

3 IN THE MATTER OF THE HEARING CALLED
4 BY THE OIL CONSERVATION DIVISION FOR
5 THE PURPOSE OF CONSIDERING:

6 APPLICATION OF DEVON ENERGY
7 PRODUCTION COMPANY, L.P. FOR
8 DESIGNATION OF A NONSTANDARD
9 OIL SPACING AND PRORATION UNIT,
10 AN UNORTHODOX OIL WELL LOCATION,
11 AND COMPULSORY POOLING, EDDY
12 COUNTY, NEW MEXICO.

CASE NOS.
14946 AND 14961
(Consolidated)

ORIGINAL

10 REPORTER'S TRANSCRIPT OF PROCEEDINGS

11 EXAMINER HEARING

13 BEFORE: RICHARD EZEANYIM, CHIEF EXAMINER
14 DAVID K. BROOKS, LEGAL EXAMINER
15 PHILLIP GOETZE, TECHNICAL EXAMINER

16 March 21, 2013

17 Santa Fe, New Mexico

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18 This matter came on for hearing before the
19 New Mexico Oil Conservation Division, Richard Ezeanyim,
20 Chief Examiner, David K. Brooks, Legal Examiner and
21 Phillip Goetze, Technical Examiner, Thursday, March 21,
22 2013, at the New Mexico Energy, Minerals and Natural
23 Resources Department, 1220 South St. Francis Drive,
24 Porter Hall, Room 102, Santa Fe, New Mexico.

25 REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
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APPEARANCES

FOR APPLICANT DEVON ENERGY PRODUCTION COMPANY, L.P.:

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1 (8:45 a.m.)

2 EXAMINER EZEANYIM: Down on that page and
3 on page 3, we're going to consolidate those two cases.
4 I have to read them for the record.

5 Case Number 14946, this case was continued
6 from March 7th. This is the application of Devon Energy
7 Production Company, L.P. for a nonstandard oil and
8 proration unit, and an unorthodox oil well location, and
9 compulsory pooling, Eddy County. This case will be
10 combined with, on page 3, Case Number 14961, application
11 of Devon Energy Production Company, L.P. for a
12 nonstandard oil spacing and proration unit, an
13 unorthodox oil well location, and compulsory pooling,
14 Eddy County, New Mexico.

15 Call for appearances.

16 MR. BRUCE: Mr. Examiner, Jim Bruce of
17 Santa Fe representing the Applicant, and I have two
18 witnesses.

19 EXAMINER EZEANYIM: Any other appearances
20 in this case?

21 Okay. May the witnesses please stand up
22 and be sworn. State your names.

23 MR. GRAY: Ken Gray.

24 MR. HARRAN: Craig Harran.

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KEN GRAY,

after having been previously sworn under oath, was questioned and testified as follows:

DIRECT EXAMINATION

BY MR. BRUCE:

Q. Mr. Gray, where do you reside?

A. I live in Oklahoma City, Oklahoma.

Q. And who do you work for and in what capacity?

A. I work for Devon Energy Corporation as a senior land advisor.

Q. And have you previously testified before the Division?

A. Yes, I have.

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

A. They were.

Q. And are you familiar with the land matters involved in these two cases?

A. Yes, I am.

MR. BRUCE: Mr. Examiner, I tender Mr. Gray as an expert petroleum landman.

EXAMINER EZEANYIM: Mr. Gray is so qualified.

Q. (BY MR. BRUCE) Mr. Gray, could you identify Exhibit 1 and briefly describe the two wells involved in

1 these cases?

2 A. Exhibit 1 is a photocopy of a Midland map
3 reflecting that -- we've outlined in green the east half
4 of Section ~~21~~^{13 21}, Township 21 South, Range 27 East, and
5 that would represent the two project areas that we're
6 seeking to have approved today.

7 Q. And are pages 2 and 3 of the exhibit the C-102s
8 for each well?

9 A. Yes, they are.

10 Q. And the C-102 has the surface and bottom-hole
11 footages; does it not?

12 A. Yes, it does.

13 Q. And they do each have an API number on the
14 exhibit; do they not?

15 A. Yes, they do.

16 Q. What formation is covered by the nonstandard
17 unit and is being pooled in these cases?

18 A. Be the Delaware Formation.

19 MR. BRUCE: And, Mr. Examiner, I just
20 noticed one thing. Page 2 of the exhibit lists the pool
21 as Carlsbad-Delaware. Both of these wells are in the
22 Northwest Fenton-Delaware pool.

23 EXAMINER EZEANYIM: Okay. You are
24 answering one of my questions. What is the name of the
25 pool now?

1 MR. BRUCE: Northwest Fenton, F-E-N-T-O-N.
2 And it's spaced on 40 acres, but it does have a
3 200-barrel-per-day allowable.
4 EXAMINER EZEANYIM: Is that a special pool
5 rule?
6 MR. BRUCE: Yes.
7 EXAMINER EZEANYIM: Northwest
8 Fenton-Delaware?
9 MR. BRUCE: Delaware.
10 EXAMINER EZEANYIM: Delaware pooling.
11 Okay. What is the special pool number; do you know?
12 MR. BRUCE: I will get that for you.
13 EXAMINER EZEANYIM: So by the special pool
14 rule, it gives the -- for a 40-acre, 200 barrels of oil
15 per day?
16 MR. BRUCE: Yes.
17 EXAMINER EZEANYIM: So I will require you
18 to give me the --
19 MR. BRUCE: I will e-mail that you.
20 EXAMINER EZEANYIM: And this is for both
21 wells producing, the Fenton and Delaware pool?
22 MR. BRUCE: Yes. Page 3 of Exhibit 1 does
23 give the correct pool.
24 EXAMINER EZEANYIM: Page 1 of what?
25 MR. BRUCE: Page 3 of Exhibit 1, the final

1 page, does give the correct pool name.

