

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:

ORIGINAL

APPLICATION OF RSC RESOURCES LIMITED  
PARTNERSHIP FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO

Case 14932

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Presiding Examiner  
DAVID K. BROOKS, Legal Examiner

November 29, 2012

Santa Fe, New Mexico

This matter came on for hearing before the  
New Mexico Oil Conservation Division, RICHARD EZEANYIM,  
Presiding Examiner, and DAVID K. BROOKS, Legal Examiner,  
on Thursday, November 29, 2012, at the New Mexico Energy,  
Minerals and Natural Resources Department, 1220 South St.  
Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91  
Paul Baca Professional Court Reporters  
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A P P E A R A N C E S

FOR THE APPLICANT:

JAMES BRUCE, ATTORNEY AT LAW  
P.O. Box 1056  
Santa Fe, New Mexico 87501  
(505)982-2043

WITNESSES:

PAGE

Randall Cate:

Direct examination by Mr. Bruce  
Examination by Examiner Ezeanyim

4  
16

INDEX

PAGE

EXHIBITS 1 THROUGH 9 WERE ADMITTED

15

REPORTER'S CERTIFICATE

19

1 EXAMINER EZEANYIM: At this point, we  
2 continue and we call Case Number 14932. This is the  
3 application of RSC Resources Limited Partnership for  
4 compulsory pooling, Eddy County, New Mexico.

5 Call for appearances.

6 MR. BRUCE: Mr. Examiner, Jim Bruce, of  
7 Santa Fe, representing the applicant. I have one witness  
8 to present.

9 EXAMINER EZEANYIM: Any other appearances?

10 Okay. The witness will stand and state your  
11 name and be sworn in, please.

12 MR. CATE: Randall Cate. I'm the owner  
13 and president of RSC Resources. I live in Midland,  
14 Texas.

15 (One witness was sworn.)

16 EXAMINER EZEANYIM: You may proceed,  
17 Mr. Bruce.

18 MR. BRUCE: Mr. Examiner, we're here to  
19 force pool the north half of Section 14 of 24 South, 28  
20 East. The applicant seeks to pool the north half from  
21 the surface to the base of the Wolfcamp formation for  
22 320-acre units and the northwest quarter for any 160-acre  
23 gas units in the northeast/northwest, to form a 40-acre  
24 well unit. And we'll go into a little more detail on  
25 this.

1           The well is a vertical well. It's a re-entry  
2   of an existing well, the Marra Well Number 1, which is in  
3   the northeast/northwest of Section 14.

4           And first, Mr. Examiner, we submitted an  
5   affidavit of a landman as Exhibit 1, which is merely  
6   submitted -- and we'll go into more detail -- to show the  
7   records she examined and the Internet searches, et  
8   cetera, in order to locate the people. As we will show  
9   you, at least in this first case, there are dozens or  
10   maybe hundreds of parties in this well unit. It's been  
11   quite a mess.

12                           RANDALL CATE

13           Having been first duly sworn, testified as follows:

14                           DIRECT EXAMINATION

15   BY MR. BRUCE:

16           Q.    Mr. Cate, you said you're president of RSC.  
17   What is your education? What are you, by education and  
18   profession?

19           A.    I'm a mechanical engineer by degree,  
20   University of Texas, 1979 graduate.

21           Q.    And have you previously testified before the  
22   Division?

23           A.    Yes.

24           Q.    As a petroleum engineer?

25           A.    Yes.

1 Q. And were your credentials as an expert  
2 petroleum engineer accepted as matter of record?

3 A. Yes.

4 MR. BRUCE: Mr. Ezeanyim, I tender Mr.  
5 Cate as an expert petroleum engineer.

6 EXAMINER EZEANYIM: He's so qualified.

7 Q. (By Mr. Bruce) Since I've introduced the well  
8 and the well unit, just very briefly, what is Exhibit 2?

9 A. Exhibit 2 is a land plat. It's off a Midland  
10 map, but colored in is the north half of Section 14,  
11 Township 24 South and Range 28 East. That comprises the  
12 320-acre unit that will be required for an attempted  
13 Wolfcamp completion. It is a Wolfcamp gas reservoir.  
14 I'll show you production information from nearby wells a  
15 little later on.

