

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 BEPCO., L.P., FOR)
COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)

CASE NO. 13,758

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

August 17th, 2006

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, August 17th, 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.

2006 AUG 31 PM 10 27

* * *

I N D E X

August 17th, 2006
 Examiner Hearing
 CASE NO. 13,758

	PAGE
APPEARANCES	3
APPLICANT'S WITNESS:	
<u>KEVIN D. SMITH</u> (Landman)	
Direct Examination by Ms. Munds-Dry	4
Examination by Examiner Catanach	14
REPORTER'S CERTIFICATE	16

* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	6	14
Exhibit 2	8	14
Exhibit 3	8	14
Exhibit 4	8	14
Exhibit 5	11	14
Exhibit 6	12	14
Exhibit 7	13	14

* * *

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:

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 8:49 a.m.:

3 EXAMINER CATANACH: At this time I'll call Case
4 Number 13,758, the Application of BEPCo., L.P., for
5 compulsory pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MS. MUNDS-DRY: Good morning, Mr. Examiner. My
8 name is Ocean Munds-Dry. I'm here on behalf of BEPCo.,
9 L.P., this morning, and I have one witness.

10 EXAMINER CATANACH: Any additional appearances?
11 Okay, will the witness please stand and be sworn
12 in?

13 (Thereupon, the witness was sworn.)

14 KEVIN D. SMITH,
15 the witness herein, after having been first duly sworn upon
16 his oath, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. MUNDS-DRY:

19 Q. Good morning. Would you please state your name
20 for the record?

21 A. Kevin Dale Smith.

22 Q. Mr. Smith, where do you reside?

23 A. Fort Worth, Texas.

24 Q. And by whom are you employed?

25 A. BEPCo, L.P.

1 Q. What is your current position -- and if you don't
2 mind I'll call it Bass, if that's all right with you.

3 A. That's what we always call it. So many of them,
4 that's easy. Petroleum landman.

5 Q. Have you previously testified before the Oil
6 Conservation Division?

7 A. No, ma'am.

8 Q. Would you please summarize your educational
9 background for Mr. Catanach?

10 A. I've got a bachelor of business administration
11 from Texas Christian University in Fort Worth, Texas. I've
12 been a landman with Bass since December of '03.

13 Q. And have you worked for anyone else? Just Bass?

14 A. With a bank. I mean, it was non-oil and gas
15 related.

16 Q. Non-landman-related?

17 A. Yes, ma'am.

18 Q. And you've been doing landman work since you
19 started with Bass?

20 A. Yes, since day one, December of '03.

21 Q. Are you familiar with the Application filed in
22 this case?

23 A. I am.

24 Q. And are you familiar with the status of the land
25 that is the subject of this Application?

1 A. I am.

2 MS. MUNDS-DRY: Mr. Catanach, we would tender Mr.
3 Smith as an expert in petroleum land matters.

4 EXAMINER CATANACH: Mr. Smith is so qualified.

5 Q. (by Ms. Munds-Dry) Mr. Smith, would you briefly
6 state what Bass seeks with this Application?

7 A. We're pooling the north half of Section 12,
8 Township 19 South, Range 28 East, from depths of 2378 feet
9 to the base of the Morrow formation.

10 Q. And you're seeking to pool several different
11 spacing units. Could you briefly review those for the
12 Examiner?

13 A. Yes, on a 320-acre spacing that would be the
14 north half for all formations and pools, for the northwest
15 quarter on a 160-acre spacing for all formations and pools,
16 and the southwest quarter of the northwest quarter, Section
17 12, for all formations and pools on a 40-acre spacing.

18 Q. What is the name of the well that's to be
19 dedicated to the spacing unit?

20 A. Palmillo 12 State Com Number 1 well.

21 Q. And where is that located -- will it be located?

22 A. It will be located 1650 feet from the north line
23 and 660 feet from the west line in Section 12.

24 Q. Mr. Smith, would you please turn to Exhibit
25 Number 1 and review that for the Examiner?

1 A. Outlined in red is the proposed spacing unit,
2 based on the 320-acre spacing. Detailed by the green arrow
3 is the well location, and --

4 Q. I also notice here that you have numbers in red
5 with circles on them. Could you please review what those
6 show for Mr. Catanach?

7 A. No problem. The area outlined in red that's --
8 further by Number 1, excuse me, is the 240 acres. Bass
9 owns 100-percent working interest in the 240 acres in all
10 depths below 2738 feet in the southeast quarter of the
11 northeast quarter of that area outlined in 1, and 100-
12 percent working interest in the remainder of all depths in
13 the southwest quarter of the northeast quarter of Section
14 12 and the northwest quarter of Section 12.

15 Area outlined in 2, Bass owns a 50-percent
16 working interest in the Wolfcamp and Cisco formations only;
17 that would be in the northwest quarter of the northeast
18 quarter of Section 12. And Kerr-McGee owns all rights and
19 depths below 3000 feet.