2 EXAMINER EZEANYIM: Okay.

3 Q. (BY MR. BRUCE) Mr. Gray, is a pilot hole going
4 to be drilled for these two wells?

5 A. Yes.

6 Q. And how deep will the pilot hole be drilled or
7 to which formation?

8 A. To the Bone Spring.

9 Q. To the Bone Spring?

10 A. Uh-huh, actual depth.

11 Q. And is Devon also requesting an unorthodox
12 location approval for the Bone Spring Formation for the
13 pilot hole?

14 A. Yes, we are.

15 Q. Could you identify Exhibit 2 for the Examiners?

16 A. Exhibit 2 is a listing of two names of
17 individuals and/or their estates that we would be
18 seeking to pool today, and the owner of their -- their
19 ownership in two wells.

20 Q. And their ownership is the same in each well,
21 correct?

22 A. Yes, it is.

23 Q. And looking at this, you do mention the
24 estates. And this just came up in the previous case.

25 These people reside out of state; do they not?

1 A. Yes, they do.

2 Q. And have New Mexico probates been conducted on
3 the estates?

4 A. To my knowledge, they have not.

5 Q. Could you identify Exhibit 3 for the Examiner?

6 A. Exhibit 3 is a letter dated June 13, 2012
7 proposing the drilling of the Lonetree Draw 13 State Com
8 #4H to the, at that time, people who we thought were
9 going to be in the well or had an opportunity to be in
10 the well. And the letter sets forth the depth that the
11 well was to be drilled to and total measured depth and
12 total vertical depth and the AFE costs.

13 Q. Were there subsequent follow-ups with the
14 people you could locate?

15 A. Yes, there were.

16 Q. And is that reflected in the e-mails attached?

17 A. Yes. I tried to put them in chronological
18 order, but, yes, all of those e-mails were our efforts,
19 not just by me by virtue of this proposal letter, but
20 other individuals that we hire on a contact basis to try
21 and locate people. And like I said, we tried to go
22 through in chronological order and have highlighted in
23 yellow the main part of these efforts to locate these
24 people.

25 Q. Besides the e-mails and the efforts to locate

1 the people, have there been any other contacts with the
2 parties being pooled?

3 A. There has been some phone -- we've had some
4 phone contacts with the heirs of Dr. Olaf Coleman and a
5 couple of phone contacts, yes.

6 Q. And does this package also contain the proposal
7 letter for the Lonetree Draw 13 #5 well?

8 A. Yes, it does.

9 Q. In your opinion, has Devon made a good-faith
10 effort to locate the interest owners in the well and to
11 obtain their joinder in the wells?

12 A. Yes, we have.

13 Q. Would you identify Exhibits 4A and 4B and
14 discuss the costs of the proposed wells?

15 A. Exhibit 4A is a drilling cost -- drilling
16 complete cost summary for the Lonetree Draw 13 State Com
17 4H that reflects a total well cost of \$4,878,000. And
18 Exhibit 4B is a similar drilling complete cost summary
19 for the Lonetree Draw 13 State Com 5H with the completed
20 drill cost of \$4,478,000.

21 Q. Are these costs fair and reasonable?

22 A. Yes, they are.

23 Q. And are they comparable to the cost of similar
24 wells drilled to this depth in this area of New Mexico?

25 A. Yes, they are.

1 Q. And what overhead rates does Devon propose?

2 A. We would propose \$6,000 per drilling overhead
3 rate and \$600 for monthly overhead rate.

4 EXAMINER EZEANYIM: What is that again?

5 A. 6,000 drilling overhead and 600 monthly
6 overhead.

7 Q. (BY MR. BRUCE) And are these rates fair and
8 comparable to those charged by other operators in this
9 area of New Mexico?

10 A. Yes, I believe so.

11 Q. Do you request that the overhead rates be
12 adjusted per the COPAS accounting procedures?

13 A. Yes.

14 Q. Do you request that Devon Energy Production
15 Company be the operator of the wells?

16 A. Yes, we do.

17 Q. And do you request a cost plus 200-percent risk
18 charge in the event a party goes nonconsent in the well?

19 A. Yes, we do.

20 Q. Was written notice given to the parties you
21 could locate?

22 A. Yes, it was.

23 Q. And is that reflected in Exhibit 5A?

24 A. Yes, it is.

25 Q. Exhibit 5A also went to Nuevo Seis Limited

1 Partnership and Mr. and Mrs. Schertz. What is the
2 status of those two interest owners?

3 A. They have signed a joint operating agreement
4 and elected to participate, so they would need to be
5 dismissed from the effect [sic] of this order.

