

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. 13,534

APPLICATION OF OXY USA WTP LIMITED)
PARTNERSHIP FOR COMPULSORY POOLING,)
EDDY COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

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

August 11th, 2005

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, August 11th, 2005, 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

August 11th, 2005
 Examiner Hearing
 CASE NO. 13,534

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APPLICANT'S WITNESS:	
<u>DAVID RAY EVANS</u> (Landman)	
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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
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Energy, Minerals and Natural Resources Department
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FOR THE APPLICANT:

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By: WILLIAM F. CARR

FOR POGO PRODUCING COMPANY:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
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* * *

1 WHEREUPON, the following proceedings were had at
2 10:08 a.m.:

3 EXAMINER JONES: Okay, let's go back on the
4 record and call Case 13,534, Application of OXY USA WTP
5 Limited Partnership for compulsory pooling, Eddy County,
6 New Mexico.

7 Call for appearances.

8 MR. CARR: May it please the Examiner, my name is
9 William F. Carr with the Santa Fe office of Holland and
10 Hart, L.L.P. We represent OXY USA WTP Limited Partnership
11 in this matter, and I have one witness.

12 EXAMINER JONES: Any other appearances?

13 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
14 representing Pogo Producing Company. I have no witnesses.

15 EXAMINER JONES: Will the witness please stand to
16 be sworn?

17 (Thereupon, the witness was sworn.)

18 MR. CARR: May it please the Examiner, as you
19 know, and as Ms. MacQuesten knows, the parties in this case
20 have been involved in settlement negotiations for some
21 time. As you also know from a motion filed this week by
22 Mr. Bruce, there's been concern about the notice provided
23 and whether or not Pogo had adequate time to respond.

24 Following your ruling on that motion yesterday,
25 Mr. Bruce and I again have discussed these issues,

1 including the adequacy of the notice and the need for a
2 continuance. And with your permission, since my witness is
3 here, I would like to present OXY's case today. And at the
4 end of the presentation of the evidence, I will request the
5 case be continued for two weeks. This will assure that
6 adequate time has been provided.

7 If we are able to reach a settlement during this
8 two-week period of time, we will immediately notify you so
9 there is no -- you won't be asked to write an unnecessary
10 order. And if we are unable to reach an agreement after
11 the case is called two weeks from now, we do request that
12 the order be expedited because, as our testimony will show,
13 we are looking at a situation where we really may need to
14 move a rig onto this location in 20 to 30 days, and if we
15 have to go through the pooling process and the notice time,
16 it's important to go forward quickly.

17 So if this is agreeable with you, we think it
18 addresses the notice question and it provides time for
19 negotiations and it would avoid an unnecessary order, so we
20 request permission to proceed with the hearing at this
21 time.

22 EXAMINER JONES: Mr. Bruce?

23 MR. BRUCE: I have no objection.

24 EXAMINER JONES: Okay, let's proceed and then
25 continue until -- after this we'll continue it until --

1 MR. CARR: -- the 25th of August.

2 EXAMINER JONES: Okay, 25th of August, okay.

3 DAVID RAY EVANS,

4 the witness herein, after having been first duly sworn upon
5 his oath, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. CARR:

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

9 A. David Ray Evans.

10 Q. Mr. Evans, where do you reside?

11 A. Midland, Texas.

12 Q. By whom are you employed?

13 A. OXY USA WPT, LP, limited partnership.

14 Q. What is your current position with OXY?

15 A. I'm a senior landman advisor.

16 Q. Have you previously testified before the New
17 Mexico Oil Conservation Division?

18 A. I have not.

19 Q. Could you review your educational background for
20 the Examiner, please?

21 A. I have a BS with the University of Tulsa out of
22 Oklahoma, and several various oil and gas courses.

23 Q. When did you graduate from the University of
24 Tulsa?

25 A. 1980.

1 Q. Could you review for the Examiner your work
2 experience?

3 A. I have handled New Mexico, Texas, the Rockies,
4 and just about every possible producing area in the United
5 States, including Alaska.

6 Q. And doing this, for whom have you worked? At all
7 times have you been with OXY?

8 A. Cities Service, OXY.

9 Q. Are you familiar with the Application filed in
10 this case?

11 A. I am.

12 Q. And are you familiar with the status of the lands
13 that are the subject of this pooling?

14 A. I am.

15 MR. CARR: We tender Mr. Evans as an expert in
16 petroleum land matters.

17 MR. BRUCE: I have no objection.

18 EXAMINER JONES: Mr. Evans is qualified as an
19 expert petroleum landman.

20 Q. (By Mr. Carr) Mr. Evans, could you briefly state
21 for the Examiner what it is that OXY seeks with this
22 Application?