16 Q. Let's go to your next exhibit, Exhibit 3.  
17 This lists the people that RSC seeks to force pool?

18 A. That's right. There were -- of this list,  
19 believe it or not, it makes up probably about 10 acres,  
20 is all, of ownership.

21 And this is not going to be an exhibit, but  
22 let me just show you what we're dealing with. This is  
23 the county tax assessor's map of the north half of 14.  
24 And while the northeast quarter is relatively large-sized  
25 blocks, these are all town lots over here. They average

1 .2066 acres per lot.

2 EXAMINER BROOKS: Subdivided without  
3 mineral reservation?

4 THE WITNESS: Yes.

5 So right there we started this project about  
6 three years ago. Diane Magee is an excellent landman,  
7 and I've worked with her longer than that. But I know  
8 she's got 20 or 30 years of experience. Her father was  
9 an independent landman. And when she first got into  
10 this, she kind of went, "Oh, boy."

11 The Marra well was drilled in 1981, I believe,  
12 as an Atoka. And this Malaga area, 30 to 40 years ago,  
13 in the '70s and '80s, it was an Atoka-Morrow play. And  
14 lot of companies, Amoco, Coquina, those types, had come  
15 in and drilled quite a few wells out here.

16 So what we did is we took the title opinions  
17 from those wells and did the run sheets, of course, and  
18 brought all the ownership forward the best we can.

19 The problem is that a lot of these people  
20 moved or they died in other states. They're deceased.  
21 We cannot find a lot of these heirs. Even when we find  
22 some of them, they don't know if they own it or not,  
23 between wills or a lack of probate. So there's a lot of  
24 ownership problems.

25 But again, luckily we've got it down to about

1 10 acres out of -- I'm sorry. About 10 percent, I think,  
2 is the correct number, out of 100 percent, that's all  
3 going to be pooled. It seems like every day we're  
4 getting calls from people who are willing to enter into  
5 lease agreements or letting them join.

6 Q. Besides Diane Magee, you were also involved in  
7 contacting people and trying to track them down?

8 A. Very heavily. Hundreds of letters went out.  
9 My wife is also -- Lisa is her name. She acted as  
10 secretary and sent out a lot of letters. On the back of  
11 the ownership report, there's a couple of examples.

12 Q. Before you get into that, identify what  
13 Exhibit 3 is.

14 A. Exhibit 3 is the ownership report for the  
15 parties that we are pooling.

16 Q. So this does not list the people that have  
17 already committed their interests?

18 A. That's right. It would be five times larger,  
19 so we tried to keep it simple here.

20 Q. Going through the lines, you have their names  
21 in alphabetical arrangement?

22 A. That's right.

23 Q. You have addresses, if you had them; title  
24 information; and then comments on your contacts with  
25 them?

1           A.     That's right. We initially, back in  
2     September, started sending out oil and gas leases or  
3     letters, trying to find people. And then we would follow  
4     up on them if we got any leads on the heirs, their  
5     addresses.

6                     And in October we sent more letters again. A  
7     lot of them were returned undeliverable. We don't know  
8     how to find them. Some of the names are like John Smith.  
9     You do a search, and you're going to find 10,000.

10          Q.     So in many instances, there's no probate in  
11     Eddy County; correct?

12          A.     That's correct.

13          Q.     There may not be a probate in the state and  
14     county where you located these people?

15          A.     That's right.

16          Q.     There are also, in most cases, no affidavits  
17     of heirship, either?

18          A.     That's right. We went through tax records,  
19     probates, obituaries, everything that you can reasonably  
20     do to try to find these people.

