

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: )  
APPLICATION OF CIMAREX ENERGY COMPANY )  
FOR COMPULSORY POOLING, LEA COUNTY, )  
NEW MEXICO )

CASE NO. 13,691

ORIGINAL

2006 APR 27 AM 9 28

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Hearing Examiner

April 13th, 2006

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Hearing Examiner, on Thursday, April 13th, 2006, 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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April 13th, 2006  
Examiner Hearing  
CASE NO. 13,691

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\* \* \*

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

## FOR THE APPLICANT:

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

## FOR EOG RESOURCES, INC., and CHESAPEAKE ENERGY CORPORATION:

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

\* \* \*

## ALSO PRESENT:

WILLIAM V. JONES, JR.  
Hearing Examiner  
New Mexico Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 8:35 a.m.:

3           EXAMINER BROOKS: The next case is Case Number  
4 13,691, the Application of Cimarex Energy Company for  
5 compulsory pooling, Lea County, New Mexico.

6           Call for appearances.

7           MR. BRUCE: Mr. Examiner, Jim Bruce from Santa  
8 Fe, representing the Applicant. I have one witness to be  
9 sworn.

10          MR. CARR: May it please the Examiner, my name is  
11 William F. Carr with the Santa Fe office of Holland and  
12 Hart. We'd like to enter our appearance in the case for  
13 EOG Resources, Inc., and also for Chesapeake Energy  
14 Corporation.

15          We do not intend to call a witness.

16          EXAMINER BROOKS: Will the witness please stand  
17 to be sworn?

18          Witness?

19          MR. BRUCE: Tony, stand up.

20          (Thereupon, the witness was sworn.)

21          MR. BRUCE: Sorry, Mr. Examiner --

22          EXAMINER BROOKS: Don't have an extra set?

23          MR. BRUCE: My witness came in late last night,  
24 and we're still getting organized.

25          EXAMINER BROOKS: Oh, okay. Thank you.

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TONY CERVI,

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

DIRECT EXAMINATION

BY MR. BRUCE:

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

A. It's Tony Cervi.

Q. How do you spell your last name, for the court reporter?

A. C-e-r-v-i.

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

A. I work for Cimarex Energy Company as a petroleum landman.

Q. Have you previously testified before the Division?

A. No, I have not.

Q. Would you please summarize your educational and employment background for the Examiner?

A. Yes, I have a bachelor's in business administration degree in energy management from the University of Oklahoma, and I have been employed as a landman for about three years.

Q. And who have you been employed by during that period?

A. I was employed for three months by Continental

1 Land Resources in Oklahoma City as a field landman, and  
2 I've been employed with Cimarex Energy since May of 2003.

3 Q. Does your area of responsibility at Cimarex  
4 include this part of southeast New Mexico?

5 A. Yes, it does.

6 Q. And are you familiar with the land matters  
7 involved in this Application?

8 A. Yes, I am.

9 MR. BRUCE: Mr. Examiner, I tender Mr. Cervi as  
10 an expert petroleum landman.

11 EXAMINER BROOKS: Any objection, Mr. Carr?

12 MR. CARR: No objection.

13 EXAMINER BROOKS: He is so qualified.

14 Q. (By Mr. Bruce) Mr. Cervi, could you identify  
15 Exhibit 1 for the Examiner and briefly describe what  
16 Cimarex seeks in this Application?

17 A. Yes, Exhibit 1 is a Midland Map Company land  
18 plat. The highlighted acreage is the north half of Section  
19 8, Township 15 South, Range 36 East, and we seek an order  
20 pooling the north half from the surface to the base of the  
21 Morrow formation.

22 Q. What is the well's proposed -- the proposed  
23 well's location?

24 A. The location is 1250 feet from the north line and  
25 660 feet from the east line.

1 Q. And so it will be an orthodox location; is that  
2 correct?

3 A. Yes, that is correct.

4 Q. Now this is all fee land, is it not?

5 A. Yes, it is.

6 Q. Okay, and approximately how many owners, either  
7 unleased mineral owners or working interest owners, are  
8 there in the north half of Section 8, just roughly?

9 A. Roughly, there were 62 mineral owners, there are  
10 about 15 to 20 lessees.

11 Q. Okay. And what does Exhibit 2 represent?

12 A. Exhibit 2 represents the parties that we seek to  
13 pool.

14 Q. Okay. You've come to terms -- there's about --  
15 what, about 20 owners here? You've come to terms with the  
16 other 40 or so owners?

17 A. We've obtained leases from 26 of the mineral  
18 owners, and we've obtained agreements from two of the  
19 lessees covering approximately 41 percent of the working  
20 interest.

21 Q. Okay. And what are the percentages to the right  
22 of each interest owner's name?

23 A. That is the percentage of working interest that  
24 that party owns in the north half of Section 8.

25 Q. Okay. And at this point, you seek to pool

1 everyone who's on Exhibit 2; is that correct?