23 A. We are looking to communitize the 320 acres, the
24 east half of Section 15, 19-27, for the Morrow -- Atoka-
25 Morrow rights, and uphole to the 160, if necessary, for

1 those rights in the northeast quarter.

2 Q. And if these interests are pooled, to what well
3 do you propose to dedicate them?

4 A. We propose to dedicate it to the Fat Cactus
5 Number 1.

6 Q. Will this well be drilled at a standard location?

7 A. Standard location, 660 from the north, 1400 from
8 the east.

9 Q. If the east half is, in fact, dedicated to the
10 well, there are existing Atoka-Morrow pools under this
11 acreage; is that right?

12 A. Correct.

13 Q. What's the current status of this well?

14 A. This well is on our drilling schedule. It could
15 be drilled 20 days from now or 60 days, depending on an
16 arch. survey on another well that we've been held up on, on
17 the Horsetail 15.

18 Q. So what -- Do you have a rig available?

19 A. We have a rig available.

20 Q. And you -- Is it currently drilling --

21 A. It will be --

22 Q. -- another well?

23 A. Currently drilling a well, and it will be
24 available in about 15 days.

25 Q. If you're able to get all permits through the

1 BLM, including archaeological approvals, you would be
2 moving this rig to another well?

3 A. That's correct.

4 Q. But the permit's been pending for some time?

5 A. That's correct.

6 Q. If you do not get the other well, then the Fat
7 Cactus is the location to which you will move this rig?

8 A. Yes.

9 Q. The primary objective in the well is what
10 formation?

11 A. Atoka-Morrow.

12 Q. And what is the subject pool under the acreage?

13 A. Angel-Morrow?

14 Q. Is it the Angel Ranch?

15 A. Angel Ranch, yes, Angel Ranch.

16 Q. Let's go to what has been marked for
17 identification as OXY Exhibit Number 1. Would you identify
18 that and review it for Mr. Jones?

19 A. This is a plat identifying our east-half
20 proration unit, that identifies the location of the well
21 and the ownership in the area.

22 Q. Attached to this plat is also a copy of the
23 survey plat, the C-102, for the well; is that right?

24 A. That's right.

25 Q. And this confirms, in fact, that the well is

1 proposed at a standard location?

2 A. Correct.

3 Q. What acreage is OXY proposing to pool?

4 A. The northeast-northeast quarter, a federal lease
5 that is owned by Pogo.

6 Q. Have all other interests been voluntarily
7 committed to the well?

8 A. Yes, all of the interests have signed and are
9 going to participate in the well.

10 Q. And who are those interest owners?

11 A. BP Petroleum and Yates, et al.

12 Q. Let's go to OXY Exhibit Number 2, and I'd ask you
13 to refer to this exhibit and review for the Examiner the
14 efforts that have been made to reach voluntary agreement
15 for the development of this acreage.

16 A. Exhibit 2 is our letter, certified, sent out
17 proposing the drilling of the well, with the attached copy
18 of the AFE and copies of the signed certified cards.

19 Q. This letter that is Exhibit 2 is dated April the
20 4th, 2005?

21 A. That's correct.

22 Q. And that actually the proposal that is before the
23 Commission in this case today; is that right?

24 A. That's right.

25 Q. Have there been prior discussions concerning the

1 drilling of this well?

2 A. Yes, actually we proposed this on March the 29th
3 and revised it with this letter April 4th.

4 Q. And the revision was simply to change the
5 orientation at the dedicated spacing unit?

6 A. That's correct, from the north half to the east
7 half.

8 Q. Both proposals would have been while drilling a
9 Morrow well on a 320?

10 A. Yes, sir.

11 Q. And both would have required the commitment of
12 the 40 acres leased to Pogo?

13 A. Yes, sir.

14 Q. Have you had discussions with Pogo concerning the
15 development of this acreage since the date of this well
16 proposal?

17 A. Our last conversation was on August the 9th, in
18 which we endeavored to continue to negotiate with them to
19 finalize a deal.

20 Q. Is OXY Exhibit 3 a summary of the contacts back
21 and forth by date between Pogo and OXY concerning an
22 agreement for the voluntary participation of Pogo in the
23 well?

24 A. Yes, it is.

25 Q. To date, has an agreement been made?

1 A. No, there hasn't.

2 Q. The last discussions on this matter were when?

3 A. August 9th.

4 Q. Is OXY prepared to continue negotiations with
5 Pogo during the next two weeks?

6 A. Yes, we are.

7 Q. In your opinion, are you close to reaching an
8 agreement?

9 A. I hope so. I feel we're close.

10 Q. In your opinion, have you made a good-faith
11 effort to obtain Pogo's voluntary participation in the
12 well?

13 A. Yes.

14 Q. Let's go to Exhibit Number 4, the AFE for the
15 well. Would you review the totals on this exhibit for the
16 Examiner?

