

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 OGX RESOURCES, LLC, )  
FOR COMPULSORY POOLING, EDDY COUNTY, )  
NEW MEXICO )

CASE NO. 14,024

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

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

November 29th, 2007

Santa Fe, New Mexico

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RECEIVED

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Hearing Examiner, on Thursday, November 29th, 2007, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Secretary's Conference Room, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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## I N D E X

November 29th, 2007  
 Examiner Hearing  
 CASE NO. 14,024

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APPLICANT'S WITNESS:	
<u>MIKE GADDY</u> (Landman)	
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## A P P E A R A N C E S

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

\* \* \*

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

1           WHEREUPON, the following proceedings were had at  
2 11:15 a.m.:

3           EXAMINER BROOKS: Call Case Number 14,00- -- I'm  
4 sorry, 14,024, Application of OGX Resources, LLC, for  
5 compulsory pooling, Eddy County, New Mexico.

6           Call for appearances.

7           MS. MUNDS-DRY: Good morning, Mr. Examiner. It's  
8 still morning. My name is Ocean Munds-Dry. I'm here  
9 representing OGX Resources, Inc., this morning, and I have  
10 one witness.

11           EXAMINER BROOKS: Will the witness state your  
12 name for the record, please?

13           MR. GADDY: Mike Gaddy.

14           EXAMINER BROOKS: Witness will please be sworn.  
15 (Thereupon, the witness was sworn.)

16           MS. MUNDS-DRY: Mr. Examiner, before I begin my  
17 direct of Mr. Gaddy, I have a procedural issue to bring to  
18 your attention.

19           Yesterday when Mr. Gaddy and I were preparing  
20 this case, we realized that Exhibit A to our Application,  
21 we had inadvertently left some interest owners off of the  
22 Exhibit A to the Application.

23           Mr. Gaddy was already here, so what we'd like to  
24 ask you today with your permission is, if we allow Mr.  
25 Gaddy to testify today, understanding that we need to amend

1 our Application.

2 We'd then ask that the record remain open, and we  
3 continue the case for a month to allow us to make that  
4 correction and provide proper notice according to Division  
5 rules.

6 But as I mentioned, Mr. Gaddy is here, so we  
7 would like with your permission for him to be allowed to  
8 testify and get, you know, his efforts to obtain voluntary  
9 participation on the record. And then if he needs to come  
10 back, we can do that. Since we're here, we'd like to  
11 proceed.

12 EXAMINER BROOKS: That would be acceptable.

13 MS. MUNDS-DRY: Thank you, Mr. Brooks.

14 MIKE GADDY,

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 name for the record?

20 A. Mike Gaddy.

21 Q. And by whom are you employed, and what's your  
22 position?

23 A. OGX Resources, I'm a landman.

24 Q. Have you previously testified before the  
25 Division?

1 A. I have.

2 Q. And were your credentials as a petroleum landman  
3 made a matter of record at that time?

4 A. Yes, they were.

5 Q. Are you familiar with the Application filed in  
6 this case?

7 A. I am.

8 Q. Are you familiar with the status of the lands  
9 that are the subject of this Application?

10 A. Yes, I am.

11 MS. MUNDS-DRY: Mr. Examiner, we would tender Mr.  
12 Gaddy as an expert in petroleum land matters.

13 EXAMINER BROOKS: So qualified.

14 Q. (By Ms. Munds-Dry) Mr. Gaddy, would you briefly  
15 state what OGX seeks with this Application?

16 A. We're seeking an order pooling all mineral  
17 interests from the surface to the base of the Morrow  
18 formation. That would be in the east half of Section 34,  
19 22 South, 27 East, New Mexico -- Eddy County, New Mexico.

20 Q. What is the name of the well that we're seeking  
21 to dedicate to this spacing unit?

22 A. Weems Number 1.

23 Q. And do you know the footage location where that  
24 well would be located?

25 A. Yes, that would be at a surface location of 1073

1 feet from the north line and 1501 feet from the east line,  
2 Unit B, to a bottomhole location of 660 feet from the north  
3 line and 660 feet from the east line of Section 34.

