is?

18 A. Yes, I do, it is 30-025-36-715.

19 Q. Thank you. Are you anticipating between now and
20 the time the order would be drafted either way that you
21 might get participation from Matrix, or are you convinced
22 that they will never participate without a compulsory
23 pooling order?

24 A. I have no indication what they're going to do.

25 EXAMINER JONES: Okay, without any indication

1 from Matrix about what their objection is, I don't think I
2 have any more questions on this.

3 Mr. Owen?

4 MR. OWEN: Mr. Jones, I do have a couple of
5 follow-up questions.

6 EXAMINATION

7 BY MR. OWEN:

8 Q. Mr. Braun, you indicated that Matrix just can't
9 seem to get their decisions made in a timely manner; is
10 that right?

11 A. I indicated that on a number of occasions they
12 have not given us a response within a -- either 30 days,
13 which is customary in the industry, or sometime thereafter.

14 Q. And I think when Mr. Kellahin was talking to you
15 about the operating agreement, a couple of pages of which
16 are attached as Exhibit Number 4, you said that Matrix has
17 joined other projects; is that right?

18 A. Yes, Matrix was originally a party to this
19 particular operating agreement, as it applied to certain
20 lands, actually diagonal to this section. That operating
21 agreement was later expanded by all the parties to the
22 operating agreement except Matrix, who would not sign the
23 operating agreement.

24 After that point, Matrix on a well-by-well basis
25 did ratify that operating agreement, but only after wells

1 were proposed and, in some cases, force pooling.

2 Q. So it has joined other wells in a timely fashion?
3 Some wells it has and some wells it hasn't, right?

4 A. Yes.

5 Q. Okay, when do you anticipate completion of the
6 well?

7 A. I don't have an answer for that, I'm not in the
8 production department.

9 Q. Are the terms of the AFE attached as Exhibit 3
10 available to Matrix through entry of the order in this
11 case?

12 A. The AFE?

13 Q. Yes.

14 A. That was available to them when they got the
15 April 7th letter.

16 Q. But I'm asking if they are still available, those
17 terms are still available to Matrix through entry of the
18 order in this case?

19 MR. KELLAHIN: Point of clarification, Mr.
20 Examiner. I have no idea what he's asking. This is the
21 proposed AFE to be associated with this pooling case. If
22 there's an objection to the actual cost, there's a
23 procedure in the pooling order to allow Matrix to object to
24 actual cost. But this is the proposed AFE to be associated
25 with the pooling order.

1 MR. OWEN: And point of clarification, Mr.
2 Examiner. Chesapeake-Concho has proposed a well. They
3 proposed a well with particular costs. That proposal would
4 seem to be on the table until the order is in place. The
5 order is not in place now, and it probably won't be at the
6 conclusion of the hearing for a week or so, until you have
7 time to get the thing through the proper channels.

8 My question is simply whether the terms of this
9 offer to join are open through the entry of the order in
10 this case.

11 MR. KELLAHIN: Mr. Examiner, the answer is no.
12 We've been advised by Matrix that they wanted to ride the
13 well down, and that's what they've done.

14 MR. OWEN: I don't think there's been testimony
15 on that, Mr. Examiner.

16 Q. (By Mr. Owen) Mr. Braun, do you know if your
17 offer to Matrix on the terms contained in Exhibit Number 3
18 has been rescinded by Concho and Chesapeake at this point?

19 A. No, I'm not aware of that.

20 Q. Do you know if it has been rescinded because
21 Matrix said that it wanted to ride the well down?

22 A. No, I don't know anything about that.

23 MR. OWEN: Mr. Examiner, if indeed it is
24 Counsel's position that the terms of the offer are no
25 longer available to Matrix, then it would appear that

1 Matrix has not had the opportunity to join in this well and
2 does not have the opportunity to join the well as of this
3 date, and I submit that an order would be inappropriate.

4 EXAMINER JONES: Okay, I have one more question.

5 FURTHER EXAMINATION

6 BY EXAMINER JONES:

7 Q. The COPAS that you've got in here, you say it's a
8 common COPAS for that area, and it's rounded off to the
9 nearest actual dollar and hundredths of a cent for
10 producing well rate, but it looks -- looks a little bit
11 high for me, so where did you get this again?

12 A. This operating agreement was prepared, as that
13 cover page said, in 1999 by a company called Ricks
14 Exploration, which was a predecessor to Concho Resources.
15 In their exploration and development of the area, this is
16 the operating agreement that they prepared, and all the
17 parties on that spreadsheet agreed to those terms and
18 executed that operating agreement, including Matrix, in
19 1999.

20 Now, the lands that were covered by that
21 operating agreement at the time it was created were limited
22 to lands immediately northwest of this section. However,
23 at a later time additional lands were added to this
24 operating agreement under the same terms, including this
25 tract that we proposed the well under.

1 However, at the time additional lands were added
2 to the contract, to the operating agreement, Matrix
3 declined to ratify the additional lands, and it became
4 necessary for us to not -- as we proposed wells under these
5 additional lands that were added, the operating agreement
6 -- all of our other partners were bound by the terms of the
7 operating agreement, and they were either a consenting or
8 nonconsenting party under the operating agreement.

9 However, when -- if Matrix declined to
10 participate and we felt it was necessary to force pool them
11 to continue our drilling development plans, then we had to
12 go through the force pooling procedure.

13 Q. Okay. This rate was in effect in 1999?

14 A. Yes, sir.

15 Q. So this is not an adjusted rate?

16 A. No, sir.

17 Q. So would it automatically be adjusted from 1999
18 till now?

19 A. Let me look at that. I keep looking for the
20 taller piece of paper. Well, I don't have the entire COPAS
21 here, but I believe these rates are adjustable by the
22 consumer -- some adjustment rate, I believe, can actually
23 be added to that. I don't have that specific answer for
24 you.

25 Q. Do you object to having these rates start right

1 now and then --

2 A. No.

3 Q. -- adjusting from here on?

4 A. No.

5 EXAMINER JONES: Okay, Mr. Owen, do you think --

6 Hold on a minute. Gail...

7 (Off the record)

8 EXAMINER JONES: Okay, anything else --

9 MR. KELLAHIN: No, sir.

10 EXAMINER JONES: -- Mr. Kellahin?

11 Mr. Owen?

12 MR. OWEN: No.

13 EXAMINER JONES: Okay, thank you, Mr. Braun.

14 And with that, we'll take this case, 13,280,
15 under advisement.

16 (Thereupon, these proceedings were concluded at
17 8:46 a.m.)

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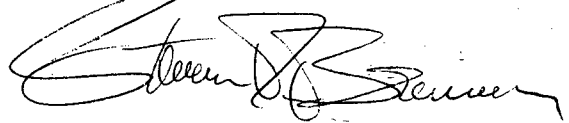
CERTIFICATE OF REPORTER

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 July 10th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006