21          Q.     The final two columns give their net acres in  
22     the 320-acre unit; correct?

23          A.     Yes.

24          Q.     And their percentage interest?

25                     You said attached as the last two pages of



1 this ownership chart are sample letters that were sent  
2 out, proposal letters and leasing letters that you sent  
3 out to the various interest owners?

4 A. Yes.

5 Q. Are you continuing -- once people are found or  
6 once they contact you, again, are you continuing to take  
7 leases even -- will you continue to take leases from  
8 people or let them join in the well after this hearing?

9 A. Yes.

10 Q. If you do come to terms with people on this  
11 Exhibit 3 list, will you notify the Division so that they  
12 are not subject to the force pooling?

13 A. Yes, we will.

14 Q. Specifically, as of this morning, one of the  
15 parties that was being pooled was -- no. That's in a  
16 different hearing.

17 Both you and I have been contacted in the last  
18 couple of days by people who said they would send in  
19 leases?

20 A. That's right. We will negotiate. A lot of  
21 certified letters -- I mean the cards came back. We know  
22 that they received them, but they will not respond.

23 A lot of it, I believe, is how small these  
24 tracts are. You can go look. But I mean we're talking  
25 hundreds and thousands of a percent, and it's just hardly

1     worth it.    So I think that's what's going on, too.

2           Q.     In your opinion, has RSC made a good-faith  
3     effort first to locate these parties?

4           A.     Yes.

5           Q.     Has it made a good-faith effort to obtain  
6     their voluntary joinders in the well?

7           A.     Yes.

8           Q.     Let's go to Exhibit 4.   What is that?

9           A.     It's the AFE that accompanied the well  
10    proposal that we sent out.   So those letters on the back  
11    of Exhibit 3 were accompanied by Exhibit 4, the AFE.

12          Q.     What is the estimated cost of the re-entry?

13          A.     One and a half million dollars, in round  
14    numbers.   It's not really a re-entry of a plugged well.  
15    This well is an existing, temporarily abandoned Atoka  
16    producer.   It was an Atoka producer.   So we're going to  
17    plug it back.

18                 It had not produced for approximately six  
19    years.   And the leases expire by their own terms, of  
20    course, if you don't produce.   And so we acquired the  
21    wellbore and had to put all the leasehold back together  
22    again.

23          Q.     In your opinion, is this cost fair and  
24    reasonable?

25          A.     Yes.   It's definitely in the range of what it

1 will cost to plug that back and do either a three- or  
2 four-stage frack job in the Wolfcamp.

3 Q. And what overhead rates do you propose for the  
4 well?

5 A. \$7,000 per month for the drilling operation,  
6 \$700 per month on the monthly lease cost.

7 Q. Are those rates equivalent to those charged by  
8 RSC and other operators in this area for wells of this  
9 depth?

10 A. Yes. And I also looked at the COPAS, the  
11 Ernst & Young overhead comparison, and industry surveys.  
12 And they're right within the acceptable range.

13 Q. Do you request a 200 percent risk charge  
14 against interest owners who do not join in the re-entry  
15 of the well?

16 A. Yes.

17 Q. One thing, who will be the operator of this  
18 well?

19 A. The operator will be Guardian Operating Corp.,  
20 which is wholly owned by RSC Resources. It is my  
21 operating company.

22 Q. Is Exhibit 5 the notice letter that you sent  
23 out regarding the hearing?

24 A. Yes.

25 MR. BRUCE: And Mr. Examiner, submitted as

1 Exhibit 6 is a rather lengthy affidavit of publication of  
2 the names of interest owners who were either known or  
3 thought to be unlocatable.

4 Q. (By Mr. Bruce) Just to discuss very briefly,  
5 could you identify Exhibit 7 -- maybe Exhibits 7 and 8  
6 together, and just briefly discuss your plans for the  
7 well?

