

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. 14,027

AMENDED APPLICATION OF CHESAPEAKE )  
OPERATING, INCORPORATED, FOR COMPULSORY )  
POOLING, LEA COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, Jr., Technical Examiner  
DAVID K. BROOKS, Jr., Legal Examiner

January 10th, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, Jr., Technical Examiner, DAVID K. BROOKS, Jr., Legal Examiner, on Thursday, January 10th, 2008, 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.

\* \* \*

STEVEN T. BRENNER, CCR  
(505) 989-9317

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## I N D E X

January 10th, 2008  
 Examiner Hearing  
 CASE NO. 14,027

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<u>EDWARD J. BIRDSHEAD</u> (Landman)	
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\* \* \*

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

## FOR THE DIVISION:

DAVID K. BROOKS, JR.  
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## 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 9:07 a.m.:

3 EXAMINER JONES: And let's call Case 14,027,  
4 amended Application of Chesapeake Operating, Incorporated,  
5 for compulsory pooling, Lea County, New Mexico.

6 Call for appearances.

7 MS. MUNDS-DRY: Ocean Munds-Dry with the law firm  
8 of Holland and Hart, here representing Chesapeake  
9 Operating, Incorporated, this morning, and I have one  
10 witness.

11 EXAMINER JONES: Any other appearances?  
12 Will the witness please stand to be sworn?

13 (Thereupon, the witness was sworn.)

14 EDWARD J. BIRDSHEAD,  
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. Would you please state your full name for the  
20 record?

21 A. Edward Joe Birdshead.

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

23 A. 2200 Cheswick Road, Edmond, Oklahoma.

24 Q. And by whom are you employed?

25 A. Chesapeake Energy Corporation.

1 Q. And what is your position with Chesapeake?

2 A. I'm a landman.

3 Q. Have you previously testified before the  
4 Division?

5 A. No.

6 Q. Would you please review for the Examiner your  
7 education and work background?

8 A. Yes, I have a petroleum land management degree  
9 from OU, and I have worked for ARCO, Union Pacific, Noble  
10 Energy, Dominion E&P, and now Chesapeake for about 25  
11 years, land experience.

12 Q. How long have you been with Chesapeake?

13 A. Almost a year.

14 Q. And before that, who were you employed by?

15 A. Dominion E&P.

16 Q. Were you employed as a landman?

17 A. I was a staff land analyst.

18 Q. How long were you with Dominion?

19 A. About four years.

20 Q. And are you familiar with the Application that's  
21 been filed in this case?

22 A. Yes.

23 Q. And are you familiar with the status of the lands  
24 that are the subject of this Application?

25 A. Yes, I am.

1 MS. MUNDS-DRY: Mr. Examiner, we would tender Mr.  
2 Birdshead as an expert in petroleum land matters.

3 EXAMINER JONES: Mr. Birdshead is qualified as an  
4 expert in petroleum land matters.

5 Q. (By Ms. Munds-Dry) Mr. Birdshead, would you  
6 briefly state what Chesapeake seeks with this Application?

7 A. Yes, an order pooling all mineral interests from  
8 4000 feet to 15,751 feet, the Ellenburger formation, in the  
9 north half of Section 21, Township 22 South, Range 36 East,  
10 in Lea County, New Mexico.

11 Q. What is the name of the well that is the subject  
12 of the spacing unit?

13 A. Said unit is to be dedicated to the Langley Greer  
14 Well Number 3H, to be drilled at a surface location 2440  
15 from the south line and 660 from the west line, a  
16 penetration point 2310 from the north line and from the  
17 west line, and a bottomhole location 660 feet from the  
18 north line and from the west line of Section 21.

19 Q. Is this well the subject of an administrative  
20 order that granted the nonstandard location for the  
21 penetration point?

22 A. Yes, NSL 5720.

23 Q. Thank you, Mr. Birdshead. If you would please  
24 turn to what's been marked as Chesapeake Exhibit Number 1  
25 and identify and review that for Mr. Jones.

1           A.    Okay, Mr. Jones, our well spacing is going to be  
2           the north half of Section 21. We're going to enter real  
3           close to a surface location which is in the north part of  
4           the south half of 21. This is going to be a horizontal  
5           well, drill it into Section -- the north half of Section  
6           21.

7           Q.    Thank you. Would you please turn to what's been  
8           marked Exhibit Number 2 and review this also for the  
9           Examiner?

10          A.    These are the working interest owners that have  
11          consented to participate in our well. It's their interest  
12          and who they are, telephone numbers and everything.

13          Q.    What is the primary objective of the proposed  
14          well?

15          A.    It would be the Devonian formation, gas.

16          Q.    Would you please then turn to what's been marked  
17          as Exhibit Number 3 and review your efforts to obtain the  
18          voluntary participation of those interest owners listed  
19          here?

