

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. 13,566

APPLICATION OF UNIT PETROLEUM COMPANY )  
FOR COMPULSORY POOLING, EDDY COUNTY, )  
NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

December 1st, 2005

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, December 1st, 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.

\* \* \*

2005 DEC 8 PM 12 05

## I N D E X

December 1st, 2005  
 Examiner Hearing  
 CASE NO. 13,566

## PAGE

APPEARANCES

3

APPLICANT'S WITNESS:

FRED SCHANTZ (Landman)

Direct Examination by Mr. Bruce

4

Examination by Examiner Ezeanyim

17

REPORTER'S CERTIFICATE

23

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	5	17
Exhibit 1A	7	17
Exhibit 2	8	17
Exhibit 3	10	17
Exhibit 4	12	17
Exhibit 5	13	17
Exhibit 6	13	17
Exhibit 6A	13	17

\* \* \*

## A P P E A R A N C E S

## FOR THE DIVISION:

GAIL MacQUESTEN  
Deputy General Counsel  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

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

## FOR HIGGINS TRUST, INC.:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
110 N. Guadalupe, Suite 1  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: OCEAN MUNDS-DRY

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:30 a.m.:

3 EXAMINER EZEANYIM: At this point, I call Case  
4 Number 13,566. This is the Application of Unit Petroleum  
5 Company for compulsory pooling, Eddy County, New Mexico.  
6 Call for appearances.

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

9 EXAMINER EZEANYIM: Any other appearances?

10 MS. MUNDS-DRY: Good morning, Mr. Hearing  
11 Examiner. My name is Ocean Munds-Dry with the law firm of  
12 Holland and Hart. I'm here on behalf of Higgins Trust,  
13 Incorporated, this morning. I have no witnesses.

14 EXAMINER EZEANYIM: Higgins?

15 MS. MUNDS-DRY: Higgins Trust.

16 EXAMINER EZEANYIM: Any other appearances?

17 May the witness please stand to be sworn?

18 (Thereupon, the witness was sworn.)

19 EXAMINER EZEANYIM: Mr. Bruce, you may proceed.

20 FRED SCHANTZ,

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

23 DIRECT EXAMINATION

24 BY MR. BRUCE:

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

1 A. My name is Fred Schantz, I'm from Midland, Texas.

2 Q. Could you spell your last name for the court  
3 reporter, please?

4 A. Yes, it's S-c-h-a-n-t-z.

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

6 A. I work for Unit Petroleum Company, I'm a district  
7 landman.

8 Q. Have you previously testified before the Division  
9 as a landman?

10 A. Yes, I have.

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

13 A. Yes.

14 Q. And are you familiar with the land matters  
15 involved in this case?

16 A. Yes, I am.

17 MR. BRUCE: Mr. Examiner, I'd tender Mr. Schantz  
18 as an expert petroleum landman.

19 EXAMINER EZEANYIM: Mr. Schantz is so qualified.

20 Q. (By Mr. Bruce) Mr. Schantz, could you identify  
21 Exhibit 1 and briefly describe what Unit seeks in this  
22 Application?

23 A. Yes, Exhibit 1 is a land plat highlighting the  
24 east half of Section 1, Township 18 South, Range 26 East.  
25 Unit seeks to pool the east half of Section 1 from the base

1 of the San Andres formation to the base of the Morrow  
2 formation.

3 Q. Okay, and you seek to dedicate the east half to  
4 all 320-acre units?

5 A. Yes.

6 Q. And do you also seek to dedicate the southeast of  
7 the northeast for 40-acre units?

8 A. Yes.

9 Q. Okay. What is -- Referring to Exhibit 1, what is  
10 the well's approximate location, just looking at quarter-  
11 quarter section?