6 Q. And Exhibit 5A is for the Lonetree 13-4 well,
7 and Exhibit 5B is a similar notice letter regarding the
8 Lonetree 13-5 well?

9 A. Yes, it is.

10 Q. And was notice published as against any unknown
11 heirs of the decedents of these cases?

12 A. Yes, it was.

13 Q. Is that reflected in the Affidavits of Notice
14 marked Exhibit 6A and 6B?

15 A. Yes, sir.

16 MR. BRUCE: Mr. Examiner, I have not
17 received -- as to Exhibit 6B, I have not received the
18 Affidavit of Publication from the Carlsbad newspaper, so
19 I'll address that at the end of the hearing.

20 Q. (BY MR. BRUCE) And, Mr. Gray, does Exhibit 7
21 list the offset working interest owners or operators to
22 this well?

23 A. Yes, it does.

24 Q. And was notice given to the operators?

25 A. Yes.

1 Q. And is notice for the two cases to the offsets
2 reflected by Exhibits 8A and 8B?

3 A. It is.

4 Q. In your opinion, is the granting of these two
5 applications in the interest of conservation and the
6 prevention of waste?

7 A. Yes, it is.

8 Q. And were Exhibits 1 through 8B prepared by you
9 or compiled from company business records?

10 A. Yes, they were.

11 MR. BRUCE: Mr. Examiner, I move the
12 admission of Exhibits 1 through 8B.

13 EXAMINER EZEANYIM: Exhibits 1 through 8B
14 will be admitted.

15 (Devon Energy Exhibit Numbers 1 through 8B
16 were offered and admitted into evidence.)

17 MR. BRUCE: I have no further questions.

18 Mr. Examiner, one thing, as the case --
19 just because I haven't heard back from the Carlsbad
20 paper, I would ask, at the end of this hearing, that
21 Case 14961, the second case, be continued for two weeks
22 just so I can get the Affidavit of Publication.

23 EXAMINER EZEANYIM: That doesn't affect
24 14946?

25 MR. BRUCE: Not 14946, just 14961.

1 EXAMINER EZEANYIM: We can address that at
2 the end.

3 Are you done with this witness?

4 MR. BRUCE: I am.

5 CROSS-EXAMINATION

6 BY EXAMINER BROOKS:

7 Q. Mr. Gray, I think I heard Mr. Bruce say
8 something about requesting pooling in the uphole
9 formations in the pilot hole; is that correct?

10 A. Yes.

11 Q. Is that going to be, 40-acre unit, located at
12 the surface location?

13 A. Yes.

14 Q. And is there anything other than a 40? Any 80
15 acres or --

16 A. Not to my knowledge, no.

17 Q. If we are dealing with that, we kind of have to
18 deal with the allocation of costs that might be involved
19 there. Would it be correct to assume that, the uphole
20 portion of the pilot hole is not a present objective,
21 but, rather, is in the nature of a bailout, some thing
22 that may or may not ever be completed?

23 A. I think our geological witness can answer that
24 better, but I don't think there is any significant
25 thing -- anything above the Delaware.

1 Q. What I have normally recommended to the
2 Division, from a legal standpoint, is that if -- now,
3 the Delaware is where the horizontal's going to be?

4 A. Yes.

5 Q. What I've normally recommended, from a legal
6 standpoint, is that if there is no specific present
7 objective other than the horizontal, that the entire
8 well costs be allocated to the parties in the
9 nonstandard horizontal unit, with a provision that if
10 there is a completion uphole, then at the time that that
11 completion is undertaken, there be a new proposal sent
12 to the owners in the 40-acre unit. Because if you're
13 going to complete maybe some years from now, you really
14 have no idea what your costs of completion would be, I
15 would think, at this time. So what I would recommend is
16 the entire well costs be allocated to the owners of the
17 horizontal unit, and that in event of a subsequent
18 completion, there be a new proposal for the completion
19 costs only in the uphole completion to the owners in the
20 40-acre unit.

21 Now, would that be an acceptable
22 recommendation to Devon?

23 A. That would be fine.

24 Q. And you don't have anything contrary to
25 propose?

1 A. No.

2 Q. Very good then.

3 EXAMINER EZEANYIM: And to add to that, you
4 know, he just said uphole. You can do it downhole, too,
5 because Bone Spring -- maybe you can complete in the
6 Bone Spring. So the same thing applies, right? Bone
7 Spring -- you know, if you complete -- if you do a
8 completion downhole and then from the horizontal, which
9 is in the Delaware Formation -- the Bone Spring is below
10 the Delaware Formation. If you complete in the Bone
11 Spring, what he said also applies, doesn't it, because
12 it's downhole from that?

13 Q. (BY EXAMINER BROOKS) Well, I'll let you
14 clarify. I may not have been listening to the testimony
15 clearly enough. Are you drilling the pilot hole through
16 the Delaware --

17 A. To the Bone Spring, yeah.

18 Q. -- to the Bone Spring?

19 And you want to pool in the Bone Spring,
20 also?

21 A. Yeah, only in the vertical.

22 Q. Yeah. Now, that may raise a question whether
23 you're in 40 acres, because normally the Bone Spring is
24 in 80.

25 EXAMINER BROOKS: Do you know what pool

1 you're in, Mr. Bruce?