20          A.    Yes.

21          Q.    And you might start, Mr. Birdshead -- sorry to  
22          interrupt -- with some of the background of how we got here  
23          today.

24          A.    Yes, we have about 90 orders that we have been  
25          able to identify in this area. The thing about this

1 particular Application is, this section, the north half of  
2 the section, is already covered by a lease, the two  
3 different leases. But they are 1920s vintage, and there's  
4 no pooling language in the lease, so it's -- actually what  
5 we're trying to do is add some kind of pooling language to  
6 them.

7 But in order to obtain the ownership, we had a  
8 drilling opinion done, and then from there we checked our  
9 records and -- to see who we were paying and what the  
10 current ownership was in those wells, and then we took the  
11 correlation between the two and then searched Internet and  
12 county courthouse records of last known address and have  
13 come up with a pretty good address list.

14 Q. And let's -- and let's -- You've started talking  
15 about that, but let's divide your efforts, then, between  
16 those interest owners who you were not able to locate and  
17 then those interest owners who were locatable.

18 You said that you had a drilling opinion -- a  
19 title opinion, completed. What other efforts did you  
20 undertake to try to locate those lost interest owners?

21 A. We had a broker out of Midland helping us locate  
22 the owners from other areas in the county, from other  
23 wells. She was familiar with a lot of the owners already,  
24 and so she helped us locate them. And then she also did  
25 Internet searches and genealogy searches for addresses and



1     obituaries, and then from there we tried to obtain the  
2     current ownership.

3             Q.     Did you or anyone working in your behalf search  
4     county records?

5             A.     Yes, we searched online county records for  
6     Midland, Harris County, I think maybe Dallas and Tarrant  
7     County. They were all online, so we were able to gather  
8     information online.

9             Q.     And what is Exhibit Number 3?

10            A.     Exhibit Number 3 are the owners that we have come  
11     up with who have signed a voluntary pooling agreement for  
12     this. We have so far 37 who have signed and returned our  
13     request for the pooling agreement, and -- out of 90, about  
14     41 percent.

15                   Second page is a copy of a letter that was mailed  
16     to each owner in this list --

17            Q.     -- that you were able to find the address for?

18            A.     -- that we were able to find the addresses for.  
19     I don't think we had too many unlocatable owners. We were  
20     able to identify at least the heirs or someone that knew  
21     someone that we could send it to.

22            Q.     And so also included in this packet is a copy of  
23     the letter with the pooling agreement that went out to all  
24     those interest owners?

25            A.     Yes.

1 Q. And tell me here, what is the current status with  
2 John H. Hendrix Corporation, if you know?

3 A. John H. Hendrix Corporation called me the other  
4 day, and they thought they had a working interest in this  
5 well. But our title opinion didn't show that they had a  
6 working interest, but just the royalty interest. So she  
7 was going to send me some backup that maybe we weren't able  
8 to -- or our attorney didn't review and search in his  
9 records when he did the title opinion. And from there,  
10 we'll take it from there and see what kind of interest they  
11 have. If they do actually have a working interest, then we  
12 would revise our DOI and send them an offer to participate.

13 Q. And so, Mr. Jones, we've actually included --  
14 although these are all royalty owners that we're seeking to  
15 pool, if it turns out that Hendrix Corporation is a working  
16 interest owner, we have some proposed drilling and  
17 producing rates in case that's where we come out on this,  
18 since that's a little bit up in the air right now. But  
19 otherwise, that wouldn't be relevant with the royalty  
20 owners at this time, just to give you that background.

21 In your opinion, Mr. Birdshead, have you made a  
22 good faith effort to obtain the voluntary participation in  
23 this well?

24 A. Yes.

25 Q. And would you please turn to Exhibit Number 4 and

1 review that for the Examiner?

2 A. Okay, this is the AFE, and these are estimated  
3 costs of what it's going to cost to drill this well.

4 Q. And this is what was sent to all the working  
5 interest owners?

6 A. Yes.

7 Q. And what are the dryhole and completed well  
8 costs?

9 A. Well, the dryhole cost is \$2,729,000, and the  
10 completed well cost is \$4,817,000.

11 Q. Are these costs in line with what Chesapeake or  
12 other operators in the area are charging for similar wells?

13 A. Yes.

14 Q. And have you made an estimate of the overhead and  
15 administrative costs while drilling this well and while  
16 producing the well if successful?

17 A. Well, actually, it's covered by the JOA that we  
18 already have in place, and it's right at \$2200 a month for  
19 drilling rate and \$220 a month for a producing rate, which  
20 is kind of low.

