

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. 13,334

APPLICATION OF DEVON ENERGY PRODUCTION )  
COMPANY, L.P., FOR COMPULSORY POOLING, )  
EDDY COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

September 16th, 2004

Santa Fe, New Mexico

2004 OCT 1 PM 2 00

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, September 16th, 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.

\* \* \*

## I N D E X

September 16th, 2004  
Examiner Hearing  
CASE NO. 13,334

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APPLICANT'S WITNESS:	
<u>KENNETH H. GRAY</u> (Landman)	
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## E X H I B I T S

Applicant's	Identified	Admitted
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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:

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

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 10:15 a.m.:

3  
4 EXAMINER EZEANYIM: Okay, now call Case Number  
5 13,334, which is the Application of Devon Energy Production  
6 Company, L.P., for compulsory pooling, Eddy County, New  
7 Mexico.

8 Call for appearances.

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

11 EXAMINER EZEANYIM: Are there any other  
12 appearances?

13 May the witness be sworn, please?

14 (Thereupon, the witness was sworn.)

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

18 DIRECT EXAMINATION

19 BY MR. BRUCE:

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

21 A. Yes, my name is Ken Gray.

22 Q. Where do you reside?

23 A. I reside in Oklahoma City, Oklahoma.

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

25 A. I'm a landman for Devon Energy Production

1 Company.

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. Would you please summarize your educational and  
9 employment background for the Examiner?

10 A. Yeah, I graduated from the University of Oklahoma  
11 in 1973 with a master's degree in language arts, began  
12 working as an independent landman in 1977, worked for Sun  
13 Oil Company/Oryx Energy Company for 10 years, until 1992,  
14 and I've been employed with Devon since 1992.

15 Q. Does your area of responsibility at Devon include  
16 this part of southeast New Mexico?

17 A. Yes.

18 Q. And are you familiar with the land matters  
19 involved in this case?

20 A. Yes, I am.

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

23 EXAMINER EZEANYIM: Mr. Gray is so qualified.

24 Q. (By Mr. Bruce) Mr. Gray, could you identify  
25 Exhibit 1 for the Examiner and briefly state what Devon

1 seeks in this case?

2 A. Well, Exhibit 1 is a copy of a Midland Map land  
3 plat showing the outline of the proposed spacing unit for  
4 our well, being the west half of Section 24, 22 South, 25  
5 East, and we are seeking to pool all the uncommitted  
6 interest owners for the purpose of drilling approximate  
7 11,300-foot Morrow test.

8 And even though it doesn't show this on this land  
9 plat, I'll just point out that the northwest quarter of  
10 Section 24, which is covered by Federal Lease 0554477, is  
11 subject to a 1974 joint operating agreement and is owned by  
12 a bunch of -- and we can talk about that later.

13 And the southwest quarter of Section 24, which is  
14 covered by Federal Lease 96568, is covered by yet another  
15 joint operating agreement.

16 Q. Okay. Now, where is the proposed well located,  
17 in which quarter quarter section?

18 A. The well is proposed at 1200 feet from the south  
19 line and 1930 feet from the west line. (unit 4)

20 Q. Okay, so that is an orthodox gas well location?

21 A. Yes.

22 Q. Because the well is in the -- Are Devon's  
23 interests only in the southwest quarter?

24 A. Currently, yes.

25 Q. Okay. And so at this point you seek to pool only

1 well units spaced on 320 acres?

2 A. That's correct.

3 Q. Okay. Could you refer to Exhibit 2, identify it  
4 for the Examiner, and tell the Examiner which parties Devon  
5 is seeking to pool in this matter?

6 A. Yeah, Exhibit 2 is a list of the working interest  
7 ownership based on a west half of Section 24 spacing unit.  
8 The interests highlighted in yellow are those interests who  
9 have committed to participate either by signing a joint  
10 operating agreement or otherwise disposing of their  
11 interest by farmout or otherwise.