2 MR. BRUCE: I didn't find a pool, so I
3 believe it's just statewide rules.

4 EXAMINER BROOKS: So that's the 40 acres.
5 Okay. Yeah. Well, I used the phrase "uphole" because I
6 really hadn't focused on the fact that you also -- your
7 horizontal formation.

8 THE WITNESS: Yeah.

9 EXAMINER EZEANYIM: So that applies to --

10 EXAMINER BROOKS: There is no reason it
11 would be different.

12 EXAMINER EZEANYIM: So I wanted to make,
13 sure, you know, that you understand that, of course,
14 what he said is correct -- always in the order that --
15 what he said, always in the order of the way you want to
16 do that, which is okay, so you don't have to come back.
17 I thought you pooled the horizontal, come back to do
18 anything, so we can take it in one -- in one trial like
19 this.

20 So what we put -- the language developed in
21 our order is like he explained to you. You can do that
22 as long as you obey what he just said in terms of cost.

23 And, therefore, I just took out the AFEs.

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CROSS-EXAMINATION

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BY EXAMINER EZEANYIM:

Q. Now, the AFE, you know, I know you had given the panel an order to the Bone Spring. Okay? The AFE incorporates that pilot hole and your horizontal, right?

A. Uh-huh.

Q. That way -- that is what is needed for each well. So I don't know what -- whether what you just said -- you know, the costs -- sometimes I'm baffled about these costs.

If I own something in the Bone Spring and I don't own anything in the horizontal, what would be my cost? What would be my cost with this well drill, and I want to participate? You just contacted me because I own interest in that 40-acre that you want to pool, but I don't have anything in the horizontal, in the Delaware or the Fenton either. What would be my costs? That's really how I'm looking at it. I mean, I have an interest in that 40. Again, it's not -- not worth what -- in that Bone Spring, and you want -- you want to pool it. You tell me you want to pool it because you have interest. I said, Okay; I want to participate. How do you apportion costs to me? What is the primary target here? You know, that is -- these are the questions. Okay. When you drill that pilot hole to the

1 Bone Spring, I know you are maybe going to complete in
2 the Delaware, because I assume that's your primary
3 target. That's why you put in the horizontal well
4 there.

5 But if anything is going to be done there,
6 there still has the cost apportioned, but I don't
7 know how much if I pay 4 million or 8 million? I don't
8 know if I want to participate.

9 A. In just --

10 Q. I don't pay anything to you. Do you do
11 anything there, according to what is going to happen? I
12 say, Okay, Mr. Gray, I want to participate. How much is
13 my money? I want to pay. I mean, those are the
14 questions.

15 A. Yeah.

16 EXAMINER BROOKS: Well, let me ask a couple
17 of questions here to clarify what you're doing.

18 CROSS-EXAMINATION

19 BY EXAMINER BROOKS:

20 Q. First of all, there's no use in -- there's no
21 need to deal with the scenario Mr. Ezeanyim is raising
22 unless it really exists.

23 Have you studied the title, and do you know
24 if there are any depth severances, or is the title the
25 same as the --

1 A. No. It would be the same for Delaware and Bone
2 Spring.

3 Q. So the people who own in the Bone Spring would
4 also own a portion of the horizontal. It would just be
5 a smaller portion, right, because we have 160 acres
6 instead of 40?

7 A. Right.

8 Q. Now, what is your intention with regard to the
9 Bone Spring? Do you have any, or --

10 A. I think our geological witness can answer that
11 better than I, but the purpose of the pilot-holing of
12 the Bone Spring is just to gather data. I don't think
13 we would do anything other than that logging and then
14 plug it back -- come back up to the Delaware. Of
15 course, we've got some very good Delaware wells very
16 close by, so I don't think we have any intention to do
17 anything else.

18 Q. Of course, if I were an owner in the horizontal
19 portion of the hole and not in the vertical portion of
20 the hole, I would kind of have the feeling that those
21 guys that own the Bone Spring really ought to share some
22 portion of the cost of drilling that hole deeper. But I
23 don't know -- if you're not planning to complete, I
24 don't know if we want to -- I don't know if we want to
25 go there. I just raised the question.

1 CONTINUED DIRECT EXAMINATION

2 BY MR. BRUCE:

3 Q. Back to the Delaware dip. If a horizontal Bone
4 Spring well was drilled in each of these two well units,
5 would ownership be the same as in the Delaware?

6 A. Yes.

7 Q. And you are gathering data for future Bone
8 Spring development of this 160 acres?

9 A. Correct.

10 Q. So the data gathered would be beneficial to the
11 interest owners you are seeking to force pool?

12 A. Correct.

13 CROSS-EXAMINATION

14 BY EXAMINER BROOKS:

15 Q. But you're asking right now for formation of
16 the 40-acre unit, not the formation of the unit for
17 horizontal in Bone Spring, right?

18 MR. BRUCE: Correct.

19 Q. (BY EXAMINER BROOKS) And are you -- just to
20 clarify: Is the ownership in the 40 acres the same as
21 the ownership in the 160? Is it all undivided
22 interests?

