

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.: 14661

APPLICATION OF OGX RESOURCES LLC  
FOR APPROVAL OF A NON-STANDARD  
OIL SPACING AND PRORATION UNIT AND  
COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO.

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER'S HEARING

BEFORE: DAVID K. BROOKS, Legal Examiner  
TERRY WARNELL, Technical Examiner

DATE: June 9, 2011  
Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Legal Examiner, and TERRY WARNELL, Technical Examiner, on Thursday, June 9, 2011, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Irene Delgado  
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500 Fourth Street, NW, Suite 105  
Albuquerque, NM 87103

1 A P P E A R A N C E S

2 FOR CHESAPEAKE:  
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5  
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8 I N D E X

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1 EXAMINER BROOKS: Okay. Back on the record.  
2 Case Number 14661, application of OGX Resources LLC for  
3 approval of a non-standard oil spacing and proration  
4 unit and compulsory pooling, Eddy County, New Mexico.  
5 Call for appearances.

6 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa  
7 Fe representing the applicant. I have two witnesses.

8 EXAMINER BROOKS: Okay. Will the witnesses  
9 please identify -- are there any other appearances?

10 MR. FELDEWERT: Mr. Examiner, Michael  
11 Feldewert for the Santa Fe office of Holland and Hart  
12 appearing on behalf of Chesapeake Operating Inc.

13 EXAMINER BROOKS: Very good. And you have no  
14 witnesses?

15 MR. FELDEWERT: Correct.

16 EXAMINER BROOKS: I didn't see anybody who  
17 might be a witness. So will the witnesses please  
18 identify themselves.

19 MR. LANG: I'm Garland Lang, L-a-n-g.

20 MR. HARDIE: William Hardie, H-a-r-d-i-e.

21 EXAMINER BROOKS: Will the court reporter  
22 please swear the witnesses.

23 (Oath administered.)

24 EXAMINER BROOKS: Call your first witness.

25 MR. BRUCE: Call Mr. Lang.

1 GARLAND LANG III

2 (Having been sworn, testified as follows:)

3 DIRECT EXAMINATION

4 BY MR. BRUCE:

5 Q. Can you please state your full name for the  
6 record?

7 A. Garland H. Lang, III.

8 Q. And where do you reside?

9 A. Midland, Texas.

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

11 A. OGX Resources LLC. I'm their land manager.

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

14 A. I have.

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

17 A. They were.

18 Q. Are you familiar with the land matters involved  
19 in this application?

20 A. I am.

21 MR. BRUCE: Mr. Examiner, tender Mr. Lang as  
22 an expert petroleum landman.

23 EXAMINER BROOKS: So qualified.

24 Q. Mr. Lang, could you identify Exhibit 1 for the  
25 examiner and describe what OGX seeks in this case?

1     A.     This is a land plat of our proposed proration  
2     unit in Township 26 South, 29 East, Lot 2 of Section  
3     30, Lot 3 and 4 of Section 30, and Lot 1 and 2 of  
4     Section 31.

5             EXAMINER BROOKS:   That was 2 of 30?

6             WITNESS:   Yes.   Lot 2, 3 and 4 of Section 30,  
7     and Lot 1 and 2 of Section 31.

8             EXAMINER BROOKS:   2, 3 and 4 of Section 30  
9     and Lot 1 --

10            WITNESS:   And 2.

11            EXAMINER BROOKS:   1 and 2.

12            WITNESS:   Of 31.

13            EXAMINER BROOKS:   Of 31.   Okay.   Go ahead.

14     Q.     And could you identify the second page of  
15     Exhibit 1 and describe the well involved in this case?

16     A.     This is our Copperhead Fee A Number 1H Well with  
17     a surface location 480 feet from the South, 480 feet  
18     from the West of Section 31 of 26 South, 29 East, with  
19     a hole location of 1650 from the North and 330 from the  
20     West of Section 30, 26 South, 29 East.

21     Q.     And what zone do you seek to pool in this case?

22     A.     The Bone Spring Formation.

23     Q.     And could you move on to Exhibit 2 and identify  
24     that for the examiner?

25     A.     Exhibit 2 is a list of working interest owners,

1 and it also lists Chesapeake Exploration LLC with 14  
2 point 124049 percent, which is to be force pooled.  
3 That's why we are here. Jo Beth Colvin Ware is a  
4 mineral lease owner to be force pooled. She has a  
5 point 0135575 percent working interest in the proration  
6 unit. And Phillip McGahey, deceased, his estate has a  
7 point 01933565, and that's a lease mineral interest to  
8 be forced pool.

9 Q. Have you been given any information regarding the  
10 status of the McGahey interest?

11 A. We heard from the wife, the widow, that they had  
12 leased to Chesapeake, but we haven't seen a copy of the  
13 lease yet.

14 Q. Okay. But Chesapeake itself is being pooled in  
15 this case?

16 A. Correct.

17 Q. What is contained in Exhibit 3, Mr. Lang?

18 A. Exhibit 3 are just copies of our proposals, the  
19 well proposals to Chesapeake Exploration, one dated  
20 April 11, 2011, where we sent them an AFE and asked  
21 them to participate. There is also a letter dated May  
22 17, 2011, to Chesapeake Exploration LLC where we sent  
23 them a proposed operating agreement, asked them to  
24 participate. There is an April 11, 2011, letter to Ms.  
25 Jo Beth Colvin Ware proposing a well to her as an

1     unleased mineral owner. And there is also a letter  
2     dated May 10, 2011, to Marshalyn R. McGahey, who is the  
3     widow, offering to lease her interest.

4     Q.     Have you also talked to the interest owners?

5     A.     We talked to the McGaheys, but we haven't talked  
6     to Ms. Ware.

7     Q.     Okay. What about Chesapeake?

8     A.     We talked to Chesapeake several times.

9     Q.     In your opinion, has OGX made a good-faith effort  
10    to obtain the voluntary joinder of the interest owners  
11    in the well?