12 A. The surface location will be in the southeast  
13 quarter of the northeast quarter, beginning on a federal  
14 tract, and the bottomhole location is in the southwest  
15 quarter of the northeast quarter. The location is  
16 unorthodox under the rules of the Atoka-Pennsylvanian Gas  
17 Pool, but the location has been approved by Order NSL-5282.

18 MR. BRUCE: Mr. Examiner, here's a copy of the  
19 administrative order which approves the location.

20 EXAMINER EZEANYIM: Is that the bottomhole  
21 location or the surf- -- the bottomhole location?

22 THE WITNESS: Yes.

23 MR. BRUCE: Mr. Examiner, the pool rules in the  
24 Atoka-Pennsylvanian Pool require wells to be in the  
25 northwest quarter or southeast quarter, and since this one

1 is in the northeast quarter it was unorthodox. So that is  
2 one of the reasons, and that's spelled out in the --

3 EXAMINER EZEANYIM: Okay, can you repeat that  
4 rule, that --

5 MR. BRUCE: It's the --

6 EXAMINER EZEANYIM: Not the east --

7 MR. BRUCE: It's 320-acre spacing with wells to  
8 be in the northwest quarter or the southeast quarter --

9 EXAMINER EZEANYIM: -- or the southeast --

10 MR. BRUCE: -- of the section.

11 EXAMINER EZEANYIM: Okay.

12 MR. BRUCE: And I think there's also -- I forget  
13 exactly, it's in the NSL order I handed to you, but rather  
14 than being 660 feet from the quarter-section line, I think  
15 it's 990 or something like that.

16 EXAMINER EZEANYIM: Okay, but this well now is in  
17 the northeast quarter instead of the northwest quarter?

18 MR. BRUCE: Correct.

19 EXAMINER EZEANYIM: Okay. And -- Okay, you're  
20 going to ask exception to that particular rule?

21 MR. BRUCE: It's in the NSL order I handed you.

22 EXAMINER EZEANYIM: Okay.

23 Q. (By Mr. Bruce) Let's move on to Exhibit 2 -- or  
24 excuse me, Exhibit 1A, Mr. Schantz. Just briefly, what  
25 does that reflect?

1           A.    Well, it shows where the BLM tract is located,  
2           and then all the smaller fee tracts that are -- have been  
3           subdivided in there 80 years ago.  They're owned by  
4           numerous people who have since died, located out of town,  
5           out of state, et cetera.

6           Q.    Okay, so this -- all these little tracts were  
7           part of what's called the Fairchild Farm subdivision --

8           A.    That's correct.

9           Q.    -- which was created about 80 years ago?

10          A.    Yes, sir.

11          Q.    And so all of these little tracts are owned in  
12          fee by various heirs of the original owners?

13          A.    Yes, sir.

14          Q.    Okay.  What does Exhibit 2 reflect?

15          A.    Exhibit 2 shows the working interest owners in  
16          the 320-acre well unit.

17          Q.    Okay.  Now, looking at this, there's -- under the  
18          list where it says party, these -- are those the people you  
19          seek to pool?

20          A.    Yes, sir --

21          Q.    And --

22          A.    -- everyone who's under the heading "Party".

23          Q.    Okay.  Now, where it says "Participants", Unit  
24          Petroleum, you do not seek to pool those people?

25          A.    That is correct, they have agreed to participate.



1 Q. And again, looking at the people under "Party",  
2 is Devon Energy Production Company an oil and gas lessee?

3 A. Yes, they are.

4 Q. And all of these other interest owners are  
5 unleased mineral owners, are they not?

6 A. That is correct.

7 Q. Now, this is not a complete list of the mineral  
8 owners in the east half; a number of them have already been  
9 leased, have they not?

10 A. That is correct, yes, sir.

11 Q. I mean, there are dozens and dozens more interest  
12 owners?

13 A. Yes. Yes, sir.

14 Q. And before we move on to this, there are -- have  
15 any of the people listed as a party indicated they will or  
16 may join in the well?