4 Q. Mr. Gaddy, I'll ask you to put both Exhibit  
5 Number 1 and Exhibit Number 2 in front of you and identify  
6 both of these exhibits for Mr. Brooks.

7 A. Okay. Exhibit Number 1 is a map showing the east  
8 half of Section 34, on the left-hand side. The map in the  
9 middle shows the east half of the northeast quarter of  
10 Section 34, which is the town of Otis, and the list to the  
11 east -- to the right side is a listing of the mineral  
12 owners in the east half of 34, giving those mineral owners  
13 that are under oil and gas lease and those mineral owners  
14 that are currently unleased and we're seeking to be force  
15 pooled.

16 Q. Mr. Gaddy, going back to the first box on the  
17 left-hand side here that shows the spacing unit, is the  
18 well identified on the -- the position of the well  
19 identified on the spacing unit?

20 A. Yes, it is.

21 Q. Is that marked on the map here, Weems, and it  
22 shows the surface location and the bottomhole location?

23 A. That's correct.

24 Q. Okay, and then turning to the far right-hand  
25 corner where it shows the interests, I see that you've

1 color-coded them to match the map, or the town of Otis here  
2 in the middle; is that --

3 A. Yes, that's correct.

4 Q. Now are all of the interest owners that you've  
5 included here on this right-hand column shown on this map?

6 A. They're shown on both the map in the middle and  
7 the map on the left-hand side.

8 Q. Okay, and Exhibit Number 2, what does this show?

9 A. That's a listing of, again, all the mineral  
10 owners, along with those owners that are under one gas  
11 lease to OGX and those owners that are currently unleased.  
12 It also gives a date that certified letters were sent, and  
13 a date that certified letters were received.

14 Q. Now let's turn to your efforts to obtain  
15 voluntary participation of the interest owners. And we  
16 have two categories, I believe, Mr. Gaddy, so I'd like to  
17 talk about them separately.

18 A. Right.

19 Q. Let's first talk about your efforts to locate the  
20 unknown interest owners --

21 A. Okay.

22 Q. -- that you're seeking to pool in this  
23 Application.

24 What first is -- if you could explain for Mr.  
25 Brooks, what is your process? When you have an unknown

1 interest owner, what is your process for trying to locate  
2 those interest owners?

3 A. Well, we go through phone databases, county  
4 records, and also we utilize the Internet, some page  
5 subscription sites, ancestry.com, et cetera.

6 Q. So you look at both county records and probate  
7 records, if need be?

8 A. Correct.

9 Q. Let's look at the specific interests that we're  
10 seeking to pool here today. And Mr. Brooks, these are the  
11 interest owners that are listed on our Exhibit A in the  
12 Application.

13 Tell us your efforts to locate the heirs of A.J.  
14 and Minnie May Crawford.

15 A. I actually have a title opinion on this, on the  
16 acreage which is represented here, and in our opinion it's  
17 stated as the heirs of A.J. and Minnie May Crawford and  
18 lists these heirs subject to their probates.

19 And we've looked at the probates. There's no  
20 address information, no Social Security numbers, just a  
21 listing of really possible heirs, not even indicating  
22 whether it's all the heirs or not.

23 We went through a process. Without any last  
24 address information or without any Social Security numbers,  
25 it's real hard for us to pull any meaningful information,

1 especially when some of these owners, potential owners, are  
2 female and it gives their maiden name. So we don't even  
3 know whether we have maiden name or a full name.

4 So we've been unable to contact the heirs of A.J.  
5 and Minnie May Crawford in this regard.

6 Q. How about Otis Farmers Gin Company, Inc.? What  
7 efforts did you undertake to try to locate this entity?

8 A. Well, we actually found that they were  
9 disincorporated many years ago. We looked for the board of  
10 directors, and we have been unable to find any information  
11 relating to -- we know that it's a dissolved corporation,  
12 but we don't know -- we haven't been able to contact the  
13 board of directors, and so at this point in time we've  
14 advertised that we're looking for, you know, the Otis Gin  
15 board of directors but have not made any progress in  
16 finding them.