12    A.     We have.

13    Q.     What is Exhibit 4?

14    A.     Exhibit 4 is the AFE for Copperhead Fee A Number  
15    1H. It's dated April 6, 2011. It's got a dry hole  
16    cost of \$1,964,730, a completion cost of \$5,462,860,  
17    for a total cost of \$7,427,590.

18    Q.     These costs keep increasing, don't they?

19    A.     They do.

20    Q.     Are these -- however, are those costs in line  
21    with the costs of other Bone Spring wells drilled to  
22    this depth in Lea and Eddy County?

23    A.     They are.

24    Q.     Do you request that OGX be appointed operator of  
25    the well?

1 A. We do.

2 Q. What is your recommendation for the overhead  
3 rates?

4 A. 6,000 a month for drilling, and 600 a month for  
5 overhead.

6 Q. And are those rates equivalent to those charged  
7 by OGX and other operators in this area for wells of  
8 this type?

9 A. They are.

10 Q. Do you request that the overhead rates be  
11 adjusted periodically under the Copas Accounting  
12 Procedure?

13 A. We do.

14 Q. And does OGX request the maximum cost plus 200  
15 percent risk charge of any interest owner who is  
16 non-consent?

17 A. Yes, we do.

18 Q. And were the parties being pooled notified of  
19 this hearing?

20 A. Yes, they were.

21 Q. And is that reflected in Exhibit 5, the affidavit  
22 of notice?

23 A. Yes, it is.

24 Q. And what is Exhibit 6, Mr. Lang?

25 A. Exhibit 6 is a list of the offset operators to

1 the Copperhead Fee A Number 1H.

2 Q. Okay. And other than the parties being pooled,  
3 the only offsets to notify were Featherstone and Yates,  
4 correct?

5 A. Correct.

6 Q. And were they given notice of this hearing?

7 A. They were.

8 Q. And is that reflected in Exhibit 7 by affidavit  
9 of notice?

10 A. Yes, it is.

11 Q. Were Exhibits 1 through 7 prepared by you or  
12 under your supervision or compiled from the company  
13 business records?

14 A. They were.

15 Q. And, in your opinion, is the granting of this  
16 application in the interest of conservation and  
17 prevention of waste?

18 A. It is.

19 MR. BRUCE: Mr. Examiner, I move the  
20 admissions of Exhibits 1 through 7.

21 MR. FELDEWERT: No objection.

22 EXAMINER BROOKS: 1 through 7 are admitted.  
23 (Exhibits 1 through 7 admitted.)

24 MR. BRUCE: Mr. Examiner, the only other  
25 thing I have, if you want it is -- it's the only one I

1 have -- is a copy of the JOA proposed for this one.

2 EXAMINER BROOKS: I don't know that we need  
3 that. The -- looked like you had some returned  
4 receipts from some people named McGahey, and that was  
5 the decedent who had an interest?

6 WITNESS: Yes, that's the widow.

7 EXAMINER BROOKS: Marshalyn Mc -- Marshalyn  
8 McGahey --

9 WITNESS: Yes, sir.

10 EXAMINER BROOKS: -- is the widow of --

11 WITNESS: Phillip C. McGahey.

12 EXAMINER BROOKS: -- Phillip C. McGahey,  
13 deceased?

14 WITNESS: Yes, sir.

15 EXAMINER BROOKS: Then you have, also, let's  
16 see -- that's the only one. The others are for other  
17 interests, right? Have you examined into -- who are  
18 the successors entitled to McGahey.

19 WITNESS: Well, I think we have seen the  
20 will, but it's filed in Texas. It hasn't been probated  
21 in New Mexico.

22 EXAMINER BROOKS: Are there other --

23 WITNESS: Heirs.

24 EXAMINER BROOKS: -- devisees, or is she --

25 WITNESS: I can't tell you that right now.

1 I'm not sure. I haven't looked at the title myself,  
2 but another landman with our company has. We were  
3 talking with them about leasing, and when they said  
4 they leased to Chesapeake, we just kind of quit,  
5 because we would send them letters and talked to the  
6 son and the mother --

7 EXAMINER BROOKS: Yeah. I guess my only  
8 concern is, if it's in Texas, his will is probated in  
9 Texas, it probably won't serve as independent  
10 executrix, and although that's not really very good  
11 under New Mexico law, I mean, it doesn't really get you  
12 there in New Mexico law, it probably would be  
13 sufficient for our purposes --

14 WITNESS: Yeah.

15 EXAMINER BROOKS: -- but I'm going to have to  
16 ask you to supplement the record, because if that's not  
17 the case, then we would need notice to -- we would need  
18 notice to whoever the successors were, and without the  
19 will, we don't know who they are.

20 MR. BRUCE: We will submit the will, and I  
21 will get an affidavit from Mr. Lang regarding that  
22 interest in --

23 EXAMINER BROOKS: Okay. Okay. Then we'll --  
24 when we get to the point of it, we will continue this  
25 to June 23 --

1 WITNESS: You know if --

2 EXAMINER BROOKS: -- and finish it up.

3 WITNESS: If we can see the lease that  
4 Chesapeake has with --

5 EXAMINER BROOKS: You have a lease from them  
6 to Chesapeake --

7 WITNESS: If I can get that, then she  
8 wouldn't be part of the case anymore.

9 EXAMINER BROOKS: Right. Of course, you  
10 would need to show who -- you would still need to trace  
11 the title, but if you were satisfied with it, you could  
12 give an opinion on it.

13 WITNESS: Sure.

14 EXAMINER BROOKS: Very good. Mr. Feldewert?

15 MR. FELDEWERT: Mr. Examiner, you  
16 contemplated continuing this matter to June 23.

17 EXAMINER BROOKS: Just to allow them to  
18 supplement the record. I would not anticipate that  
19 they would have to bring the witnesses back.