21 Q. Operating agreement was signed --

22 A. Yes.

23 Q. -- a while back?

24 A. The operating agreement was signed back in the  
25 '80s.

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

3 A. Yes.

4 Q. And does Chesapeake request that in accordance  
5 with Division Rules, that the maximum charge of 200 percent  
6 be imposed on those interest owners who do not voluntarily  
7 commit their interest in the well?

8 A. Yes.

9 Q. And does Chesapeake seek to be designated the  
10 operator of this well?

11 A. Yes, yes, we do.

12 Q. And in your opinion will the granting of this  
13 Application be in the best interest of conservation, the  
14 prevention of waste and the protection of correlative  
15 rights?

16 A. Yes.

17 Q. And if you'll turn to Exhibit Number 5, is this a  
18 copy of my notice affidavit, as well as the Exhibit A of  
19 those interest owners we seek to pool, a copy of the notice  
20 letter, the affidavit of publication and the certified  
21 receipts and green cards?

22 A. Yes.

23 Q. Were Exhibits 1 through 5 either prepared by you  
24 or compiled under your direct supervision?

25 A. Yes, they were.

1 MS. MUNDS-DRY: Mr. Jones, we would move the  
2 admission into evidence of Chesapeake Exhibits 1 through 5.

3 EXAMINER JONES: Exhibits 1 through 5 will be  
4 admitted.

5 MS. MUNDS-DRY: And I have nothing further for  
6 Mr. Birdshead.

7 EXAMINATION

8 BY EXAMINER JONES:

9 Q. The AFE says 14,384 feet, and you want to pool to  
10 a measured depth of 15,751?

11 A. Yes.

12 Q. Is there a reason why there's a discrepancy  
13 there?

14 A. What do you mean?

15 Q. You know, it may -- sometimes 1000 feet down at  
16 that depths make a big difference.

17 A. Yes --

18 Q. Of course, \$4.8 million, you probably have it  
19 covered.

20 A. Actually, we have a -- our geologist tells us we  
21 could go either way on this well. We could come up with a  
22 well, it could be an oil well which would be 40-acre  
23 spacing, so --

24 Q. Okay.

25 A. -- the pooling order wouldn't be needed if it

1 actually turned out to be an oil well.

2 Q. Okay, I think you answered my questions as to why  
3 you're doing the north half instead of the west half,  
4 because you have those existing leases, and --

5 A. Uh-uh.

6 Q. -- and you didn't want to break the lease in two  
7 or something.

8 A. Well, there are two leases, one in the east half  
9 and one in the west half, and one was taken in 1928 and I  
10 think the other one was taken in 1927, and they're all HBP  
11 by several wells. And there was no pooling language in  
12 those leases that we were comfortable with.

13 Q. If you had one on the west half, why didn't you  
14 do a west-half spacing unit here? Was it geologic reasons?

15 A. Yeah, the Devonian formation, the pool there is  
16 320-acre spacing, and so if we hit gas it will be 320.

17 Q. And they wanted a north half instead of a -- They  
18 wanted a laydown instead of a standup?

19 A. Well, actually in the south half we are already  
20 covered by the Langley Getty 2 re-entry --

21 Q. Okay.

22 A. -- and that's a laydown.

23 Q. That's the reason?

24 A. Yeah. It would have been easier to do it that  
25 way, believe me.

1 Q. Okay. I've got to ask the question that --  
2 before I forget. The Application said north half, but then  
3 you would also -- wanted a 640 for the Jalmat gas. Is that  
4 not what you want now?

5 MS. MUNDS-DRY: No -- yes, I don't believe that  
6 there's any 640 Jalmat in this area. We may have just been  
7 putting any pools that were, you know, applicable to this  
8 area, but --

9 Q. (By Examiner Jones) So you're not targeting the  
10 Jalmat gas?

11 A. No.

12 Q. Okay.

13 A. I don't even know if we have rights to the Jalmat  
14 in this area.

15 Q. Okay, yeah, because you -- you said 4000 down to  
16 15,751. That would take care of that.

17 A. There's a unit above it called the Eunice  
18 Monument Unit --

19 Q. Okay.

20 A. -- and that's the one on top of it.

21 Q. Okay.

22 A. But we don't have an interest in that unit.

23 Q. Okay. Okay, I guess -- NSL-5720; is that  
24 correct? That already covers the NSL --

25 A. Yes.

1 Q. It's already been done?

2 A. Yes, we have it done and approved.

3 Q. Okay. Well, it's a lot of money, but -- Why  
4 slanted in this case? Is it worth that much more to drill  
5 a slanted well --

6 A. Yeah, he --

7 Q. -- spend all that money?

8 A. -- he thought there might be something there.  
9 The Langley Getty 2 actually went horizontal, and that well  
10 turned out to be really good, and he just wanted to come in  
11 to catch the Devonian, which was kind of in the west half.