12 The remainder of the interests that aren't  
13 highlighted are the interests that we are seeking to pool  
14 today.

15 And I'll just point out one other thing. I  
16 mentioned the two operating agreements a minute ago. With  
17 the exception of Cimarex, Devon and Dominion, all the rest  
18 of those people on that list are subject to the operating  
19 agreement and identified in the northwest quarter of  
20 Section 24.

21 Q. Okay. And on Exhibit 2 at the top, that is  
22 referenced as a June 1, 1974, operating agreement?

23 A. Right.

24 Q. Okay. What is the -- Without adding them up,  
25 what is the approximate total interest being pooled in this

1 well?

2 A. It's less than 1 percent.

3 Q. Okay. Could you discuss your efforts to obtain  
4 the voluntary joinder of these owners? And I refer you to  
5 Exhibit 3.

6 A. Yeah, the cover sheet on Exhibit 3 is a  
7 chronological history of my contacts with the people that  
8 are entitled to participate in this well, beginning with a  
9 May 24th proposal letter, accompanied by an AFE, and  
10 requesting them to execute the operating agreement that  
11 exists in the southwest quarter, which is a -- 2003 is the  
12 date of that operating agreement that had been executed  
13 previously by Devon and Cimarex.

14 The next letter is dated July the 8th, which is  
15 strictly just an advisory letter to all the people, stating  
16 what the status of all the elections were and again  
17 requesting those people who had not elected to do so.

18 July 27th, telephone conversations with EOG as to  
19 the status of their election.

20 Again with EOG a different person, Mike Mullins,  
21 on August the 9th.

22 Again, another August 23rd letter of 2004  
23 advising the status of the elections and again requesting  
24 those who had not already done so to elect.

25 A September 2nd telephone conversation with Dan



1 McCright at EOG.

2 A subsequent telephone conversation September  
3 13th with Dan McCright at EOG.

4 And then a September 13th, 2004, conversation  
5 with Christie Taylor of Brown Brothers Harriman.

6 Most of those contacts -- or a lot of those  
7 contacts have to do with EOG, and we will request to  
8 dismiss EOG at this -- and Brown Brothers Harriman, as  
9 we've already -- they've executed the operating agreement.

10 Q. Okay. As to those parties in the northwest  
11 quarter who did join in the well, did Devon, after they  
12 indicated they wanted to join, send them an operating  
13 agreement?

14 A. Everyone has been issued the newer form of  
15 operating agreement, and those electing to participate did  
16 sign it, yes.

17 Q. In your opinion, has Devon made a good-faith  
18 effort to obtain the voluntary joinder of the interest  
19 owners in the well?

20 A. Yes.

21 Q. Could you identify Exhibit 4 and discuss the cost  
22 of the proposed well?

23 A. Exhibit 4 is an AFE that has been submitted to  
24 all the parties, reflecting a dryhole cost of \$819,450,  
25 with a completed well cost of \$1,461,185.

1 Q. Is this cost in line with the cost of other wells  
2 drilled to this depth in this area of Eddy County?

3 A. I believe it is.

4 Q. Does Devon request that it be named operator of  
5 the well?

6 A. Yes.

7 Q. Do you have a recommendation for the amounts  
8 which should be paid for supervision and administrative  
9 expenses?

10 A. Yes, we would recommend \$6000 for drilling well  
11 rates and \$600 producing.

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

14 A. I think so, yes.

15 Q. Do you request that these rates be adjusted  
16 periodically, as provided by the COPAS accounting  
17 procedure?

18 A. Yes, we do.

19 Q. And does Devon request a cost-plus-200-percent  
20 risk charge against any nonconsenting interest owners?

21 A. Yes, we do.

22 Q. Were all of the interest owners notified of this  
23 hearing?

24 A. Yes, they were.

25 Q. And is that submitted as Exhibit 5?

1 A. Yes.

2 MR. BRUCE: Mr. Examiner, Exhibit 5 is the  
3 affidavit of notice.

4 There was one party who apparently there was no  
5 recent address for, if you look at Exhibit 5, at the very  
6 last page of the exhibit, a Mr. Jack Hale. But a notice  
7 was published in the Carlsbad newspaper, and that's Exhibit  
8 6, specifically naming Mr. Hale and giving notice of the  
9 Application.