20 MR. FELDEWERT: I do have -- I do have a few  
21 questions.

22 EXAMINER BROOKS: Go ahead.

23 CROSS-EXAMINATION

24 BY MR. FELDEWERT:

25 Q. First off, I kind of want to work backwards. I

1 know you mentioned your AFE, you had 6,000 a month and  
2 600 a month. Is that correct, Mr. Lang?

3 A. Pardon me?

4 Q. What were your costs on your AFE again?

5 A. \$1,964,730 --

6 Q. And your monthly?

7 A. -- for dry hole and 5,462,860 for completed.

8 Q. And the overhead costs were what?

9 A. Well, there is 6,000 a month for drilling  
10 overhead and 600 a month for operating in the joint  
11 interest -- JOA.

12 Q. And you mentioned that those were costs in line  
13 with other Bone Spring wells. Is that your testimony?

14 A. Yes.

15 Q. Do you have -- can you point us to any recent  
16 Bone Spring wells that your company has drilled where  
17 you -- on which you based your opinion?

18 A. We've got the Mamba 24.

19 Q. When was that drilled?

20 A. It was drilled last month.

21 Q. Okay.

22 A. It's in Section 24 of 26 South 28 East.

23 Q. Now, with respect to this AFE, are these the same  
24 costs that you incurred for the Mamba 24?

25 A. Similar, yes, because it was drilled just a month

1     ago, and we are using the same completion techniques,  
2     so the cost should be comparable to the Mamba 24.

3     Q.     Did you take the Mamba 24 cost and put them on  
4     your AFE here, or did you make some adjustments?

5     A.     No. We probably -- we are drilling a well right  
6     now in the east half of Section 31 going up to the  
7     Southeast of the Northeast of Section 30. That's our  
8     Copperhead Fed Number 1H, Copperhead 31 Fed Number 1H,  
9     it's drilling right now.

10            This AFE, I believe, was almost a mirror  
11     image of the Copperhead 31 Federal that's currently  
12     drilling.

13     Q.     Okay. So the mirror image of the Copperhead,  
14     which -- what did you say?

15     A.     31 Fed --

16     Q.     Federal.

17     A.     -- Com Number 1H.

18     Q.     Okay. What did you use as a basis for your 6,000  
19     a month drilling, 600 a month operating?

20     A.     That's what OGX charges on every well we drill  
21     out here.

22     Q.     Is that -- do you have a JOA where these costs  
23     were accepted by the parties?

24     A.     We do. Not with me.

25     Q.     Do you recall which JOA?

1 A. Well, the Copperhead --

2 Q. 31?

3 A. -- 31 Fed Com Number 1H and Mamba 24 Number 1H.

4 Q. Would you be able to provide my office with those  
5 if I requested them through your counsel?

6 A. Sure.

7 Q. Okay. Now, you mentioned that you had some  
8 discussions with some of the interest owners. You  
9 mentioned that they have leased to Chesapeake.

10 A. Correct.

11 Q. Did you have any conversations with Chesapeake to  
12 determine whether those individuals had indeed leased  
13 to Chesapeake?

14 A. No, I didn't. This is just recently, and I  
15 didn't -- I didn't mention it to her.

16 Q. So you haven't had a chance to follow up with  
17 Chesapeake on that?

18 A. Yeah, when the lessors or the owner said they  
19 leased to Chesapeake, we -- we're checking the records  
20 probably tomorrow to see if that lease has been  
21 recorded, but I haven't talked to Chesapeake about it.

22 Q. Do you anticipate doing that in the next two  
23 weeks?

24 A. Sure.

25 Q. Okay.

1 MR. BRUCE: I would request, Mr. Examiner, if  
2 Chesapeake has that lease, that they provide it to my  
3 client.

4 Q. I would think conversation would probably --

5 A. That would be good.

6 Q. That's my point, we ought to have a conversation  
7 on the things see if they have -- would you agree with  
8 that?

9 A. Okay.

10 EXAMINER BROOKS: Well, of course, certainly  
11 it would be producible. It would be subject to  
12 production if -- if that came to that, but I take it  
13 that if they contact you, you have no problem with  
14 that, asking your people to check into it?

15 MR. FELDEWERT: No. My point is, we ought to  
16 have a conversation.

17 EXAMINER BROOKS: Yeah, okay. Hopefully it  
18 will get resolved before the next hearing.

19 Q. Now, there is, as I understand it, you have a  
20 current pooling order from this Division involving your  
21 Diamondback 22 State Com 1H. Is that correct?

22 A. Yes.

23 Q. Okay. Which involves some Chesapeake acreage?

24 A. Correct.

25 Q. Are you planning on spudding that well?

- 1 A. Correct -- no, not the 1H, probably won't.
- 2 Q. You probably won't spud it?
- 3 A. Huh-uh.
- 4 Q. Why?
- 5 A. Because we decided to move over and drill the
- 6 Number 2H, which is on the West Half West Half of
- 7 Section 22.
- 8 Q. Have you -- do you intend then to release the
- 9 pooling authority for that --
- 10 A. No.
- 11 Q. -- particular well?
- 12 A. (Nodding.)
- 13 Q. Why is that?
- 14 A. Well, we still have a year, so we might drill it
- 15 in three months.
- 16 Q. Are you aware that Chesapeake has some lease
- 17 acreage that is expiring if that well is not drilled on
- 18 a certain date?
- 19 A. Uh-huh.
- 20 Q. You have been informed of that?
- 21 A. Yes.
- 22 Q. And you have no intention to drill the well
- 23 before that lease expiration date?
- 24 A. Huh-uh.
- 25 Q. Or spud the well?