12 Q. Very persuasive geologist you have there,  
13 persuade management to spend that much more money.

14 A. Yeah, I hope it's there.

15 Q. Yeah.

16 EXAMINER BROOKS: I think that's the most  
17 expensive well I've seen in a compulsory pooling case.

18 MS. MUNDS-DRY: Is it?

19 EXAMINER JONES: Now tell me again about the  
20 Hendrix situation.

21 MS. MUNDS-DRY: There appears to be -- they  
22 believe -- Chesapeake's title opinion shows that they have  
23 a royalty interest, and Hendrix believes they have a  
24 working interest.

25 EXAMINER JONES: Have they been paying money all



1 these years to somebody for some reason?

2 MS. MUNDS-DRY: I'm not sure. Yeah, they'll work  
3 it out.

4 THE WITNESS: I think it went back to an earlier  
5 conveyance, which our attorney may not have seen. But she  
6 was going to send me all the backup on that, and then I'm  
7 just going to forward it to our attorney to see if he could  
8 ascertain where the ownership might be different or where  
9 -- if he had missed it or if he had already seen it and  
10 didn't think it applied.

11 There was one -- there's one conveyance in there  
12 that he said didn't really apply to title in this area, and  
13 so he disregarded that, and that might be the one she's  
14 talking about.

15 EXAMINER JONES: Okay. Well, that -- I guess  
16 that takes care of that.

17 Q. (By Examiner Jones) Can you supplement our  
18 record with the results of what you find out on that --

19 A. Okay.

20 Q. -- so that we can have it in our case file?

21 MS. MUNDS-DRY: We would be glad to.

22 THE WITNESS: Sure.

23 EXAMINER JONES: Okay. Do you have any  
24 questions?

25 EXAMINER BROOKS: Yeah.

## EXAMINATION

BY EXAMINER BROOKS:

Q. You said that Exhibit 2 was a copy of -- was the list of the people who had joined.

A. Yes, of the working interest owners.

Q. Those are only -- those are only the -- only the working interest owners and only ones who are contractually committed?

A. Yes.

Q. And then the first page of Exhibit 3, is that a list of all the owners you've identified?

A. I believe that might be just the royalty owners. Yeah, that's just the royalty owners.

Q. Okay, are there any working interest owners who are not contractually committed?

A. No, there aren't, they're all --

Q. So --

A. -- they're all covered by the JOA.

Q. So the pooling, force pooling, is only for the royalty owners?

A. Right.

Q. Now is the -- does this first page of Exhibit 3 -- is this a list of all the ones for whom -- does -- this address line over here in the third column, fourth column, is that all the people you have addresses for?

1 A. Yes.

2 Q. So if it's blank, it means you don't have  
3 addresses?

4 A. Right.

5 Q. And you're relying on the notice by publication,  
6 right?

7 A. Right.

8 Q. And the notice that appears to have been  
9 published, it seems like you did not include the names of  
10 the people who are being noticed in the notice by  
11 publication?

12 MS. MUNDS-DRY: That is correct, Mr. Brooks.

13 EXAMINER BROOKS: So your assuming -- the  
14 supposition that the Rules of Civil Procedure apply by  
15 analogy is probably not correct.

16 Well, I just wanted to establish that. I  
17 continue to believe that that would be the more prudent  
18 procedure, but I guess since our rules don't require it, I  
19 can't be too dogmatic about it. Okay.

20 THE WITNESS: We have tried to find everybody  
21 that we can. I mean, exhausting, that was probably the  
22 hardest part of this well.

23 EXAMINER BROOKS: Very good, thank you.

24 EXAMINER JONES: Thanks, Mr. Birdshead --

25 THE WITNESS: Thank you.

1 EXAMINER JONES: -- and thanks, Ms. Munds-Dry.  
2 Is that your last case?

3 MS. MUNDS-DRY: Yes, thank you very much, Mr.  
4 Examiner.

5 EXAMINER JONES: Okay, with that, we'll take Case  
6 14,027 under advisement.

7 And let's have a 15-minute break here.

8 (Thereupon, these proceedings were concluded at  
9 9:28 a.m.)

10 \* \* \*

11  
12  
13  
14  
15 I do hereby certify that the foregoing is  
16 a complete record of the proceedings in  
17 the Examiner hearing of Case No. \_\_\_\_\_,  
18 heard by me on \_\_\_\_\_.

19 \_\_\_\_\_, Examiner  
20 Oil Conservation Division  
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 March 29th, 2008.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2010