2 A. Yes, that is correct.

3 Q. Now let's discuss your efforts to obtain the  
4 voluntary joinder of the interest owners in this well.  
5 What is Exhibit 3?

6 A. Exhibit 3 is all of the correspondence that I've  
7 had with the interest owners.

8 Q. And could you just briefly state when you sent  
9 the letters out and then maybe get into your follow-up  
10 conversations just very briefly with these interest owners?

11 A. Yes, we sent a proposal letter with an AFE on  
12 February 15th of 2006. We have sent follow-up letters,  
13 e-mails, and I sent a JOA to all the working interest  
14 owners on March 10th of 2006.

15 Q. And have you had -- with respect to the locatable  
16 mineral interest owners or lessees, have you had telephone  
17 discussions with them?

18 A. Yes, I have.

19 Q. Several with each person?

20 A. Yes.

21 Q. Did the conversations -- did they involve mainly  
22 -- well, with unleased owners are you still trying to get  
23 leases from them?

24 A. We have tried to get leases from the unleased  
25 mineral owners for approximately 12 months. There are

1 several parties that were unlocatable.

2 Q. Okay. And with respect to the oil and gas  
3 lessees, have you discussed either terms of the JOA or  
4 getting farmouts from them?

5 A. Yes, we have discussed terms of the JOA, we've  
6 also made two separate offers for term assignment and  
7 farmout.

8 Q. Now looking at Exhibit 2, on pages 2 and 3 there  
9 are a number of interest owners, unleased mineral owners,  
10 listed with no address available. What steps were taken to  
11 try to track down these interest owners?

12 A. We conducted a search of the county records,  
13 searched Internet phone directory records, tried to locate  
14 family members, searched probate records, and just could  
15 not find any of these mineral owners.

16 Q. And Cimarex has several other wells and other  
17 prospects in this immediate area, does it not?

18 A. Yes, we do.

19 Q. And so you have been checking out the mineral  
20 ownership in this immediate area, including Section 8, for  
21 well over a year now, have you not?

22 A. Yes.

23 Q. So you've taken a number of steps, and I presume  
24 this is the typical case where somebody bought interest  
25 back in the 1920s, 1930s or 1940s and just --

1 A. Yes, that's correct.

2 Q. In your opinion, has Cimarex made a good-faith  
3 effort to obtain the voluntary joinder of the locatable  
4 owners or to track down the unleased mineral owners?

5 A. Yes, we have.

6 Q. Would you identify Exhibit 4 and discuss the copy  
7 of your proposed well?

8 A. Exhibit 4 is an AFE for this well, proposed depth  
9 of 12,750 feet, estimated dryhole cost of about \$2.1  
10 million and a completed well cost of about \$2.9 million.

11 Q. Are these costs fair and reasonable and  
12 comparable to those of other wells drilled to this depth in  
13 this area of Lea County?

14 A. Yes.

15 Q. Do you request that Cimarex be appointed operator  
16 of the well?

17 A. Yes, I do.

18 Q. Do you have a recommendation which Cimarex should  
19 be paid for supervision and administrative expenses?

20 A. Yes, we request that \$6500 a month be allowed for  
21 a drilling well and \$650 a month for a producing well.

22 Q. And are these amounts equivalent to those  
23 normally charged by Cimarex and other operators in this  
24 area for wells of this depth?

25 A. Yes.

1 Q. And do you request that the overhead rates be  
2 adjusted periodically as provided by the COPAS accounting  
3 procedure?

4 A. Yes.

5 Q. Were all of the locatable interest owners  
6 notified of the hearing in this matter?

7 A. Yes, they were.

8 Q. And is that reflected in the affidavit of notice  
9 submitted as Exhibit 5?

10 A. Yes.

11 Q. And was notice published as against the  
12 unlocatable interest owners?

13 A. Yes, it was.

14 Q. And that newspaper notice is marked as Exhibit 6?

15 A. Yes.

16 Q. In your opinion, has Cimarex made a good-faith  
17 effort to obtain the voluntary joinder of the parties in  
18 this pool?

19 A. Yes, we have.

20 Q. And in your opinion is the granting of this  
21 Application in the interests of conservation and the  
22 prevention of waste?

23 A. Yes, it is.

24 Q. And were Exhibits 1 through 6 either prepared by  
25 you or under your supervision, or compiled from company

1 business records?

2 A. Yes, that's correct.

3 MR. BRUCE: Mr. Examiner, I'd move the admission  
4 of Cimarex Exhibits 1 through 6.

5 EXAMINER BROOKS: Any objection?

6 MR. CARR: No objection.

7 EXAMINER BROOKS: 1 through 6 are admitted.

8 MR. BRUCE: One thing, Mr. Examiner, on Exhibit  
9 5, the affidavit of notice, a number -- there were a number  
10 of parties notified who are not listed on Exhibit 2, and  
11 the difference is simply that a number of parties have  
12 joined in the well since the notice was sent out. So  
13 Exhibit 2 does indicate the parties who are being pooled  
14 and not Exhibits 6 and 7.