23 A. No.

24 EXAMINER BROOKS: So I was a little unclear
25 on Mr. Bruce's testimony --

1 MR. BRUCE: And it won't be the first time
2 (laughter).

3 MR. BROOKS: -- Mr. Bruce's question.

4 Was your question, Mr. Bruce, if they did
5 do a horizontal in the Bone Spring, would the
6 ownership --

7 MR. BRUCE: It would be the same as the
8 Delaware.

9 MR. BROOKS: I thought we had already
10 established that, because that's why I asked him about
11 the depth severance in the testimony. Both Mr. Gray and
12 Mr. Bruce, who I said both failed [sic] at the title, is
13 that there is no depth severance.

14 THE WITNESS: No.

15 EXAMINER BROOKS: Okay. I'm settled.

16 EXAMINER EZEANYIM: Okay. Now, on the
17 first case, 14946, you want to pool that 40 acres, but
18 it wasn't clear on your application whether you want to
19 do the same on the 14961, whether you want to pool that
20 because -- you want to pool that, too, or not?

21 MR. BRUCE: Sure.

22 EXAMINER EZEANYIM: Is that your second
23 well?

24 MR. BRUCE: We're asking the same thing for
25 both wells.

1 EXAMINER EZEANYIM: The other one was
2 clearer than this one. Okay.. So you are asking for
3 that. I want to establish that. That's okay.

4 And in pooling that 40 acres, you are
5 asking from the surface to the Bone Spring?

6 MR. BRUCE: Unorthodox location of the Bone
7 Spring.

8 EXAMINER EZEANYIM: No, I'm not talking
9 about unorthodox yet. I'm talking about pooling on that
10 40 acres in the Bone Spring. Are you asking [sic] for
11 the surface to the Bone Spring?

12 MR. BRUCE: I can let Mr. Gray answer this,
13 but as he said, there's really --

14 EXAMINER EZEANYIM: Nothing uphole?

15 MR. BRUCE: -- nothing uphole. Delaware
16 and Bone Spring is pretty much --

17 THE WITNESS: Correct.

18 EXAMINER EZEANYIM: So as we say pooling in
19 Delaware Formation, we know that that -- nothing uphole,
20 right?

21 MR. BRUCE: Yeah.

22 EXAMINER EZEANYIM: In the Bone Spring, we
23 have a nonstandard location?

24 THE WITNESS: Correct.

25 EXAMINER EZEANYIM: And this is on the

1 statewide rules, right, nonstandard location for that
2 Bone Spring?

3 MR. BRUCE: Since it will be beneficial to
4 the interest owners, I'd ask that the cost-out of the
5 Bone Spring be included as part of the Delaware costs.

6 EXAMINER BROOKS: Be allocated a portion of
7 the 160-acre unit, not the 40?

8 MR. BRUCE: Yes.

9 CROSS-EXAMINATION

10 BY EXAMINER EZEANYIM:

11 Q. You are asking for a nonstandard location
12 approval for both wells, right? In the Bone Spring,
13 correct?

14 A. Yes.

15 Q. Is the -- is the well, nonstandard location,
16 going to be in the Delaware Formation? That horizontal
17 well, is that within the completed interval?

18 A. I'm sorry?

19 Q. You are asking for a nonstandard location
20 approval, right?

21 A. Right.

22 Q. What is the status of the horizontal that goes
23 into the Delaware Formation? Is that standard or
24 nonstandard?

25 A. The completion interval will be --

1 Q. Will be within the completed interval?

2 A. Yes. Yes. It will be standard.

3 Q. That's what I'm asking.

4 A. Yeah.

5 Q. On the horizontal?

6 A. Right.

7 EXAMINER EZEANYIM: You see what I mean?

8 MR. BRUCE: Yes.

9 EXAMINER EZEANYIM: I just want to show
10 [sic] you only approval on that Bone Spring Formation.

11 And in the Bone Spring Formation -- we know
12 the Delaware -- what is pooled? What is the pool you
13 are targeting, in case we complete --

14 MR. BRUCE: I will look again,
15 Mr. Examiner. I looked and I didn't find any particular
16 Bone Spring pool.

17 EXAMINER EZEANYIM: There are a bunch of
18 pools in the Bone Spring, so you need to know where you
19 are going.

20 MR. BROOKS: Yes, and a lot of them are
21 spaced in the 80 [sic].

22 EXAMINER EZEANYIM: Yeah. Yeah. So we
23 need to know what is -- what's been going to -- if this
24 well is going to be outside the special pool rule,
25 that's -- I need to know the pool name, because there

1 are a bunch of pools. You know, if you go to the 1st
2 Sand, 2nd Sand, 3rd Sand, there are a bunch of pools in
3 all those sands.