17 Q. And now let's turn to the unknown heirs of  
18 Kathleen O'Connor.

19 A. Kathleen O'Connor, this interest originated with  
20 Perry O'Connor who died intestate. And from that point in  
21 time, based on percent distribution, we've indicated that  
22 two children, two of Perry O'Connor's children, Mike  
23 O'Connor and Ronal O'Connor would own 37.5 percent each,  
24 with the heirs of Perry's wife, Kathleen O'Connor, owning  
25 the other 25 percent.

1           We've been in contact with Kathleen O'Connor's --  
2           and we have worked on this for over a year with the  
3           O'Connors, trying to track down Kathleen O'Connor. We then  
4           -- we've been in touch with her executor. There are some  
5           issues relating to this title that can only be worked out  
6           with the two brothers.

7           And so at this point in time we don't know the  
8           heirs of Kathleen O'Connor, other than a sister who's also  
9           deceased in California, and we can't find her husband.

10          We do have Ronal O'Connor under lease now, and we  
11          plan on Mike O'Connor leasing.

12          But as far as -- if Perry O'Connor's will is not  
13          probated, we're going to have to assume that we're going to  
14          have to work under the estate of Kathleen O'Connor in this  
15          regard.

16          Q.    Okay, Mr. Gaddy, let's then turn to those  
17          interest owners that are known to you, and let's discuss  
18          your efforts to seek their voluntary participation.

19          If you'll please turn to Exhibit Number 3 and  
20          identify this for Mr. Brooks.

21          A.    This is a list of certified letters that we sent  
22          to individuals that we do have address information for and  
23          have not had verbal contact with. But not always the case.  
24          We have had verbal contact at some point, but have been  
25          unable to acquire an oil and gas lease.

1           Since these certified letters have gone out,  
2 however -- and this has happened in the last couple of days  
3 -- we have had some success with people deciding to lease.  
4 We don't have executed oil and gas leases at this point, so  
5 I can go over that on an individual basis if you want me  
6 to.

7           Q.    Let's talk generally first -- I mean, maybe Mr.  
8 Brooks may have follow-up questions at the end, but let's  
9 talk generally.

10           After you sent out the certified mail to all  
11 these interest owners, what if any follow-up contact did  
12 you have with these interest owners?

13           A.    We followed up -- we try to follow up with all  
14 the interest owners that we had phone numbers for. But  
15 when we didn't, we didn't have any ability to do that.

16           Q.    Okay. And there are a few situations here that  
17 we wanted to point out to the Examiner for his information  
18 and background.

19           You have listed on here the Bureau of Reclamation  
20 as having an interest. What's their story?

21           A.    The Bureau of Reclamation, they have through a  
22 quitclaim deed assigned their interest to the Carlsbad  
23 Irrigation District. They don't recognize that they have  
24 an interest.

25           However, we did have title work done on these

1 interests prior -- or early in the process, and the  
2 attorney that we've utilized has said that the Bureau of  
3 Reclamation still owns that interest because of an invalid  
4 description.

5 In that City of Otis you have to describe it with  
6 the City of Otis information, including the information of  
7 the attached plat that's on file in the County.

8 The Bureau of Reclamation didn't do that. They  
9 assigned out this same acreage in quarter-quarters, not in  
10 -- so we have a description disparity here, which I suppose  
11 could be cured by the Bureau of Reclamation. But at this  
12 point in time that's the situation. We have a lease from  
13 the CID. It covers that interest, and that's where we  
14 stand.

15 Q. How about Devon Energy?

16 A. Devon had, until September 24th, a 20-year  
17 contract, first right of refusal with Burlington-Santa Fe,  
18 and that 20-year agreement ended this year.

19 We contacted Burlington, and we also contacted  
20 the representatives of Devon to try to figure out how we  
21 went about leasing Burlington.

22 Burlington told us that we needed to do business  
23 with them, that they no longer did business through Devon.  
24 The process before was, if you wanted an oil and gas lease,  
25 you went through Devon. They approached Burlington, and in

1 essence it was a first-right-of-refusal sort of scenario.  
2 They acted as a middleman.