1 A. Huh-uh.

2 Q. And you are not willing to release the pooling  
3 order, either?

4 A. No.

5 Q. Have you had discussions with Chesapeake about  
6 trying to reach an agreement in connection with this  
7 pooling effort?

8 A. I have, yeah, we have.

9 Q. And you sent them a letter on -- in April?

10 A. We are talking about a different well, aren't we?

11 Q. I'm talking about this well.

12 A. Oh, this well. I'm sorry, I thought you were  
13 still talking about the Diamondback.

14 Q. No.

15 A. Yeah, we intend to drill this well, the  
16 Copperhead Fee.

17 Q. I'm talking about trying to reach a voluntary  
18 agreement with Chesapeake for purposes of their --  
19 their interest in this particular well. You had some  
20 -- you testified you had some discussions with them.

21 A. We have had discussions with them.

22 Q. Okay.

23 A. But we haven't had an answer from them. They  
24 haven't told us what they wanted to do.

25 Q. They haven't informed you that they wanted to

- 1 provide you with a term assignment for their acreage?
- 2 A. Just their acreage, I guess, in that particular
- 3 tract, yeah.
- 4 Q. Okay. So they have made an offer to you?
- 5 A. Uh-huh.
- 6 Q. Okay. Is that right?
- 7 A. Yeah.
- 8 Q. When was that made?
- 9 A. I think it was day before yesterday.
- 10 Q. Okay. And did you have discussions prior to that
- 11 time?
- 12 A. Yeah, we have -- I have e-mailed Justin Zirkle,
- 13 their landman, asking them what they want to do. And
- 14 he kept saying, "I don't have an answer from our
- 15 people." You are talking about this well right here.
- 16 Q. I'm talking about -- well, I'm talking about your
- 17 Copperhead Fee A Number 1H Well that -- that's the
- 18 subject of this application.
- 19 A. Yeah.
- 20 Q. You sent them a well proposal letter on April 11,
- 21 correct?
- 22 A. Uh-huh. Yeah.
- 23 Q. And what happened after that with respect to
- 24 Chesapeake?
- 25 A. I sent them an operating agreement in May, and

1     you will see by the letter here --

2     Q.     About a month later, right?

3     A.     Yes.

4     Q.     Was it at their request?

5     A.     No.

6     Q.     What happened after you sent your operating  
7     agreement?

8     A.     I e-mailed Justin two or three times asking what  
9     they are going to do, and he said that he doesn't have  
10    an answer from his upper management. And we still  
11    haven't seen a copy of the term assignment, either.  
12    And we haven't seen any documents that they provided us  
13    that shows they are willing to do anything.

14    Q.     I'm just trying to find out what happened here.  
15    I apologize.

16    A.     No, that's fine.

17    Q.     So your testimony is you e-mailed Justin Zirkle  
18    two or three times?

19    A.     Uh-huh.

20    Q.     You don't have those today with you, do you?

21    A.     No, I don't.

22    Q.     Okay. Did you have any -- aside from these  
23    e-mails, did you have any telephone conversations?

24    A.     I think I talked to him one or two times also  
25    about not only this well, but several other wells

1 because we -- the only reason we have been here for the  
2 last three months is --

3 Q. Part of your conversation was their concern about  
4 their lease was expiring, right?

5 A. You know, their -- on this particular tract, no.

6 Q. I'm talking about on the --

7 A. Yeah, they had concern on the Copperhead.

8 Q. On the Diamondback.

9 A. I'm sorry, the Diamondback.

10 Q. Yeah.

11 A. Yeah.

12 Q. And so you had discussions with them about not  
13 only that, the Diamondback lease expiring, but then are  
14 you saying it included these more recent pooling  
15 efforts, correct --

16 A. Yes.

17 Q. -- just get them altogether?

18 A. What are your plans on our proposal?

19 Q. Their concern is that you have a pooling order  
20 for one well in which their lease is about to expire,  
21 and you're not going to spud in that one and --

22 MR. BRUCE: Mr. Examiner, I'm going to have  
23 to object to this line of questioning. That's a  
24 hearing that Chesapeake was notified about. An order  
25 has been entered. If they wanted to do something about

1 it -- we are not here about the Sidewinder 22 Well. We  
2 are here about the well in Section 30 and 31. This is  
3 irrelevant.

4 MR. FELDEWERT: Well, I think it goes to the  
5 effort to reach an agreement here, because the problem  
6 we have here is that they have been dealing with this  
7 as one project, these various pooling orders, trying to  
8 get the matter resolved. And I would think some  
9 additional discussions would be worthwhile before we  
10 get another pooling order. That's the whole point in  
11 my questioning. We question whether there has been a  
12 good-faith effort to reach an agreement in connection  
13 with these pooling orders prior to seeking the  
14 authority of the Division here today. We were hoping  
15 to get a two-week continuance for the purposes of our  
16 employees continuing these discussions both because  
17 they have a current pooling order from this Division in  
18 which the lease is about ready to expire, and they  
19 refused to even spud the well, and yet, you are here to  
20 seek additional pooling orders from this Division to  
21 tie up Chesapeake's acreage.

22 EXAMINER BROOKS: Okay. I will overrule the  
23 objection and you may continue.

24 Q. So you have had some discussions here about your  
25 fact that the lease is expiring with respect to the

1 current well which you have a pooling order, right?

2 A. On which well?

3 Q. Diamondback.

4 A. Diamondback.

5 Q. And then you also had in connection with the  
6 discussions of your more recent efforts to get some  
7 additional pooling orders from the Division, correct?

8 A. Uh-huh.

9 Q. All right. Now, when you had -- I'm going to try  
10 to find out how many conversations you had about this  
11 issue since you proposed your well. You said you  
12 e-mailed them two or three times. Did you receive any  
13 kind of e-mail response?

