

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 COMPULSORY POOLING,)
EDDY COUNTY, NEW MEXICO)

CASE NO. 13,318

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

August 5th, 2004

Santa Fe, New Mexico

2004 AUG 19 AM 10 28

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, August 5th, 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

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 Examiner Hearing
 CASE NO. 13,318

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<u>KENNETH H. GRAY</u> (Landman)	
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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

* * *

1 WHEREUPON, the following proceedings were had at
2 10:29 a.m.:

3 EXAMINER CATANACH: Okay, I will now call Case
4 13,318, which is the Application of Devon Energy Production
5 Company, L.P., for compulsory pooling, Eddy County, New
6 Mexico.

7 Call for appearances in this case.

8 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
9 representing the Applicant. I have one witness.

10 EXAMINER CATANACH: Any additional appearances?
11 Okay, will the witness please stand to be sworn
12 in?

13 (Thereupon, the witness was sworn.)

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

17 DIRECT EXAMINATION

18 BY MR. BRUCE:

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

20 A. My name is Ken Gray and I'm a landman for Devon
21 Energy Production Company in Oklahoma City.

22 Q. Have you previously testified before the
23 Division?

24 A. Yes, I have.

25 Q. And were your credentials as an expert petroleum

1 landman accepted as a matter of record?

2 A. Yes, they were.

3 Q. And are you familiar with the land matters
4 involved in this case?

5 A. I am.

6 MR. BRUCE: Mr. Examiner, I'd tender Mr. Gray as
7 an expert petroleum landman.

8 EXAMINER CATANACH: Mr. Gray is so qualified.

9 Q. (By Mr. Bruce) Mr. Gray, could you identify
10 Exhibit 1 and describe what Devon seeks in this case?

11 A. Exhibit 1 is a copy of a Midland map outlining
12 the west half of Section 11, Township 22 South, Range 27
13 East, in Eddy County. The west half of Section 11 is the
14 current spacing unit for an existing Wolfcamp well, which
15 is located in the southeast of the northwest quarter, and
16 Devon is asking to pool mineral interest from the base of
17 the Wolfcamp to the base of the Morrow.

18 Q. What is the well's footage location?

19 A. 660 from the north line and 1480 from the west
20 line.

21 Q. Now, is certain of this acreage subject to an
22 operating agreement?

23 A. Well, actually there are two operating agreements
24 here.

25 Q. Okay.

1 A. The east half of the southwest quarter, as shown
2 on the plat, is subject to an old operating agreement dated
3 -- I don't remember the exact date, but 1968, and the
4 interest owners, working interest owners under that 80
5 acres, are subject to that operating agreement.

6 The remainder of the spacing unit is subject to
7 yet another operating agreement; I think it was dated 1988.

8 Q. Is that second operating agreement only from the
9 surface to the base of the Wolfcamp?

10 A. Yes, it is -- well, no. Originally it was, but
11 we've amended it with all the parties to cover through the
12 base of the Morrow formation, with the exception of the
13 three parties we're pooling today.

14 Q. Okay. So it originally just covered to the base
15 of the Wolfcamp?

16 A. Originally it did.

17 Q. It has been amended with certain parties to cover
18 to the base of the Morrow, but the parties you seek to pool
19 today on this second JOA have not sought to amend it?

20 A. Right. And I'll just add, by the way, Devon is
21 not a party to the 1968 JOA.

22 Q. Okay. Well, let's get into that. What is
23 Exhibit 2?

24 A. Exhibit 2 is an exhibit that reflects the
25 interest owners in the 80 acres that I just described, that

1 are subject to the older operating agreement, the 1967 or
2 1968 operating agreement.

3 And I may not have mentioned, but this operating
4 agreement originally covered several sections in this
5 township, and it's been whittled down to just a few tracts
6 here and there, and this 80-acre tract is just one of the
7 tracts that's left, but nonetheless still covered by the
8 operating agreement.

9 And on the right-hand column would be those
10 interest owners, ownership for the spacing unit for the
11 well that we're going to drill.

12 Q. Okay. And again, Devon is not a party to this
13 operating agreement?

14 A. That's right.

15 Q. Okay. Of the people on this list, who does Devon
16 seek to pool at this time?

17 A. We're seeking to pool Cody Energy, Inc.; Magnum-
18 Hunter Production; and Tex-OK Energy Limited Partnership.
19 We had previously named two additional parties, Apache
20 Corporation and Carolyn Ann Nunnally, but we're asking that
21 they be dismissed at this time.

22 Q. Okay. Well, let's discuss your contacts with the
23 parties you seek to pool. What is Exhibit 3?

24 A. Exhibit 3 is a contact list of both Tex-OK and
25 Cody on the top, and then the bottom part is for Magnum-

1 Hunter.

2 Started with the initial well proposal on May 4th
3 of this year. On June 2nd, Tex-OK and Cody responded that
4 they wanted to be nonconsent, they wanted to be nonconsent
5 under the old operating agreement, to which Devon is not a
6 party. My response to them on June 23rd was that we
7 weren't proposing it under the old operating agreement
8 because we were not a party to that, and I offered them
9 again at that point to ratify the existing operating
10 agreement that we were operating under, and then again
11 notified them on August the 2nd that we were intending to
12 move forward with the pooling if they wanted to go ahead
13 and elect. And I didn't hear from them. So those are my
14 efforts with Tex-OK and Cody.

15 Magnum-Hunter, again, well proposal on May the
16 4th. The week of June 21st I got a telephone call from
17 Toni Wood with Magnum-Hunter advising that they would not
18 participate. And I said that's fine but, you know, are you
19 going to farm out? What exactly are you going to do? And
20 I think their response was, well, we don't think we want to
21 do anything. So that kind of set the tone.