15 EXAMINER BROOKS: Exhibit 2 is the more recent --

16 MR. BRUCE: That is correct.

17 EXAMINER BROOKS: -- list? Okay.

18 Okay, is that all.

19 MR. BRUCE: Yes, sir.

20 EXAMINATION

21 BY EXAMINER BROOKS:

22 Q. There are references in the Application to the  
23 Atoka, and the pooling is to the base of the Morrow. I'm  
24 afraid I don't necessarily understand the relationship  
25 between those two formations in Lea County, but would it be

1 correct to characterize this as a Morrow test well?

2 A. It's actually an Atoka test well.

3 MR. BRUCE: So they're -- they only seek to pool  
4 to the base of the Atoka.

5 EXAMINER BROOKS: Okay, so -- He said the base of  
6 the Morrow, so that was not correct; it's to the base of  
7 the Atoka?

8 MR. BRUCE: Is that correct?

9 THE WITNESS: Yes, that's correct.

10 EXAMINER BROOKS: Okay. I believe that's all. I  
11 will check the affidavit to be sure you actually sent it to  
12 everybody, but I'm confident you did.

13 MR. BRUCE: That's all we have.

14 EXAMINER BROOKS: Okay, Case Number 13- -- Any  
15 objection to anything, Mr. Carr?

16 MR. CARR: I have no objection to anything.

17 EXAMINER BROOKS: Very good.

18 MR. JONES: Could I ask --

19 EXAMINER BROOKS: Okay, sure, Mr. Jones.

20 EXAMINATION

21 BY MR. JONES:

22 Q. Okay, Mr. Cervi, the --

23 A. Yes.

24 Q. -- AFE you sent out didn't have a lot of detail  
25 on it, it's just basically intangibles, tangibles and the

1 hookup costs.

2 A. I believe that the back side should have all of  
3 that information.

4 Q. Oh, here we go, here we go. I'm sorry.

5 A. It's okay.

6 MR. BRUCE: We were just trying to fool you, Mr.  
7 Jones.

8 MR. JONES: Okay, well that's easy to do.

9 EXAMINER BROOKS: Well, I -- Are you through?

10 MR. JONES: Yes, I'm through.

11 EXAMINER BROOKS: I realize I didn't ask -- or I  
12 didn't pick up on it, which I'm sure he probably testified  
13 to -- what were your overhead rates that you're asking for?

14 MR. BRUCE: I think he said \$6500 and --

15 THE WITNESS: -- \$650

16 MR. BRUCE: -- \$650.

17 EXAMINER BROOKS: Okay, very good.

18 If there's nothing further, then Case Number  
19 13,691 will be taken under advisement.

20 THE WITNESS: Thank you.

21 (Off the record at 8:46 a.m.)

22 (The following proceedings had at 9:20 a.m.)

23 MR. BRUCE: Mr. Examiner, one thing before I turn  
24 the rest of the proceedings over to Mr. Hall here. On my  
25 first case of the day, the Cimarex Energy Company case, my

1 landman Mr. Cervi informed me that although --

2 EXAMINER BROOKS: 13,691.

3 MR. BRUCE: 13,691. -- was that although the  
4 Atoka is the primary zone of interest, it was to be to the  
5 base of the Morrow.

6 EXAMINER BROOKS: Okay, and so they're going to  
7 drill to the Morrow?

8 MR. BRUCE: They're going to drill -- It's a  
9 secondary objective, but the Morrow is immediately below  
10 the Atoka, so...

11 MR. JONES: Is it advertised like that?

12 EXAMINER BROOKS: I will have to check that. I  
13 think it was. That was the way the Application read, to  
14 the --

15 MR. BRUCE: The Application -- the Application,  
16 if you look at the first paragraph of the Application, it  
17 does say the base of the Morrow.

18 EXAMINER BROOKS: Okay, hold on a second, I've  
19 got to find that file. I did see that the Application was  
20 to the Morrow, and that's why it surprised me when they  
21 said the Atoka, but --

22 MR. BRUCE: If you just look at the very top of  
23 the Application, it says that.

24 Did you find it, Mr. Brooks?

25 EXAMINER BROOKS: Well, no, the original

1 advertisement you submitted says to the base of the Atoka.  
2 Let's see -- The Application said to the Morrow, I saw  
3 that, and --

4 MR. BRUCE: Okay, well if we need to readvertise  
5 it --

6 EXAMINER BROOKS: Let me check the docket sheet  
7 here, if I can find that.

8 MR. BRUCE: If so, I'll take care of the  
9 readvertisement.

10 EXAMINER BROOKS: Yeah, okay --

11 MR. BRUCE: I'll readvertise --

12 EXAMINER BROOKS: Okay, it will need to be  
13 readvertised then. Well, we'll continue this case until  
14 May 11th.

15 (Thereupon, these proceedings were concluded at  
16 9:24 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. 13691,  
heard by me on Apr 13, 2006.

David K. Brooks, Examiner  
Oil Conservation Division

## 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 April 13th, 2006.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006