14 A. Yes.

15 Q. And what is your testimony about those -- that  
16 response?

17 A. They are -- they said they had to go to upper  
18 management; they haven't got any answers.

19 Q. Okay. That's how they responded to your e-mails?  
20 That's your testimony?

21 A. Uh-huh. They are working on it, trying to get it  
22 out.

23 Q. And then did you have conversations, telephone  
24 conversations?

25 A. I think I talked to Justin one or two times, and

1 it's kind of the same conversation.

2 Q. Now, can you tell us when you spoke with  
3 Mr. Zirkle?

4 A. I would have to look back.

5 Q. Do you have any records here today of when you  
6 had your conversations with Mr. Zirkle?

7 A. No.

8 Q. Okay. Can you give us any idea when it took  
9 place in connection with your proposals?

10 A. Between April 11 and last week, they -- yeah.

11 Q. So you had a conversation last week. Do you  
12 remember that?

13 A. I think I just e-mailed him?

14 Q. What was the nature of the e-mail?

15 A. Seeing what their status was, what they planned  
16 on doing.

17 Q. And did they respond?

18 A. Just said, "We are working on it."

19 Q. I thought you indicated that they submitted a  
20 proposal for a term assignment.

21 MR. BRUCE: Mr. Examiner, he is misconstruing  
22 the witness's testimony, but go ahead, Mr. Lang, and  
23 answer it.

24 A. No. This was two days ago another member of our  
25 company, one of our managing partners talked to

1 Chesapeake about this whole area.

2 Q. This whole area?

3 A. This whole area, yeah.

4 Q. Which included the Diamondback Well that you  
5 currently have a pooling order?

6 A. Uh-huh.

7 Q. Right? And it included your two current -- your  
8 two pooling applications today?

9 A. Today and the Copperhead Federal -- Copperhead 31  
10 Fed Number 1H that's drilling now, it included that  
11 one, also.

12 Q. So you have a conversation two days ago. What  
13 was the nature of the conversation?

14 A. We were just trying to see what they wanted to  
15 do, and they did propose something, a blanket term  
16 assignment on just the proration units for the four  
17 wells that we proposed.

18 Q. And have you responded?

19 A. And that wasn't agreeable. It doesn't give us --  
20 it doesn't give us any extra acreage; it just gives us  
21 the proration unit for the well.

22 Q. So it's an agreement for the proration unit for  
23 the well, correct?

24 A. Correct.

25 Q. So it's an effort to reach voluntary agreement?

- 1 A. But that's not what we had offered.
- 2 Q. What was the matter with their term assignment
- 3 that would give you the proration unit for the well?
- 4 A. We just didn't think it was enough bargaining. I
- 5 mean, it just wasn't enough for us to do that.
- 6 Q. You just refused it?
- 7 A. Pardon me?
- 8 Q. Did you make a counter-offer to them?
- 9 A. I don't think we have yet.
- 10 Q. Are you considering one?
- 11 A. I think they are.
- 12 Q. They are? Okay. So if we gave the parties
- 13 additional time, is there a chance they might reach an
- 14 agreement?
- 15 A. Could be.
- 16 Q. Okay.
- 17 A. But just the way things have gone on the last few
- 18 months, they haven't responded any to us.
- 19 Q. Sounds like we have an effort ongoing now?
- 20 A. In the last two days it started, yeah.
- 21 Q. Okay. All right. So, in your opinion, there is
- 22 a chance that the parties, with some additional
- 23 discussion, might be able to reach a voluntary
- 24 agreement?
- 25 A. Could.

1 Q. Okay. So --

2 MR. FELDEWERT: That's all the questions I  
3 have.

4 EXAMINER BROOKS: Okay, I rather pre-empted  
5 you. I'm sorry about that, but anyway, I managed my  
6 questions, and I don't think I have any more.  
7 Mr. Warnell, do you have any questions?

8 EXAMINER WARNELL: From the pooling area, you  
9 are you asking for surface down to the basin?

10 MR. BRUCE: Just the Bone Spring.

11 WITNESS: Yeah, just the Bone Spring.

12 EXAMINER WARNELL: Just the Bone Spring. And  
13 what pool is your --

14 MR. BRUCE: Mr. Examiner, if you look at  
15 Exhibit 1, and I -- I think this was --

16 EXAMINER WARNELL: Wildcat Bone Spring?

17 MR. BRUCE: This is Wildcat that was  
18 inserted by the Division.

19 EXAMINER WARNELL: I see that from the C-102.  
20 No further questions.

21 EXAMINER BROOKS: I do have one further  
22 question. Just -- so you haven't filled in the ABI  
23 number. Do you not have an API number yet on this  
24 well?

25 WITNESS: You have the --

1 MR. BRUCE: Yeah, Mr. Examiner. I do not on  
2 this one. I do on the next case. We'll check that  
3 out.

4 EXAMINER BROOKS: Okay. Any further  
5 questions for the witness, Mr. Bruce?

6 MR. BRUCE: Just a couple.

7 REDIRECT EXAMINATION

8 BY MR. BRUCE:

9 Q. With respect to Chesapeake, you have been here  
10 force pooling wells over the last several months,  
11 haven't you?

12 A. Correct.

13 Q. And you force pooled Chesapeake a number of  
14 times?

15 A. Correct.

16 Q. Have you ever gotten any response from them as to  
17 what they wanted to do on those wells?

18 A. No.

19 Q. And the wells that you have drilled or are  
20 drilling, have you sent election notices pursuant to  
21 the compulsory pooling orders?

22 A. We have.

23 Q. Did Chesapeake elect to join in the wells?

24 A. They did not.

25 MR. BRUCE: That's all I have, Mr. Examiner.

1 MR. FELDEWERT: I have one other.

2 RECROSS-EXAMINATION

3 BY MR. FELDEWERT:

4 Q. Is there any reason, Mr. Lang, that you need a  
5 pooling order in the near future from the Division? Do  
6 you have a lease expiring or anything like that?