4 So anyway, if you can give me the pool name
5 on that, if you want us to approve your composite --

6 MR. BRUCE: I will check and e-mail you
7 today.

8 EXAMINER EZEANYIM: And I have the API
9 number. I think you told me.

10 MR. BRUCE: They're on Exhibit 1.

11 Q. (BY EXAMINER EZEANYIM) Is this state land?
12 State land, right? All of these are state lands?

13 A. No. Part of it is private. Half of it is
14 private and half is state.

15 Q. So fee and state?

16 A. Yes.

17 Q. You are going to get the name of the pool in
18 the Bone Spring Formation.

19 You did an advertisement to be able to
20 locate everybody, right?

21 A. The two --

22 Q. Did you locate everybody? No?

23 A. Well, one of the parties we've not been able to
24 locate, and the other party -- and we can go through it
25 in detail if you want.

1 Q. No, I don't want.

2 A. But in the other one, we had some response from
3 people claiming to be the heirs of the person we're
4 pooling.

5 Q. What I'm asking you is: Do you feel a need to
6 require escrow in this --

7 A. No.

8 Q. No need?

9 A. No.

10 Q. You feel you've got everybody?

11 A. Yes.

12 EXAMINER BROOKS: May I ask a couple of
13 questions and follow up on that?

14 EXAMINER EZEANYIM: Sure.

15 CROSS-EXAMINATION

16 BY EXAMINER BROOKS:

17 Q. You're not going to release a paid claim to the
18 heirs if there is somebody else out there claiming to be
19 an heir that you don't know?

20 A. No. We've got some more work to do with these
21 people that claim to be the heirs.

22 Q. So you're going to be holding money in
23 suspense?

24 A. Yes.

25 Q. So if it is our policy -- which this is in

1 flux, as you may know. If it is our policy to require
2 an escrow whenever money is payable to a pool first, as
3 opposed to a party to a JOA -- we don't deal with
4 parties to a JOA. But it's our policy to require an
5 escrow whenever the pooled parties have not -- that, you
6 know, have not been located or we don't know what
7 interest they're entitled to. Then this is a case in
8 which we ought to require an escrow, correct?

9 A. That'll be fine.

10 EXAMINER EZEANYIM: So we should require
11 the escrow, from what he's saying?

12 EXAMINER BROOKS: Well, unless and until
13 our policy is revised, I would so advise. I suspect our
14 policy may be revised in the next few months, but not in
15 time -- not in time for the issuance of the order in
16 this case.

17 EXAMINER EZEANYIM: We want to make sure we
18 do it right. That's why. Otherwise, you have to come
19 in, maybe, for an addition of the order.

20 My other questions will go to your engineer
21 [sic]. I'm done with you, Mr. Gray.

22 THE WITNESS: Okay.

23 EXAMINER EZEANYIM: Call your next witness.

24 CRAIG HARRAN,

25 after having been previously sworn under oath, was

1 of the Middle Brushy A1 Sand. And as you can see, the
2 structure of this sand is dipping to the southeast, and
3 the wells would be drilled from the north to the south,
4 so slightly downdip.

5 Q. And there's a line of cross section. Will that
6 be one of the later exhibits?

7 A. Correct. Yes.

8 Q. Maybe together, Exhibits 10 and 11, what do
9 they reflect?

10 A. So Exhibit 10 is a Middle Brushy A1 Sand gross
11 map, and you can see it is thickening to the southeast.

12 And Exhibit 11 is a net isopach among
13 that -- in that same interval based on greater than
14 14-percent porosity --

15 EXAMINER EZEANYIM: How much percent? 14?

16 A. About a 14-percent cutoff, yes.

17 EXAMINER EZEANYIM: Is that 14 the cutoff
18 in that area, 14-percent porosity?

19 A. 14-percent porosity for this part of the Middle
20 Brushy is what we're looking at.

21 Q. (BY MR. BRUCE) And what is Exhibit 12?

22 A. So Exhibit 12 is the cross section showing four
23 wells, and you can see the cross-section line
24 highlighted on Figures 9, 10 and 11 going from -- the
25 well on the left is the west, all the way going to the

1 east. And on the other figures, they're highlighted --
2 they're diamonds with lines connecting them that shows
3 the cross section.

4 Q. So you get thicker as you move to the
5 southeast, correct?

6 A. Correct. Correct.

7 Q. Looking at Exhibits 10 and 11, in your opinion,
8 will each quarter-quarter section in the well unit
9 contribute more or less equally with production?

10 A. Yes.

11 Q. Now, you know, the thicknesses vary from north
12 to south, but I draw your attention to the well in
13 Section 14, which has the gross thickness of 13 feet and
14 a net thickness of 10 feet. Is that a -- is that a
15 vertical well?

16 A. Correct. Yes.

17 Q. And is that a good well?

18 A. "A good well." Is it an economic well? Is
19 that what you're asking?

20 Q. Let's ask you this: What is that well
21 producing?

22 EXAMINER EZEANYIM: Which well are you
23 talking about?

24 MR. BRUCE: Mr. Examiner, Exhibit 9 -- I
25 mean Exhibit 10, if you look at the second well --

1 EXAMINER EZEANYIM: 10 or 12? Wait. 10.

2 MR. BRUCE: Yeah. It's got ten feet on the
3 net map.

4 Q. (BY MR. BRUCE) Was that the first Delaware well
5 that Devon recompleted in this pool?

6 A. Yes, yes. And that was a good well. Excuse
7 me. That was an economic well, so, yes, a good well.

8 Q. And has it been producing at roughly 200
9 barrels a day for the last year and a quarter?

10 A. Yes.

11 Q. So even though the reservoir is thicker to the
12 south, you anticipate where the thickness is 10 or 20,
13 30 feet deep to be quite economic, also?