17 A. Yes, Devon Energy and Roy Barton have indicated  
18 that they may participate. They have signed an AFE, and  
19 they have a joint operating agreement in front of them that  
20 they're reviewing at this time.

21 Q. Okay. Now, if they -- And what about Higgins  
22 Trust? Have they indicated that they're interested in  
23 either joining in the well as a working interest owner or  
24 leasing their interest?

25 A. Yes, they have indicated that they're leaning

1 toward participating at this time, and they also have a  
2 joint operating agreement and an oil and gas lease in front  
3 of them.

4 Q. Okay. And if any of these parties join in the  
5 well, will you subsequently notify the Division so that  
6 they are not subject to a pooling order?

7 A. Yes, I certainly will.

8 Q. And with respect to Higgins Trust and Devon and  
9 Roy Barton, are you continuing to negotiate with them, even  
10 after this hearing?

11 A. Certainly, we have an ongoing discussion with  
12 both Higgins Trust and Devon and Roy Barton, and in fact,  
13 as -- most recently, in the last couple days, we've had  
14 conversations with the Higgins Trust people.

15 Q. Okay. Well, let's move on to the basics of your  
16 discussions, your efforts to obtain the voluntary joinder  
17 of the interest owners in the well. Without going into  
18 great detail, just briefly, what is Exhibit 3?

19 A. Exhibit 3 contains copies of correspondence to  
20 the uncommitted interest owners that were sent out by Shaw  
21 Interests, Inc., and this was done on behalf of Unit and  
22 its partners. Except for Devon Energy, these people are  
23 unleased mineral owners, and we've attempted to lease them  
24 beginning in the latter part of 2004.

25 When we couldn't get a response by these folks,

1 we sent out a letter on August the 4th, or -- yeah, August  
2 4th, and proposed that these mineral owners either grant us  
3 a lease or participate in the drilling of the well.

4 Q. Okay, so other than for Devon, negotiations with  
5 these parties have been going on for about a year at this  
6 point?

7 A. That's correct, yes.

8 Q. And there's prior correspondence to August 4th,  
9 but August 4th was the first well proposal with an AFE to  
10 these various parties?

11 A. That is correct, yes.

12 Q. And besides Shaw Interests, Mr. Examiner, I think  
13 I've tabbed with a little sticker, a green -- you also sent  
14 a well proposal out to all these interest owners in  
15 September, did you not?

16 A. Yes, I did, on September 30th we sent an  
17 additional proposal to them and followed up with additional  
18 letters and phone calls. We wanted to ensure that all the  
19 parties understood that Unit Petroleum was the operator and  
20 that they had our AFE in front of them.

21 Q. Okay. Now, some of these parties are  
22 unlocatable, are they not?

23 A. Yes.

24 Q. And without going into them at this point, what  
25 was done to locate these unlocatable parties?

1           A.    Yeah, we vigorously searched the county records,  
2 including the probate records, and we also utilized a  
3 website called Autotrack, which is one of the top-used  
4 websites for locating. It's also very expensive, but we  
5 tried our very best to locate these parties.

6           MR. BRUCE: And Mr. Examiner, if you will give me  
7 a minute, I'll tell you exactly which -- I thought I had  
8 marked on your copy which ones were unlocatable. Let's  
9 defer that for a moment, Mr. Examiner, and then I can tell  
10 you which ones are.

11          Q.    (By Mr. Bruce) Now, in your opinion, after a  
12 year of effort, has Unit made the requisite effort to  
13 obtain the voluntary joinder of the uncommitted interest  
14 owners in the proposed well?

15          A.    Yes, I certainly believe so.

16          Q.    Now, what is Exhibit 4?

17          A.    Exhibit 4 is our AFE for the well. It is a 9290-  
18 foot Morrow test with a dryhole cost of \$1,162,000 and a  
19 completed well cost of \$1,823,800.