7 A. Yes, we do. On this well.

8 Q. On this well. When does your lease expire?

9 WITNESS: Do you a copy of that joint  
10 operating agreement?

11 (Document to witness.)

12 A. We've got several leases that are going out in  
13 June, June 21, but they cover the same acreage that are  
14 being held by or being -- will be held by the well that  
15 we are drilling right now.

16 Q. Good point.

17 A. We have one lease that expires in October.

18 Q. Does the --

19 A. Pardon me?

20 Q. Would that lease be held by the well you are  
21 drilling right now?

22 A. I guess it could be.

23 Q. Okay.

24 A. Could be.

25 Q. Okay. All right. So the well you are drilling

1 now will take care of your lease expirations, it looks  
2 like?

3 A. It would -- well, no. Sorry. September --  
4 September 10 of 2000 -- that's a new lease. Excuse me.  
5 We have a December 8, 2011. It is not affected by the  
6 well that we are drilling, so we have three leases that  
7 expire then.

8 Q. So you don't have any leases that are expiring in  
9 the near future then?

10 A. Not in the next month.

11 Q. And the only one you can identify that's going to  
12 expire potentially is at the end of December?

13 A. December 8.

14 Q. Around the first of December, okay. So you don't  
15 have any immediate need for a pooling order?

16 A. Not right this second, unless something happens  
17 to the well we are drilling and it's not productive,  
18 then we've got to move on that one.

19 Q. Is there -- you said that you didn't -- you're  
20 not drilling on Diamondback?

21 A. That's right.

22 Q. That's the State Com that you have a pooling  
23 order, right?

24 A. Uh-huh.

25 Q. And you don't plan on spudding that well?

1 A. Not right now. We'll go back to it probably.

2 Q. That's because you are doing this current well?

3 A. No. After we drill the current well, we are  
4 going to drill the Diamondback Number 2H in a different  
5 location.

6 Q. I see. So you have absolutely no plans to spud  
7 the Diamondback 22 State Com 1H Well in which you have  
8 a current pooling order?

9 A. Not next month. You know, like I said, on the  
10 pooling order we have a year.

11 Q. Right. Right. And you are not willing to  
12 release that to allow Chesapeake to drill a well and  
13 hold their acreage?

14 EXAMINER BROOKS: Okay, Mr. Feldewert, you  
15 have asked that question before, and you said you had  
16 one question. We don't ordinarily allow extensive  
17 recross.

18 MR. FELDEWERT: I apologize. I apologize.  
19 That's all the questions I have.

20 EXAMINER BROOKS: Okay. The witness may  
21 stand down. And I just have one thing to say to  
22 revisit what Mr. Bruce said about production. I  
23 understand now after I have heard this testimony that  
24 there are negotiating issues between the parties.  
25 Producing a lease that you hold, if you hold it, of

1 course should not be a negotiating tool. And I assume  
2 you don't want to put Mr. Bruce to the extra paperwork  
3 of preparing a subpoena to bring it up here for me to  
4 sign, so I'm going to leave that to the parties and  
5 assume that it will get worked out, but I wanted to  
6 make sure that you were not planning on using that as a  
7 negotiating tool.

8 MR. FELDEWERT: No, just like I'm hoping they  
9 are not using the expiration of Chesapeake's lease as a  
10 negotiating tool in their discussions. My point was it  
11 sounds like we needed to have some additional  
12 discussions both to determine the status of some of  
13 these other working interest owners' leasehold  
14 interests.

15 EXAMINER BROOKS: Very good.

16 MR. FELDEWERT: And also because there is a  
17 chance at least that they might be able to reach a  
18 voluntary agreement, and I'm hoping they will. So the  
19 bottom line is we are requesting this matter be held in  
20 abeyance for another two weeks.

21 EXAMINER BROOKS: Very good. Let's have  
22 Mr. Bruce call his next witness.

23 MR. BRUCE: I think it's going to be  
24 continued for two weeks.

25 EXAMINER BROOKS: It's going to be continued

1     anyway for two weeks because of the estate issue.

2                   MR. BRUCE:     The estate issue.

3                                 WILLIAM HARDIE

4                   (Having been sworn, testified as follows:)

5                                 DIRECT EXAMINATION

6     BY MR. BRUCE:

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

9     A.     William Hardie, and I live in Midland, Texas.

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

11    A.     I'm exploration manager for OGX Resources.

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

14    A.     I have.

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

17    A.     They were.

18    Q.     And are you familiar with the geology involved in  
19    this application?

20    A.     I am.

21    Q.     And, for that matter, is the geology similar for  
22    the next application?

23    A.     It is very similar.   The locations are just a  
24    mile or so apart.

25                   MR. BRUCE:   Mr. Examiner, what I propose is

1 just to have Mr. Hardie testify at this point as to  
2 both wells, and so that he doesn't have to come up and  
3 regurgitate the testimony for the next application.

4 EXAMINER BROOKS: Okay. I think that would  
5 be acceptable. Is there any objection, Mr. Feldewert?

6 MR. FELDEWERT: No objection.

7 EXAMINER BROOKS: Very good. Proceed.

8 Q. Mr. Hardie, I have lettered your exhibits. What  
9 is Exhibit A?

10 A. Exhibit A is a regional structure map on the face  
11 of the Avalon Shale. If I could, I would like to kind  
12 of give the Examiner a little bit more of a regional  
13 perspective on the play itself. I think it helps to  
14 understand the larger play when you are looking at  
15 individual locations as well.