20 Area outlined in 3, Kerr-McGee owns all rights
21 below 3000 feet.

22 Q. Thank you, Mr. Smith. What is the ownership
23 above 2730 feet?

24 A. Those rights fall within the Green [*sic*]-Crayburg
25 -- excuse me, -Grayburg formation, which spans from 1687

1 feet to 2490 feet, and those rights are subject to the East
2 Millman Unit Agreement, and therefore we're not pooling
3 them.

4 Q. Thank you, Mr. Smith. If you'd please turn to
5 Exhibit Number 2 and review that for the Examiner.

6 A. This is a breakdown of the working interest
7 owners in the well, based on a 320-acre spacing in the
8 Wolfcamp and Cisco formations. Bass entities would own an
9 81.25-percent working interest in the well, and Kerr-McGee
10 would own the remainder, being an 18.75-percent working
11 interest. All other depths, Bass owns a 75-percent working
12 interest, and Kerr-McGee owns a 25-percent working
13 interest.

14 Q. Thank you. What's the primary objective of the
15 proposed well?

16 A. The Morrow formation.

17 Q. If you'd please turn to Exhibit Number 3 and
18 identify that for the Examiner.

19 A. This is an approved application for permit to
20 drill for the Palmillo 12 State Com Number 1 well.

21 Q. And this was approved on July 22nd of this year?

22 A. Yes, ma'am.

23 Q. If you would please turn to Exhibit Number 4, and
24 let's discuss what's in this exhibit packet here and also
25 your efforts to seek the voluntary participation of Kerr-

1 McGee. What is this first page or first grouping here?

2 A. It's a letter dated June 13 of 2006 to Ms. Jane
3 Graham of Kerr-McGee Oil and Gas Onshore, L.P. It's a well
4 proposal letter, sent by certified mail with the receipts
5 shown on the letter.

6 Q. And what response, if any, did you receive to
7 this letter?

8 A. On June 22nd I received an e-mail from Kerr-McGee
9 from Jane Graham, stating that the AFE incorrectly stated
10 their working interest percentage. It had the -- Excuse
11 me, let me go back, the -- It had the Wolfcamp and Cisco, a
12 percentage of 18.75, and it should have had a 25-percent
13 working interest, because we gave the proposal as a Morrow
14 well. Everything else on the AFE was unchanged. I was --
15 told no problem, I re-sent an AFE with the corrected
16 working interest number.

17 Q. What other contact, then, did you have with her
18 after that?

19 A. Well, once I got her e-mail on 6-22 I received a
20 phone number from her, and so I called and -- I called Jane
21 on -- that would be June 26th. I sent the revised AFE, I
22 also called her because I had the phone number, and I asked
23 if -- you know, their intention to participate in the well.

24 She gave me another landman's number and said,
25 You know, I'm not the land person that handles this area.

1 It needs to go to a man by the name of Leonard McCarty.
2 Gave me his phone number.

3 The following day, June 27th, I left Mr. McCarty
4 a message asking him to please call me back, you know,
5 stating that, you know, have you been forwarded our
6 information? I want to know your interest in participating
7 in this well.

8 And I didn't hear anything, so two days
9 following, on the 29th, I left Mr. McCarty an additional
10 message asking him the same things. And 6-30, I went ahead
11 and sent an e-mail so I'd have something hard on paper, you
12 know, beyond my messages. Still never heard anything.

13 Q. And is that reflected in the last page of Exhibit
14 Number 4, your e-mails to Mr. McCarty?

15 A. Yes. Yes, on June 30th.

16 Q. And then in between that time -- I note that he
17 responds to you here, but had you had any other discussions
18 between the time you sent that e-mail and when he finally
19 responded to you?

20 A. Yes, I'd sent him an additional e-mail a day
21 following, just stating, you know, Hey, you know, just like
22 to try to get this thing done, you know, anything would
23 help at this point.

24 And then on July 6th is when he responded.

25 Q. And how did he respond to you? I believe that's

1 reflected here.

2 A. Yes, via e-mail. I never spoke with him on the
3 phone.

4 He had my phone number, as you can see in my
5 stationery when I sent him this e-mail, and he just via-e-
6 mailed this, said, due to our pending merger with Anadarko
7 we will elect under the pooling order.

8 Q. In your opinion have you made a good faith effort
9 to obtain their voluntary participation in this well?

10 A. Yes, ma'am.

11 Q. Would you please turn to Exhibit Number 5 and
12 identify and review that for Mr. Catanach?

13 A. It is our AFE that we had sent. This has the
14 incorrect working interest percentage of 18.75 percent up
15 top, and I had sent a revised AFE with a 25-percent working
16 interest, but that's the AFE we sent them in the initial
17 well proposal.