20          Q.    And are these costs in line with the costs of  
21 other wells drilled to this depth in this area of New  
22 Mexico?

23          A.    Yes, sir.

24          Q.    Do you request that Unit be named operator of the  
25 well?

1 A. Yes, I do.

2 Q. And what overhead rates do you propose?

3 A. We request drilling rates of \$7000 per month and  
4 producing rates of \$700 per month.

5 Q. And are these rates equivalent to those normally  
6 charged by other operators of wells of this depth in this  
7 area of New Mexico?

8 A. Yes, they are.

9 Q. Were the parties being pooled notified of this  
10 hearing?

11 A. Yes.

12 Q. And is Exhibit 5 an affidavit regarding notice --

13 A. Yes, it is.

14 Q. -- to these parties?

15 A. Uh-huh.

16 Q. Now, was notice also published as against the  
17 unlocatable interest owners?

18 A. Yes, it was.

19 MR. BRUCE: And Mr. Examiner, Exhibits 6 and 6A  
20 are the affidavits of notice. There were two, because I  
21 published once, and then I -- based on returned green cards  
22 I published to cover the additional parties who did not  
23 receive notice.

24 And Mr. Examiner, just for the record, the  
25 parties who are unlocatable are those who the green cards

1 were returned -- or were never returned, and those are  
2 David Brown, Marjorie Moran, Helen Marcotte, Ruby Rogers,  
3 Peggy Sue Lawson, the Trustees under the will of John  
4 Charles Major, Alma Gloor, G-l-o-o-r, Nelson Collier,  
5 Louise Richardson, Marion Hildom, H-i-l-d-o-m, Terry and  
6 Carla White, Robert Hildom, Roy Leslie Hildom, and Richard  
7 Alan Hildom, and then there was one other party who refused  
8 delivery, and that person's name is Ella Buxman.

9 And if you look at both Exhibits 6 and 6A, you'll  
10 see that notice was published as against all of those  
11 interest owners.

12 EXAMINER EZEANYIM: Are you -- when you say  
13 unlocatable, they returned the mail to you; is that -- What  
14 happened? You -- What happened with --

15 THE WITNESS: Well, we looked in the county  
16 courthouse, of course, with all the records that they have  
17 available there, including the probate index, to try to  
18 find out if they were deceased and their probate were  
19 somehow or another of record that we just hadn't come  
20 across. We did not find after a very rigorous search in  
21 the courthouse, the county courthouse.

22 And then we went online. There are Internet  
23 services where you can locate -- and I believe -- I was  
24 told that Autotrack is one that the government uses a lot  
25 to -- in different areas to try to locate unlocatable

1 people. And they didn't show up through that search as  
2 well.

3 So we have an ongoing -- have had an ongoing  
4 effort to try to locate these people, even up to date, just  
5 try to find them, and/or their heirs. So just came up  
6 empty-handed, basically.

7 EXAMINER EZEANYIM: So you -- the mail you sent  
8 to them was returned to you?

9 THE WITNESS: Right.

10 EXAMINER EZEANYIM: And they're part of this  
11 package -- Are those part of the package?

12 MR. BRUCE: Yes, Mr. Examiner.

13 Q. (By Mr. Bruce) Mr. Schantz, other than the  
14 Higgins Trust, which owns about 13 percent of the well, and  
15 Devon Energy, which owns about 9 1/2 percent, that leaves  
16 what, only about 3 or 3 1/2 percent --

17 A. That is correct.

18 Q. -- uncommitted?

19 A. That is correct.

20 Q. Were Exhibits 1 through 6A prepared by you or  
21 under your supervision or compiled from company business  
22 records?

23 A. That is correct, yes.

24 Q. And in your opinion, is the granting of this  
25 Application in the interests of conservation and the

1 prevention of waste?

2 A. Yes, it is.

3 Q. One final matter, Mr. Schantz. The Hearing  
4 Examiners always hear this, but do you request an expedited  
5 order?