16 So this is a -- this is a structure map on  
17 the base of the Avalon Shale across -- the map's  
18 dimensions are 70 miles wide and about 50 miles in  
19 height. So it's a -- it's a pretty regional look at  
20 the play itself. Structural contours have a 20-foot  
21 contour interval, and they have been color coded by  
22 elevation such that on the western side of the map is  
23 the highest part of the Avalon. The base of the Avalon  
24 Shale is at a depth of about 65 hundred feet. And then  
25 as you move to the east from Eddy County into Lea

1 County, you approach the -- the basin access, and it's  
2 -- it's as deep as 95 hundred feet in the basin access  
3 in Lea County.

4 So there is a pretty significant structural  
5 change that occurs across Southeast New Mexico. The  
6 real significance of that is that the -- this change in  
7 structure also coincides with a pretty dramatic change  
8 in the GOR of the Avalon Shale as its produced across  
9 the Southern part of New Mexico.

10 In the Western reaches the Avalon Shale is  
11 virtually all gas. There are no liquids associated  
12 with it. If you look towards the middle of the map  
13 like around the Poker Lake Unit, the GOR there is about  
14 10,000 to 1. You start seeing some condensate being  
15 produced.

16 By the time you get into Lea County in the  
17 deeper parts of the basin, the GOR is closer to 3,000  
18 to 1, so there is a significant change in the  
19 production characteristics, and it's all associated  
20 with structure.

21 Q. Okay. What is Exhibit B?

22 A. We are looking at the same regional map, only  
23 this time we are looking at a Net Shale Isopach on the  
24 Avalon Interval, and it's a -- it's a map that was  
25 constructed with a gamma ray cutoff of 100 API units.

1 The color corresponding -- the color-filled contours  
2 are coded such that the darker browns indicate thicker  
3 Net Shale sequences, and the lighter colors indicate  
4 thinner. In Eddy County your average thickness is 4-  
5 to 500 feet and that's probably as thick as it gets  
6 anywhere in Southeast New Mexico. In Lea County the  
7 average thickness is probably less than 200 feet, and  
8 and both counties are equally productive.

9 The thick sequence that we see in Eddy  
10 County, it's virtually impossible to drain all of that  
11 with a single wellbore so that there really isn't much  
12 difference in economics of Eddy or Lea based on this  
13 map; it just kind of defines where the play actually  
14 exists.

15 The other thing I have shown on this map, if  
16 you look at the green sticks on there, those are wells  
17 that have been drilled horizontally in the Avalon  
18 Shale. And, as you can see, there are quite a few of  
19 them. If you sit there and count them, there would be  
20 about 180 of them that have actually been drilled  
21 today, so this is a pretty active play. And as you can  
22 see, it does extend into Texas, although Southeast New  
23 Mexico has by far seen more drilling than Texas.

24 Q. Let's move on to a more localized area. What is  
25 reflected in Exhibit C?

1     A.       I think it would be probably useful to look at C  
2     and D at the same time. I would like to start with the  
3     cross-section. I believe that's Exhibit D. Exhibit D  
4     shows -- shows about 2,000 feet of vertical section,  
5     and the Avalon Shale is highlighted in the middle of  
6     that. It's -- it's stratigraphically hung on the top  
7     of the Bone Spring Formation, so it's not a structural  
8     cross-section; it's stratigraphic.

9               The yellow at the top is the Basal Brushy  
10    Canyon, and the yellow that you see at the bottom is  
11    the First Bone Spring Sand. Everything in between is  
12    what we consider the Avalon Shale, so it's everything  
13    between the top of the Bone Spring Formation and top of  
14    the First Bone Spring Sand.

15              I have color coded the gamma ray in the  
16    Avalon such that if it's got a shale characteristic as  
17    being high gamma ray, it's painted brown, and if it's a  
18    cleaner gamma ray, then it paints a blue picture, and  
19    that represents the basic lithology of the Avalon.

20              The shales aren't true shales. They are  
21    actually organic rich siltstone. The Avalon has a  
22    quartz content of almost 80 percent. There is very  
23    little clay content in it, actually, even though we  
24    call it a shale. It looks like a shale, but it's an  
25    organic, rich siltstone, and it's interbedded with

1 detrital carbonates, and that's the difference in the  
2 net map that we just looked at. The brown represents  
3 the compilation of the net thickness that you have seen  
4 on the previous map.

5 The Exhibit C, is just kind of a zoomed-in  
6 version of the two previous maps you looked at. On the  
7 left is the Net Shale, and you can see highlighted on  
8 there are the two locations that we are seeking to  
9 pool. They exist in -- in Township 26 South, 29 East,  
10 right on the Texas state line. And they have been --  
11 they have been labeled the Copperhead Fee A Number 1H  
12 and the Sidewinder Number 1H.

13 We expect about 500 feet of Net Shale in the  
14 area of the Copperhead and about 400 feet of Net Shale  
15 in the Sidewinder area. The map on the right is,  
16 again, a structure map on the base of the Avalon Shale.  
17 There is nothing particularly significant here, we are  
18 just looking at regional dip at about 100 feet per  
19 mile. No significant structures. This is not a  
20 structural play.

21 And then also on both maps I have shown where  
22 the cross-section of Exhibit B is shown, and it passes  
23 just to the north of the these proposed locations.

24 Q. Mr. Hardie, will each quarter quarter section or  
25 lot in each well unit contribute to production, in your

1 opinion?

2 A. They will all contribute to production and they  
3 will contribute equally.

4 Q. Finally, Mr. Hardie, I have marked as Exhibits  
5 E-1 and E-2 the -- the APDs for the Sidewinder Number  
6 1, and E-2 is the APD for the Copperhead Fee Number 1,  
7 and contained in there is the drilling prognosis for  
8 each well. For the Examiners, could you describe how  
9 OGX is currently drilling and completing these wells?