8 A. Sure. If you'll pull the -- Exhibit 8 is the  
9 log of the Wolfcamp zone in this area. I can show you  
10 what's going on. And Exhibit 7, I'll identify. It is  
11 the wellbore diagram of the Marra Number 1 as it exists  
12 right now.

13 We'll have to -- we think, in order to frack  
14 this, we might have to run a string of five-and-a-half  
15 inch. I've been involved recently in a well that  
16 Mewbourne operates that's several miles from here. It's  
17 a Wolfcamp horizontal. They had a very hard time  
18 fracking it. They couldn't get the pressure and the  
19 rates.

20 So I believe we're going back to the drawing  
21 board to -- because the existing casing probably will not  
22 withstand the pressure required for the stimulation. But  
23 all that is just to show you it's an old, deep existing  
24 Atoka producer, and it's a good use of an old wellbore to  
25 try to get some more production out of it.

1           The log, Exhibit 8, the Wolfcamp is almost  
2   1,000-foot thick in this area. But really, just to show  
3   you where the operators in the area have been  
4   concentrating, I've got these little arrows up and down.

5           As you can see, Mr. Ezeanyim, it corresponds  
6   to an increase in the resistivity. And that is telling  
7   us these areas that have the increased resistivities is  
8   where the production is being established in these  
9   Wolfcamps. It's a relatively new play, but that is where  
10   they're establishing production. That is the  
11   significance of that log.

12           As you can see, they do have wet shales in  
13   between. I'm not sure exactly how that works. But most  
14   of these do produce substantial amounts of water, also.

15           Q.    Briefly, Exhibit 9 -- of course, this is a  
16   Wolfcamp well. But there are other prospective zones in  
17   this area, are there not?

18           A.    That's right. There's been Delaware  
19   production, it's kind of random, and also Bone Spring.

20           So what I did, since we're only interested in  
21   the Wolfcamp, I used drilling info as my production  
22   search engine. I did a search of the entire Sections 1  
23   through 24 in Townships 24 and 28 and pulled it up on the  
24   Wolfcamp, and this is what comes up.

25           There is a Devon well to the west of us in

1 Section 13. The report generates, of course, the API.  
2 But the operator -- but more importantly is the legal  
3 description about five columns over.

4 So our well is in Section 14. There was a  
5 test in Section 13 that -- you can see the first  
6 production, the cumulative oil and gas. It was not  
7 economic. Clearly, cumulative gas after seven years  
8 is -- well, after 14 years, 70 million. I do not believe  
9 they used the frack technology, though, and that's what I  
10 am counting on to enhance the reserves here.

11 Over in Section 9 there was a well called  
12 Woods. It's the only other one that actually has a  
13 decent amount of production, and that's almost half a  
14 bcf. It's still producing 30 mcf a day or so. Again,  
15 acid. But they did not do the fracture treatments, the  
16 best I can tell.

17 Q. These wells are primarily gas? There is very  
18 little oil produced in --

19 A. Very little oil. It's definitely a gas  
20 reservoir.

21 The next page would be the Bone Spring  
22 Formation, if we have to come up to the 40 acres, even  
23 160, if it happened to be a Bone Spring gas. But again,  
24 you can tell by this sampling of the production out there  
25 that it's not very high production. The best oil well

1 out there is probably 20,000 barrels after 20 years, so  
2 it's just not real economic.

3 And then the final last two pages are the  
4 Delaware production. It's more widespread. But as you  
5 can see, when you go down to cumulative oil, it varies  
6 dramatically. The Delaware is notorious for being very  
7 hard to determine what the EUR will be, I'll say that.

8 So I mean that kind of speaks to the risk of  
9 what we're doing. I believe we'll make a well, and then  
10 the ultimate reserves are what will be at risk here.