6 A. Yes, I do.

7 Q. Now, this well, until recently, was planned to be  
8 drilled next year; is that correct?

9 A. That is right.

10 Q. What happened?

11 A. Well, we've been searching rigorously not only  
12 for people but for drilling rigs. They're very scarce, and  
13 once you find one you have to be ready to move pretty  
14 quickly. And one -- a drilling rig became available and  
15 kind of had a gap between wells that it was committed to,  
16 so we -- rather than wait months and months to try to find  
17 another one, we went ahead and committed to utilizing this  
18 drilling rig that had a gap in time that they could drill  
19 this well.

20 EXAMINER EZEANYIM: What time frame are you  
21 looking at?

22 THE WITNESS: We think probably in a couple weeks  
23 or so, something like that.

24 EXAMINER EZEANYIM: What is the rig doing now?

25 THE WITNESS: It's drilling another well. So as



1 soon as it finishes up that well, then they will be ready  
2 to move it to this location and then drill it.

3 EXAMINER EZEANYIM: Go ahead, Mr. Bruce.

4 THE WITNESS: I'm sorry, did you ask --

5 EXAMINER EZEANYIM: No, I said Mr. Bruce to  
6 continue.

7 Q. (By Mr. Bruce) In your opinion, Mr. Schantz, is  
8 the granting of this Application in the interest of  
9 conservation and the prevention of waste?

10 A. Yes, it is.

11 MR. BRUCE: And Mr. Examiner, I'd move the  
12 admission of Unit Exhibits 1 through 6A.

13 EXAMINER EZEANYIM: Any objection?

14 MS. MUNDS-DRY: No objection.

15 EXAMINER EZEANYIM: Unit Exhibits 1 through 6A  
16 are admitted into evidence.

17 Ms. Munds?

18 MS. MUNDS-DRY: I have no questions for Mr.  
19 Schantz, Mr. Bruce covered it.

20 EXAMINER EZEANYIM: All right, very good.

21 MS. MacQUESTEN: No questions, thank you.

22 EXAMINATION

23 BY EXAMINER EZEANYIM:

24 Q. Okay. Some of the questions I have here have  
25 been answered. But your overhead rates, you said \$7000 and

1 then \$700, and these are typical in the area, right?

2 A. Yes, we've signed some other agreements with  
3 other operators, and that rate is -- I mean, it's very  
4 competitive, it's the same rate that other nearby operators  
5 have --

6 Q. And this is also going to be directional well?  
7 You're going to be drilling directionally?

8 A. Yes. Yes, it's along the river, and we didn't  
9 think we could drill it down in the riverbed, so we got --  
10 we're beginning on a surface location that's kind of flat,  
11 and that's really the only purpose for the directional  
12 drilling.

13 EXAMINER EZEANYIM: Yeah, okay. Anything  
14 further?

15 MR. BRUCE: I have nothing further, Mr. Examiner.

16 EXAMINER EZEANYIM: Okay, before I take this  
17 under advisement -- Do you have anything?

18 MS. MacQUESTEN: No, thank you.

19 EXAMINER EZEANYIM: Okay, I have some  
20 announcements I wanted to make. It's not related to Unit  
21 Petroleum or to anybody, but anytime we have this hearing,  
22 I will use that opportunity to convey what we want from the  
23 operators. I'm not speaking to just Unit Petroleum or  
24 people in front of us today, but I'm trying to make sure  
25 that people understand what we want.

1           In this case, for example -- because I was  
2 wondering whether the location of that well was, you know,  
3 standard. And you know, I have -- I expect that if you  
4 have something that you wanted, this approval has been  
5 granted, you know, I would have liked to see if you are  
6 doing -- It's September 26th? I don't know when the docket  
7 was advertised, maybe it came in before -- after the docket  
8 had been advertised. But I would like to have that  
9 information so I don't have to waste all the time, you  
10 know, looking for that information.