10 Q. (By Mr. Bruce) Mr. Gray, were Exhibits 1 through  
11 6 prepared by you or under your supervision or compiled  
12 from company business records?

13 A. Yes.

14 Q. And in your opinion is the granting of Devon's  
15 Application in the interests of conservation and the  
16 prevention of waste?

17 A. Yes.

18 MR. BRUCE: Mr. Examiner, I'd move the admission  
19 of Exhibits 1 through 6.

20 EXAMINER EZEANYIM: Exhibits 1 through 6 will be  
21 admitted into evidence.

22 MR. BRUCE: I have no further questions of the  
23 witness.

24 EXAMINER EZEANYIM: Gail?

25 MS. MacQUESTEN: No questions.

## EXAMINATION

BY EXAMINER EZEANYIM:

Q. Okay, now you mentioned -- I'm looking at that. What is the location of this well you're talking about?

A. It's 1200 feet from the south line, 1930 from the west line.

Q. 1920?

A. 1930.

Q. 1930. From the west line?

A. From the west line, yeah.

Q. I understand you just -- the notice requirement was just to that Mr. -- Did you do any other general notice to any newspaper?

A. No.

Q. Yeah, you didn't, okay. I see here the notice -- you did -- I was wondering why is it that you did that? I know Mr. Bruce mentioned that. Why the notice to just this person alone?

MR. BRUCE: Well, it does list -- just say "other interest owners", but Mr. Examiner, I have had discussions with -- I believe with Mr. Brooks, and if the people are actually contacted -- in other words, they have received actual notice by the certified mail, then they do not need to be notified by publication. And so that's why the advertisement only names Jack Hale, because his --

1     apparently there is no known address for him, or the last  
2     known address is not any good.

3             So therefore -- although the Application does  
4     specifically -- or excuse me, the published notice does  
5     describe the well unit and what is being sought so that  
6     people with interests in that well unit could see from the  
7     publication, we only specifically named Mr. Hale, since he  
8     was the only one who couldn't be reached regarding this  
9     hearing.

10            Q.     (By Examiner Ezeanyim) Okay. Has this well been  
11     drilled?

12            A.     No, we don't have our federal permit yet.

13            Q.     Oh, it's on federal land?

14            A.     Yeah.

15            Q.     Okay. And so you don't have any API number?

16            A.     Not yet.

17            Q.     You don't?

18            A.     No.

19            Q.     And do you know when you think you might drill  
20     the well?

21            A.     I think it's scheduled for November, but that is  
22     subject to whenever we get our permit from the BLM.

23            Q.     Let me see, your primary objective is the -- What  
24     is your primary objective?

25            A.     The Morrow.

1 Q. And this AFE, did you prepare the AFE? Who  
2 prepared this AFE?

3 A. Our engineering department prepared the AFE.

4 Q. And this is typical of a well drilled in that  
5 area?

6 A. Yes.

7 EXAMINER EZEANYIM: I have no further questions.

8 MR. BRUCE: That's all I have in this matter, Mr.  
9 Examiner.

10 EXAMINER EZEANYIM: At this time Case Number  
11 13,334 will be taken under advisement.

12 Let's have about five minutes' break before we go  
13 to Case Number 13,335. We'll reconvene here in five  
14 minutes.

15 (Thereupon, these proceedings were concluded at  
16 10:32 a.m.)

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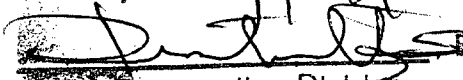
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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 13334  
heard by me on 9/16/84

  
Examiner  
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 September 19th, 2004.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006