18 Q. And the numbers didn't change when you --

19 A. Correct, just --

20 Q. -- made a correction to the interest --

21 A. -- at the very top where it says 18.75 I went in
22 and plugged 25 percent. That was it.

23 Q. And what are the totals set forth on this exhibit
24 for dryhole costs and completed costs?

25 A. Dryhole cost being \$1,920,000 and completed well

1 cost of \$2,980,000.

2 Q. Mr. Smith, from your familiarity with working in
3 this area, are these costs in line with what has been
4 charged by Bass or other operators in the area for similar
5 wells?

6 A. Yes. You know, we've drilled many Morrow test
7 wells, and we're currently drilling some. We have future
8 plans, and these numbers are very much in line.

9 Q. Would you please turn to Exhibit Number 6? Is
10 this the COPAS that was attached to the joint operating
11 agreement that you sent to Kerr-McGee for the proposed
12 well?

13 A. Yes, ma'am.

14 Q. Have you made an estimate of overhead and
15 administrative costs while drilling this well and also
16 while producing this well if it's successful?

17 A. Yes.

18 Q. And what are those rates?

19 A. \$8000 a month for the drilling rate, and \$800 a
20 month for the producing rate.

21 Q. Do you recommend that these figures be
22 incorporated into any order that results from this hearing?

23 A. Yes.

24 Q. Does Bass request that in accordance with
25 Division Rules the maximum charge for risk of 200 percent

1 be imposed on Kerr-McGee if they do not voluntarily commit
2 to this well?

3 A. Yes.

4 Q. Does Bass seek to be designated operator of the
5 proposed well?

6 A. Yes.

7 Q. In your opinion will the granting of this
8 Application be in the best interest of conservation, the
9 prevention of waste and the protection of correlative
10 rights?

11 A. Yes.

12 Q. Mr. Smith, is Exhibit Number 7 an affidavit
13 signed by Mr. Carr stating that notice of this hearing was
14 given in accordance with Division Rules?

15 A. Yes.

16 Q. And is there notice to the newspaper?

17 A. Yes.

18 Q. And also a copy of the green card showing that
19 Kerr-McGee did receive notice of this hearing?

20 A. Yes.

21 Q. Were Exhibits 1 through 7 prepared by you or
22 compiled under your direction or supervision?

23 A. Yes, they were.

24 MS. MUNDS-DRY: Mr. Examiner, we'd move the
25 admission of Exhibits 1 through 7 into evidence.

1 EXAMINER CATANACH: Exhibits 1 through 7 will be
2 admitted.

3 MS. MUNDS-DRY: And that concludes my direct of
4 Mr. Smith.

5 EXAMINATION

6 BY EXAMINER CATANACH:

7 Q. Mr. Smith, give me the depths again. The top of
8 the pooled interval would be 2738?

9 A. Correct.

10 Q. And that's to the base of the Morrow, right?

11 A. To the base of the Morrow.

12 Q. Okay.

13 MS. MUNDS-DRY: Mr. Examiner, I see that we
14 actually advertised from the surface to the base of the
15 Morrow, so you may wish us to correct that notice.

16 EXAMINER CATANACH: I think it's okay, because
17 you're including more in the ad than you're actually
18 pooling, so we'll just leave that as it is.

19 Q. (By Examiner Catanach) The overhead rates that
20 you're proposing, I think those are the highest that I've
21 seen. Where did you guys come up with those, or how did
22 you come up with those?

23 A. Well, we operate, you know, 100-plus wells in
24 southeast New Mexico. And, you know, we -- this year we
25 probably drilled, I'd say, 50 wells. And this is our

1 standard -- this is our standard form JOA, and these are
 2 the rates that we've always charged, and -- I mean, it's
 3 never -- it has not been contested prior to -- you know, to
 4 coming here, and, you know, it's -- any other nonoperator
 5 has signed that rate. I mean, it's a nonadjusted rate, you
 6 know, so there's -- any compensation on that side as well.

7 Q. Okay. Now this well hasn't been drilled, right?

8 A. No, sir.

9 Q. All right.

10 A. No, it has not.

11 MS. MUNDS-DRY: No, sir, Mr. Hearing Examiner.

12 (Laughter)

13 EXAMINER CATANACH: Okay, anything further?

14 MS. MUNDS-DRY: Nothing further.

15 EXAMINER CATANACH: There being nothing further,
 16 Case 13,758 will be taken under advisement.

17 MS. MUNDS-DRY: Thank you, Mr. Examiner.

18 (Thereupon, these proceedings were concluded at
 19 9:04 a.m.)

20 * * *

21 I do hereby certify that the foregoing is
 22 a complete record of the proceedings in
 23 the examiner hearing of Case No. 13758,
 24 heard by me on August 17, 2006.
 25 David R. Catnach, 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 August 17th, 2006.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006