17 A. To drill it as a producer is \$1,474,063. Dryhole
18 cost is \$1,043,000.

19 Q. Has OXY drilled other Atoka-Morrow gas wells in
20 this area?

21 A. Yes, we have.

22 Q. Are these costs consistent with the actual costs
23 incurred in the drilling of those wells?

24 A. Yes, they are.

25 Q. Is OXY Exhibit Number 5 a copy of the COPAS

1 accounting procedure for joint operation?

2 A. Yes, it is.

3 Q. Is this provision -- it's marked Exhibit "C" --
4 is this the accounting procedure to be attached to the
5 joint operating agreement for this well?

6 A. Yes, it is.

7 Q. And have these provisions been accepted by both
8 Yates, et al., and BP?

9 A. They have been.

10 Q. Do these procedures provide for the periodic
11 adjustment of overhead and administrative costs?

12 A. Yes, they do.

13 Q. And does OXY request that any order that is
14 entered as a result of this hearing be adjusted in
15 accordance with these COPAS procedures?

16 A. Yes.

17 Q. Has OXY made an estimate of the overhead and
18 administrative costs to be incurred while drilling the well
19 and also while producing it if it is successful?

20 A. Yes, they have.

21 Q. And what are those figures?

22 A. \$6000 and \$600.

23 Q. And how do these compare to the 2004-2005 Ernst
24 and Young survey figures for this area, their median
25 figures?

1 A. The new Ernst numbers are \$10,000 and \$1000.

2 Q. And so these are significantly below those
3 figures?

4 A. Yes, they are.

5 Q. Have these figures been accepted by Yates, et
6 al., and by BP?

7 A. Yes, they have.

8 Q. Do you recommend that these figures be
9 incorporated into the order that results from today's
10 hearing?

11 A. Yes, I do.

12 Q. Does OXY request that the 200-percent charge for
13 risk authorized by statute be imposed on each cost-bearing
14 interest not voluntarily committed to this well?

15 A. Yes.

16 Q. And does OXY USA WTP Limited Partnership seek to
17 be designated the operator of the well?

18 A. Yes, we do.

19 Q. Is Exhibit Number 6 an affidavit that confirms
20 that notice was provided, and it provides return receipts
21 and also a copy of the newspaper ad on this case?

22 A. Yes, it is.

23 Q. And does OXY agree with Pogo's request that
24 following this hearing, that this Application be continued
25 for two weeks to permit further negotiation?

1 A. Yes, we do. We just request that we can expedite
2 a pooling if necessary.

3 Q. It is possible that you could need a rig on it in
4 a matter of 20, 25 days; is that right?

5 A. Very possible.

6 Q. And so at the end of those two weeks, if we're
7 unable to reach a voluntary agreement, OXY would need to
8 have an expedited order at that time?

9 A. We would request that, yes.

10 Q. If you reach agreement with Pogo for the
11 voluntary commitment of their interest to this well, will
12 OXY immediately notify Mr. Jones and Ms. MacQuesten?

13 A. Yes, we will.

14 Q. Were Exhibits 1 through 6 either prepared by you
15 or have you reviewed them and can you testify as to their
16 accuracy?

17 A. Yes, prepared under my supervision, and I --

18 MR. CARR: May it --

19 THE WITNESS: -- they are correct.

20 MR. CARR: May it please the Examiner, at this
21 time we'd move the admission into evidence of OXY Exhibits
22 1 through 6.

23 EXAMINER JONES: Any objection?

24 MR. BRUCE: No objection.

25 MR. CARR: That concludes my direct examination

1 of Mr. Evans.

2 EXAMINER JONES: Oxy Exhibits 1 through 6 will be
3 admitted to evidence.

4 Mr. Bruce?

5 MR. BRUCE: I just have one question for Mr.
6 Evans.

7 EXAMINATION

8 BY MR. BRUCE:

9 Q. Exhibit 4, the AFE, is dated in March, '05. Do
10 you know if those estimated well costs have increased --

11 A. I do not.

12 MR. BRUCE: -- since then? Okay.

13 Mr. Examiner, that's all I have. I would state
14 that if the parties don't come to terms we have no
15 objection to an expedited order being issued at the hearing
16 on the 25th.

17 EXAMINER JONES: Okay. Okay, we have no
18 questions. Thank you, Mr. Evans.

19 THE WITNESS: You're welcome.

20 EXAMINER JONES: Thank you, Mr. Carr, Mr. Bruce.

21 With that, we'll continue Case 13,534 until
22 August 25th.

23 (Thereupon, these proceedings were concluded at
24 10:22 a.m.)

25

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No.
* * * heard by me on

STEVEN T. BRENNER, CCR
(505) 989-9316 Conservation Division, Examiner

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 12th, 2005.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006