22 There's a July 1st e-mail from me to Toni Wood
23 inquiring as to their election and the status of their
24 election. Another voice mail July the 9th asking again of
25 their status and advising that we would be filing for

1 compulsory pooling.

2 July 26th, voice mail message to Toni Wood again,
3 inquiring as to their status.

4 July 29th, telephone conversation advising that
5 we would go ahead and pool.

6 And then August the 3rd it finally dawned on me
7 that Magnum-Hunter was electing not to participate, and Tom
8 Brown, who is one of the interest owners on the list, was
9 electing to participate. And you may or may not know this,
10 but Magnum-Hunter has acquired Tom Brown. So I advised her
11 that you realize that part of your interest is
12 participating and part of your interest is not. And she
13 understood, but there wasn't anything she could do about it
14 at that point. I expect they'll do something before we
15 actually come up with an order and election under the
16 order, but I don't know.

17 Q. And if they do, will Devon notify the Division?

18 A. Yes, we will.

19 Q. Okay. In your opinion has Devon made a good
20 faith effort to obtain the voluntary joinder of these
21 interest owners in the well?

22 A. Yes, we have.

23 Q. Would you identify Exhibit 4 and discuss the
24 depth and cost of the proposed well?

25 A. Exhibit 4 is a cost estimate prepared by Devon's

1 engineering department. It reflects a total depth of the
2 well at 12,250 feet, dryhole cost of \$887,315, completed
3 well cost of \$1,474,581.

4 Q. And is this cost in line with the cost of other
5 wells drilled to this depth in this area of Eddy County?

6 A. I believe it is.

7 Q. And does Devon request that it be named operator
8 of the well?

9 A. Yes.

10 Q. And what do you recommend for the amounts Devon
11 should be paid for overhead rates?

12 A. \$6000 drilling well rate and \$600 producing.

13 Q. And are these amounts equivalent to those
14 normally charged by Devon and other operators in this area?

15 A. Yes.

16 Q. Do you request that this rate be adjusted
17 periodically under the COPAS accounting procedure?

18 A. Yes, we do.

19 Q. And does Devon request the maximum cost-plus-200-
20 percent risk charge be assessed against any nonconsenting
21 interest owner?

22 A. Yes, we do.

23 Q. And were all the parties being pooled, or the
24 three parties being pooled, notified of this Application?

25 A. Yes, they were.

1 Q. And is that submitted as Exhibit 5?

2 A. Yes, it is.

3 Q. Mr. Gray, were Exhibits 1 through 5 prepared by
4 you or under your supervision, or compiled from company
5 business records?

6 A. Yes, they were.

7 Q. And in your opinion is the granting of Devon's
8 Application in the interests of conservation and the
9 prevention of waste?

10 A. Yes, it is.

11 MR. BRUCE: Mr. Examiner, I'd move the admission
12 of Devon Exhibits 1 through 5.

13 EXAMINER CATANACH: Exhibits 1 through 5 will be
14 admitted.

15 EXAMINATION

16 BY EXAMINER CATANACH:

17 Q. Okay, there's an existing Wolfcamp well that has
18 no bearing on the case, basically?

19 A. Right.

20 Q. And your well -- your new well is going to be --
21 I believe you stated the well location is 660 north, 1480
22 west?

23 A. Uh-huh.

24 Q. Okay. And with regards to the second JOA that's
25 in existence, that covers the west half of this section?

1 A. The newer one covers from the surface to the base
2 of the Wolfcamp initially. We went back and proposed to
3 all the parties that were subject to that joint operating
4 agreement that we extend it to cover through the Morrow and
5 also submitted it to those parties that were not subject to
6 it, to go ahead and ratify that agreement through the base
7 of the Morrow. And everyone has agreed to do that, with
8 the exception of the three parties today.

9 Q. Did they express any reason why they haven't done
10 that?

11 A. Well, Magnum-Hunter is just -- they're just --
12 you know, they're in one of those modes where they can't
13 respond for whatever reason, or choose not to.

14 The two smaller interests, Tex-Ok and Cody, their
15 answer was, we want to be nonconsent under this old one,
16 which is only 200-percent penalty instead of 300 under
17 either the pooling order or the other operating agreement.
18 And I said that would be fine, but we can't -- we just
19 can't -- you know, we can't have different penalties for
20 different owners.

21 Q. Okay. I'm sorry, on the overhead rates was that
22 \$6000 and \$600?

23 A. Yes.

24 Q. Okay. Now, with regards to the Tom Brown
25 interest, do you anticipate that they'll pay their share of

1 the well costs?

2 A. Well, it will be Magnum-Hunter who'll be
3 responsible for it, because they closed, I think, on July
4 the 31st.

5 Q. So are they committed as to that verbal --

6 A. To the Tom Brown interest, sure.

7 Q. -- agreement with Tom Brown? Okay.

8 A. They'll probably wake up and realize that it's
9 not a good situation, and they'll end up participating.
10 But I don't know.

11 EXAMINER CATANACH: Okay, I don't have anything
12 else in this case.

13 MR. BRUCE: Mr. Examiner, before the next case
14 begins, could you give the witness and I about five
15 minutes --

16 EXAMINER CATANACH: Sure.

17 MR. BRUCE: -- to clarify something?

18 EXAMINER CATANACH: There being nothing further
19 in this case, Case 13,318 will be taken under advisement.

20 (Thereupon, these proceedings were concluded at
21 10:40 a.m.)

22 I do hereby certify that the foregoing is
23 * * * complete record of the proceedings in
the Examiner hearing of Case No. 13318,
heard by me on August 5, 2008.
24 David R. Catanach, Examiner
25 Oil Conservation Division

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 August 9th, 2004.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006