11           Because what I have wanted to do apart from this  
12 subject is to make land matters with going through, and  
13 instead of approval, instead of coming here, you know,  
14 negotiating and taking it under advisement, whether I was  
15 barred from doing that because this would not allow us to  
16 do it. It would have to go to hearing. Otherwise, there  
17 could have been one or two we could have done  
18 administratively.

19           So I am -- you know, give us all the information  
20 so we don't waste time on even land matters. These are  
21 simple cases that we could do in five to ten minutes, as  
22 long as there is no objection. If there's no objection, I  
23 would prefer that we do it administratively, but they won't  
24 allow us to do that. So that's why we need complete  
25 information, so that we don't have to work too hard on

1 that.

2 And then on another related issue, I've said that  
3 if we, you know, deny you an administrative application and  
4 then -- say you should go to hearing and calling it, from  
5 now on, I think I will dismiss that case, if we ever see  
6 it. If I do it I will dismiss it, and then allow the  
7 applicant or the operator to tell me then what they want,  
8 and we decide whether to grant it or not. We should not be  
9 the people telling you what you want, because we don't know  
10 what you want. We don't know whether you really want it  
11 after we deny your administrative application.

12 So I'll continue to make that statement as --  
13 anytime we have this here and when we get the other people  
14 in the audience, so that they will know what we are asking  
15 for.

16 Because I think it's important, and you agree  
17 with me, that -- you come before the Division or the  
18 Commission to say, This is what I want. And then the  
19 Commission or the Division will say, Okay, we give it to  
20 you or we don't, you know.

21 So we shouldn't be -- it should not be the other  
22 way around. We don't know what you want. So we want you  
23 tell us what you want. And I want you to give it to us  
24 complete so that we know we can continue it and then get  
25 back to you.

1 I know you're telling me now your rig is going to  
2 go away. I mean, if I have to do more work to be able to  
3 issue this, it's going to delay your rig. So I want you  
4 guys to do more work before coming to the Division or  
5 before doing your advertisement. I go through this docket  
6 advertisement every time now, and if I see one wrong, I  
7 will just dismiss it. And then -- to your surprise I will  
8 dismiss it. I don't care whether they have the rig or not,  
9 I will dismiss that case until you do it right. I want to  
10 straighten most of these things out now.

11 So it's not related to this case, but I wanted to  
12 use this opportunity to express what I've been wanting in  
13 my mind that I want to do it, and I will continue to pursue  
14 that. It's not related to Case Number 13,566; it's just  
15 what I wanted to say. Anyway, I hope the word gets out  
16 there.

17 With nothing else here, Case Number 13,566 will  
18 be taken under advisement.

19 MR. BRUCE: Mr. Examiner, I do have a draft order  
20 that I could e-mail to you on this one also.

21 EXAMINER EZEANYIM: Okay, on the -- 13,566?

22 MR. BRUCE: Yeah.

23 EXAMINER EZEANYIM: Okay, sure. I don't refuse  
24 any help.

25 So that concludes the hearing today.

1 THE WITNESS: Thank you. Appreciate your time,  
2 sir.

3 (Thereupon, these proceedings were concluded at  
4 8:55 a.m.)

5 \* \* \*

14 I do hereby certify that the foregoing is  
15 a complete record of the proceedings in  
16 the Examiner hearing of Case No. 13568  
17 heard by me on 12/1/85  
18 [Signature] Examiner  
19 Oil Conservation Division  
20  
21  
22  
23  
24  
25

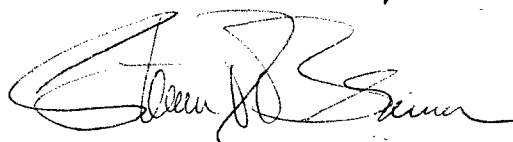
## CERTIFICATE OF REPORTER

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 December 1st, 2005.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006