10 A. Those wells are fairly similar in the way they  
11 will be drilled and completed. The one exception is  
12 that the Copperhead Fee is going to be a longer lateral  
13 because of the short sections we have right near the  
14 state line, and its -- its lateral length is going to  
15 be about 1,000 feet longer than the Sidewinder.

16 But we drill these -- we drill them vertically  
17 to a depth of about 400 feet above where we intend to  
18 go horizontal. We will run open hole logs at that  
19 point and recalibrate exactly where we predict our  
20 horizontal target to be, and we will develop the  
21 horizontal plan at that time. And then the directional  
22 company will guide us in cutting our curve, about a 400  
23 foot radius curve, and that -- that puts the wellbore  
24 in the proposed target zone, and then we drill  
25 horizontally until we reach the target, which is

1 usually 330 feet or so before the end of the section in  
2 the case of the Sidewinder, and about 1650 feet before  
3 the end of the section in the case of the Copperhead  
4 Fee.

5 Typically we -- we complete these wells  
6 nowadays with a sliding sleeve system, and OGX has been  
7 more recently actually cementing the sliding sleeve  
8 casing in -- in the hole. They can also -- sliding  
9 sleeves can also be used with swelling packers and  
10 mechanical packers to isolate intervals, and we have  
11 found that it's difficult to get that packer system in  
12 the hole, and so we eliminated that and we just cement  
13 the liner in place.

14 And then we typically employ a 20-stage frac  
15 job that -- that has given us the best results to date.  
16 It usually involves between 2 and 3 million pounds of  
17 sand, and those 20 stages each receive about a -- I  
18 think, about 150,000 pounds of sand, something like  
19 that. That's the goal. If all the stages were to go  
20 well, we would probably pump over 3 million pounds of  
21 sand. Some of them don't go as well as others.

22 The stages are isolated one from the other by  
23 a system of -- of balls that are -- one is the -- you  
24 start out with the bigger balls and end up with smaller  
25 ones at the end of the frac job, and the whole process

1 almost never stops, usually the best way to get a well  
2 like that fracked with that many stages in the shortest  
3 period of time.

4 Q. Mr. Hardie, were Exhibits A, B, C, and D prepared  
5 by you?

6 A. They were.

7 Q. And were Exhibits E-1 and E-2 compiled from  
8 company business records?

9 A. They were.

10 Q. In your opinion, is the granting of both  
11 applications in the interest of conservation and  
12 prevention of waste?

13 A. They are.

14 MR. BRUCE: Mr. Examiner, I would move the  
15 admission of Exhibits A through E-2.

16 MR. FELDEWERT: No objection.

17 EXAMINER BROOKS: A through E-2 are admitted.  
18 (Exhibits A through E-2 admitted.)

19 MR. BRUCE: I pass the witness.

20 MR. FELDEWERT: I have no questions.

21 EXAMINER BROOKS: Okay. Just one. When you  
22 were describing your drilling procedure, you said you  
23 drilled vertically through 4- or 500 feet above where  
24 you intended to go horizontal. I just was unsure if  
25 you meant -- because I know the way some other

1 operators do things -- if you meant above or below.

2 WITNESS: Above.

3 EXAMINER BROOKS: Okay.

4 WITNESS: If we had wanted to cut a pilot  
5 hole and look at the section vertically, we would have  
6 probably drilled below it, but we don't typically do  
7 that anymore.

8 EXAMINER BROOKS: Okay. Mr. Warnell?

9 EXAMINER WARNELL: No questions.

10 EXAMINER BROOKS: Very good. Direct the  
11 reporter that this witness' testimony needs to be  
12 reproduced also in -- what's the case number?

13 MR. BRUCE: 14662.

14 EXAMINER BROOKS: Case Number 14662. Okay.  
15 Thank you. Anything further in this case, Mr. Bruce?

16 MR. BRUCE: No, sir.

17 EXAMINER BROOKS: Mr. Feldewert?

18 MR. FELDEWERT: Mr. Examiner, we move that  
19 this matter be continued for two weeks to not only  
20 address the concerns that you raised about the estate,  
21 but also so the parties can engage in active, good-  
22 faith efforts to reach an agreement and propose then in  
23 two weeks we report back to the Examiner on the results  
24 of their efforts.

25 EXAMINER BROOKS: We will continue the case

1     until June -- the Case Number 14661 will be continued  
2     to June 23. I do not anticipate that it will be  
3     necessary to have the witnesses back unless,  
4     Mr. Feldewert, you plan a presentation that you would  
5     need their witnesses to be present for, in which case,  
6     please notify Mr. Bruce --

7                     MR. FELDEWERT: I will do that.

8                     EXAMINER BROOKS: -- of the situation. Case  
9     Number 14661 is continued to June 23.

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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. 14661.  
heard by me on June 9 201.  
David K. Brooks, Examiner  
Oil Conservation Division

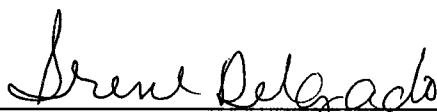
## REPORTER'S CERTIFICATE

I, IRENE DELGADO, New Mexico CCR 253, DO  
HEREBY CERTIFY that on June 9, 2011, proceedings in the  
above-captioned case were taken before me and that I  
did report in stenographic shorthand the proceedings  
set forth herein, and the foregoing pages are a true  
and correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed  
by nor related to nor contracted with any of the  
parties or attorneys in this case and that I have no  
interest whatsoever in the final disposition of this  
case in any court.

WITNESS MY HAND this \_\_\_\_ day of \_\_\_\_

\_\_\_\_\_.

  
Irene Delgado CCR 253  
Expires: 12-31-11

**STATE OF NEW MEXICO**  
**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**  
**OIL CONSERVATION DIVISION**

**CASE NO:**  
**14661**

**EXHIBITS 1 - 7**

**EXHIBIT'S A-E2**