11 Q. Do you believe that the 200 percent risk  
12 charge is justified?

13 A. It's definitely appropriate, yes.

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

17 A. Yes.

18 Q. Were Exhibits 1 through 9 prepared by you or  
19 compiled from company business records?

20 A. Yes.

21 MR. BRUCE: Mr. Examiner, I move the  
22 admission of Exhibits 1 through 9.

23 EXAMINER EZEANYIM: Exhibits 1 through 9  
24 will be admitted.

25 (Exhibits 1 through 9 were admitted.)

1 MR. BRUCE: I have no further questions.

2 EXAMINER BROOKS: No questions.

3 I just can relate to your situation, because I  
4 did a title opinion on a 320-acre unit in the City of  
5 Farmington, where they had not -- where they had  
6 subdivided it into town lots without reservation of  
7 mineral rights.

8 THE WITNESS: Some people would think  
9 we're crazy.

10 MR. BRUCE: An opinion from a dozen years  
11 ago on this is 190 pages long.

12 EXAMINATION

13 BY EXAMINER EZEANYIM:

14 Q. My first question is that you're going to pool  
15 from the surface maybe to the base of the Wolfcamp  
16 because you have abandoned the Morrow?

17 A. Yes.

18 Q. You're going to plug back to the Morrow?

19 A. That's correct.

20 Q. Are you pooling from the surface to the base  
21 of the Wolfcamp? Because you are including the Atoka and  
22 the Bone Spring and all that, what is your primary  
23 target?

24 A. The Wolfcamp.

25 Q. But for the production data you gave me, it



1 appears you're going to plug back to those shallower  
2 production areas?

3 A. That's right, if we must. If we're not  
4 successful in the Wolfcamp, then we would come to the  
5 Bone Spring. There's two or three intervals that I would  
6 like to try.

7 Q. That's fine. I don't care if you're pooling  
8 from the surface to the base of the Wolfcamp, which is  
9 your target.

10 A. That's correct.

11 We do know that the Atoka pressure is very  
12 low. It's only a few hundred pounds now. We will  
13 abandon it. I've turned in the C-101 to plug back to the  
14 State, to the Artesia District. We'll set a bridge plug  
15 and 35 feet of cement over the Atoka.

16 Q. I just wish you are going to get more oil than  
17 gas. For once, I think you're going to get more gas.

18 A. It is a liquid-rich gas, and it will have to  
19 be processed. It's sweet, and it does have 4 to 5  
20 gallons per thousand on the liquids.

21 EXAMINER BROOKS: If you get enough  
22 condensate, it's almost as good as oil.

23 THE WITNESS: Almost.

24 Q. (By Mr. Ezeanyim) Who's going to be the  
25 operator of this well?

1 A. RSC Resources owns the interest. But my  
2 operating company, which is not unlike Chase and Mack --  
3 Mack operates for Chase -- Guardian Operating Corporation  
4 is my operating company.

5 Q. So you want Guardian to be the operator? Who  
6 do you want to be the operator?

7 A. Guardian Operating Corp. will be designated  
8 the operator.

9 Q. How do you spell that operator?

10 MR. BRUCE: It is in the application.

11 EXAMINER EZEANYIM: If it's in the  
12 application, I can find it.

13 THE WITNESS: Yeah. Guardian, like  
14 guardian angel.

15 EXAMINER EZEANYIM: Anything further?

16 MR. BRUCE: Nothing in this case

17 EXAMINER EZEANYIM: Very good. At this  
18 time Case Number 14932 will be taken under advisement.

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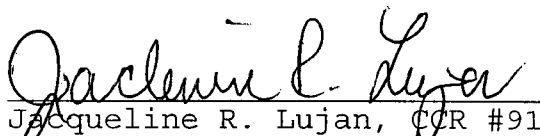
I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 14932  
heard by me on 11/29/12  
[Signature]  
Oil Conservation Division, Examiner

## REPORTER'S CERTIFICATE

I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO  
HEREBY CERTIFY that on November 29, 2012, 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 11th day of December,  
2012.

  
Jacqueline R. Lujan, CCR #91  
Expires: 12/31/2012