14 A. Correct.

15 Q. Let's move on a little bit to the drilling of
16 the wells. What are Exhibits 13 and 14?

17 A. So Exhibit 13 [sic] is a well schematic for the
18 Lonetree 13 State Com 4H. And Exhibit Number 13 -- I
19 probably went backwards in order there.

20 Q. Okay.

21 A. 13 is the directional plan, and Exhibit 14 is
22 some more detail about that, and that'll be for the 5H.
23 Pretty much the 4H and the 5H will be drilled and
24 completed very similar to that.

25 Q. And will the producing interval of each well in

1 the Delaware be orthodox?

2 A. Yes.

3 Q. Could you identify Exhibit 15 and describe a
4 little bit about the completion procedure Delaware --
5 Devon will use on these Delaware wells?

6 A. I have some numbers if you'd like volume of
7 sand, but pretty much these wells will be completed with
8 a total of nine stages in completion. Roughly 1.276
9 million pounds of 20/40 white sand, and there will also
10 be, roughly, 329,000 pounds of 16/30 resin-coated prop
11 sand for propping open -- keeping the fractures propped
12 open. It's higher strength. And so the total sand
13 volume is roughly 1.6 million pounds, and the total
14 fluids in completion is 26,599 barrels, approximately.

15 Q. Were exhibits -- one final question.
16 Mr. Ezeanyim usually likes to know about why operators
17 are drilling north-south or east-west. In this case,
18 there's already a pattern developed from the initial
19 horizontal well, the 2H well west half-west half of
20 Section 13.

21 A. Correct.

22 Q. So you are just continuing that pattern?

23 A. Correct. That is correct.

24 Q. Were Exhibits 9 through 15 either prepared by
25 you or under your supervision? Excuse me. Let's go

1 back.

2 Were exhibits -- who prepared Exhibits 9
3 through 12?

4 A. Raleigh Blumstein, who is a geologist at Devon;
5 and I am familiar with the exhibits that he prepared,
6 and we discussed them together.

7 Q. And have you reviewed the data that went into
8 the exhibits, and do you agree with these exhibits?

9 A. Yes.

10 Q. Were Exhibits 13, 14 and 15 compiled from
11 Devon's company business records?

12 A. Correct. Yes.

13 Q. In your opinion, is the granting of these
14 applications in the interest of conservation and the
15 prevention of waste?

16 A. Yes.

17 MR. BRUCE: Mr. Examiner, I move the
18 admission of Exhibits 9 through 15.

19 EXAMINER EZEANYIM: Exhibits 9 through 15
20 will be admitted.

21 (Devon Energy Exhibit Numbers 9 through 15
22 were offered and admitted into evidence.)

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

25 EXAMINER EZEANYIM: Mr. Brooks?

CROSS-EXAMINATION

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BY EXAMINER BROOKS:

Q. Yes. What are your plans with regard to the Bone Spring? Do you have any at this point?

A. Based on the results of the pilot hole, we will evaluate it. Within the basin, the Bone Spring is a common target, so we will evaluate the results of the pilot hole here, and potentially down the line investigate developing it here. But in other parts of the basin, we are actively drilling Bone Spring Sand targets.

Q. Recently, it seems to be, there is a lot of Bone Spring that's being developed by horizontal. Would you expect that there will be a way to develop it or have any use --

A. I would agree that horizontal development of Bone Spring tends to be what we have been doing and what we will be doing in the future, yes.

EXAMINER EZEANYIM: Especially in the 4th Sand.

A. Correct.

EXAMINER EZEANYIM: Most people have drilled in the 4th Sand. But anyway, if you want to drill vertical, that's fine.

Go ahead.

1 EXAMINER BROOKS: Yeah, but it might raise
2 a question in my mind as to whether or not there would
3 be some undeniable [sic] gesture to pool the 40-acre
4 units in the Bone Spring. If you do complete, you're
5 going to be doing a horizontal, which would require
6 another proceeding anyway.

7 EXAMINER EZEANYIM: Good question. You
8 know, that's why we're doing this.

9 EXAMINER BROOKS: But that's all I have.

10 CROSS-EXAMINATION

11 BY EXAMINER EZEANYIM:

12 Q. But do you understand what he's saying?

13 A. Yes.

14 Q. And you still want to go ahead and pool that 40
15 acres, right? I'm not saying you should withdraw. We
16 can see pooling. There is no reason why you couldn't.
17 I mean, whether you do it or not is a different
18 question, but if you want to go -- for example, I'm
19 familiar with the 2nd Sand. If you want to go
20 horizontal, you have to come back, that the composite of
21 40 acre would not suffice to, you know, drill at a 160.

22 MR. BRUCE: Mr. Examiner, on behalf of
23 Devon, I would request the forced pooling just because
24 we don't know what might happen.

25 EXAMINER EZEANYIM: Okay.

1 MR. BRUCE: And the well we were talking
2 about is a vertical well that was on the cross section
3 in the second well from the left on the cross section.
4 That one, as a last-ditch effort, was recompleted from a
5 deeper zone, I think, and that's the well that started
6 producing at 200 barrels a day. And so you never know.

7 EXAMINER EZEANYIM: I think that's a good
8 statement, because the power [sic] to collect data, so
9 you don't know what you're going to get. If we knew
10 what we were going to get, we could decide what to do
11 now. So let's not decide if we don't have the data.

12 A. And we also drilled the pilot hole to help land
13 the horizontal for the Delaware as well.

14 EXAMINER EZEANYIM: Of course.

15 A. Yeah.

16 EXAMINER EZEANYIM: You have to drill a
17 pilot hole to --

18 Do you have any questions?

19 EXAMINER GOETZE: No questions.

20 Q. (BY EXAMINER EZEANYIM) This is the 4H. 5H
21 would be like this, too?

22 A. 5, yes. It will be very similar.

23 Q. Has this well been drilled?

24 A. The 4H has, yes.

25 Q. What is the status?

1 A. It is on -- I think it is just beginning to
2 produce. There is a -- let's see here. It's in the
3 early stages of production, and I don't have actual
4 volume yet.

5 Q. No initial productions?

6 A. With the 4H, we've seen about a 20-percent oil
7 cut, but I don't have actual volumes. It's in an early
8 stage.

9 Q. Suppose the application is denied. It may
10 not -- maybe you are not going to be denied, but you are
11 producing already. I know you can do it really well.
12 According to him (indicating), he's got nothing to say.
13 You can't drill the well, but -- until you get the
14 composite drilling order.

15 EXAMINER EZEANYIM: Can they also produce
16 it?

17 EXAMINER BROOKS: Not according to our
18 rules. That's not to say that some wells are not
19 producing from reservoirs that have outstanding
20 unconsolidated interests, but the rule -- the Horizontal
21 Well Rule we adopted last year says specifically, what
22 had been derived from some forms previously but was not
23 really anywhere in the rule, that before you could
24 produce a well, you have to consolidate either by
25 ownership or through project area or by voluntary

1 agreement or compulsory pooling.

2 EXAMINER EZEANYIM: Yeah. I'm not saying
3 you're going to be denied, because if the well is good,
4 it's good. But I just mention this so that we can
5 clarify these issues, you know, because I don't think
6 it's right for you to producing until you consolidate by
7 whatever means, compulsory pooling or --

8 EXAMINER BROOKS: That is what the rule
9 says, at least as to horizontal wells.

10 EXAMINER EZEANYIM: I'm just making a
11 statement. I'm sorry.

12 Okay. I still have some questions here.

13 Mr. Bruce, are you going to get me the
14 R Order number for that pool?

15 MR. BRUCE: Yes.

16 EXAMINER EZEANYIM: We need the R Order
17 number.

18 MR. BRUCE: I will.

19 EXAMINER EZEANYIM: You have answered my
20 question, because you know I'm going to ask you: Why
21 are you going north-south? And I looked at your -- the
22 wells you are talking about. Okay.

23 And then the name of the pool is the Bone
24 Spring. You're going to get that to me, too?

25 MR. BRUCE: Yes.

1 EXAMINER EZEANYIM: And now you are
2 requesting that 14961 be continued, as I understand it,
3 for two weeks?

4 MR. BRUCE: That is correct.

5 EXAMINER EZEANYIM: Let me make sure,
6 because I don't want to start calling Bruce; very hard
7 to get you.

8 On the two cases, you want to -- seek [sic]
9 to pool that 40-acre on both of them? Because on the
10 second case, I didn't see a request to pool that. But
11 I'm going to ask whether you want to pool 40-acre Bone
12 Spring in both cases, right?

13 MR. BRUCE: Yes. Yes. I think it's -- it
14 is in there.

15 EXAMINER EZEANYIM: The answer is yes.

16 I have nothing further.

17 Do you have anything, Mr. Bruce?

18 MR. BRUCE: No, sir.

19 EXAMINER EZEANYIM: Give me all that I
20 require. And what we are going to do at this point is
21 to take this under advisement and then continue the
22 other one. Case Number 14946 will be taken under
23 advisement, and Case Number 14961 will be continued for
24 two weeks, to April 4th.

25 Thank you.

1 I think we are going to take about ten
2 minutes. We are not in a big hurry today.

3 EXAMINER BROOKS: Good idea.

4 (Case Numbers 14946 and 14961 conclude;
5 break taken, 9:30 a.m.)

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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. 14946 & 14961
heard by me on _____

Oil Conservation Division Examiner

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

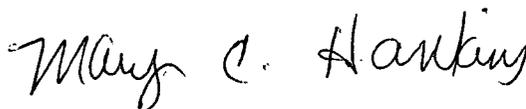
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CERTIFICATE OF COURT REPORTER

I, MARY C. HANKINS, New Mexico Certified Court Reporter No. 20, and Registered Professional Reporter, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings that were reduced to printed form by me to the best of my ability.

I FURTHER CERTIFY that the Reporter's Record of the proceedings truly and accurately reflects the exhibits, if any, offered by the respective parties.

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



MARY C. HANKINS, CCR, RPR
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