3 What has complicated this is what Burlington has  
4 told me. They say that the last day of their 20-year  
5 contract, that Devon requested an oil and gas lease  
6 covering all of Burlington's acreage in Eddy County.

7 So they believe that there's something happening  
8 there, but they feel that they have the right to sign an  
9 oil and gas lease with OGX, and we have signed one.

10 But we're putting Devon on notice because of this  
11 situation which we don't have all the details, that we're  
12 planning a well.

13 Q. So based on those understandings, you've decided  
14 basically to be safe and include them in case it does turn  
15 out that they have an interest?

16 A. Right, we haven't seen the agreement between  
17 Devon and Santa Fe and Burl- -- or Burlington, and so we  
18 want to just be safe and include them, even though they  
19 don't have an oil and gas lease with Burlington.

20 Q. Mr. Gaddy, in your opinion have you made a good  
21 faith effort to attempt voluntary participation of all  
22 these interest owners in this well?

23 A. Yes.

24 Q. What is the primary objective of this well?

25 A. The Morrow formation.

1 Q. Would you please turn to Exhibit Number 4 and  
2 identify that for Mr. Brooks?

3 A. 3, 2 --

4 Q. I think it's right there on your last page.

5 A. -- 4, yes. This is an AFE.

6 Q. What are the dryhole and completed well costs set  
7 out in the AFE?

8 A. The dryhole costs are set out here, \$2,785,975,  
9 and completed well costs are \$3,306,725.

10 Q. And was this AFE sent along with the certified  
11 letter to all the interest owners?

12 A. Yes, it was.

13 Q. Please turn to -- Are these costs in line with  
14 what has been charged by other operators in the area for  
15 similar wells, or by OGX?

16 A. I wouldn't be -- As for the wells we participate  
17 with other operators, yes.

18 As far as the daily drilling rate and the  
19 producing and -- well rate, we have -- Well, I'm getting  
20 ahead of you here.

21 Were you talking about the --

22 Q. Just strictly the AFE, the costs outlined in the  
23 AFE?

24 A. Sure, I think they are.

25 Q. Then let's turn to that, since you mention that,

1 and what is Exhibit Number 5?

2 A. It's the COPAS, Exhibit C.

3 Q. And have you made an estimate of overhead and  
4 administrative costs while drilling this well and then  
5 while producing?

6 A. Correct.

7 Q. And what are the drilling rates and the producing  
8 rates that OGX is requesting?

9 A. The drilling rate is \$6000 a month, and producing  
10 rate is \$600 a month.

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

13 A. Yes, I do.

14 Q. Does OGX request that in accordance with Division  
15 Rules, the maximum charge for risk of 200-percent penalty  
16 be imposed on each interest owner who has not volunteered  
17 to commit their interest to this well?

18 A. Yes, we do.

19 Q. And does OGX seek to be designated operator of  
20 this well?

21 A. Yes, we do.

22 Q. In your opinion, will granting of this  
23 Application be in the best interest of conservation, the  
24 prevention of waste and the protection of correlative  
25 rights?

1 A. Yes.

2 Q. And finally, is OGX Exhibit Number 6 an affidavit  
3 of publication as required by Division Rules?

4 A. Yes.

5 Q. And Mr. Brooks, you might note that following  
6 your good advice, we've included those unknown interest  
7 owners in the advertisement.

8 Were Exhibits 1 through 6 either prepared by you  
9 or under your supervision?

10 A. Yes.

11 MS. MUNDS-DRY: Mr. Brooks, with that we would  
12 move the admission of Exhibits Number 1 through 6 into  
13 evidence.

14 EXAMINER BROOKS: Exhibits 1 through 6 will be  
15 admitted.

16 MS. MUNDS-DRY: And I have nothing further for  
17 Mr. Gaddy.

18 EXAMINATION

19 BY EXAMINER BROOKS:

20 Q. Okay. Mr. Gaddis [sic], I believe you said this  
21 surface location and bottomhole location were different.  
22 At the top of the AFE the location is given as 1073 from  
23 the north line and 1501 from the east line of Section 34.  
24 Now is that the surface location?

25 A. Yes.

1 Q. Okay. And what is the bottomhole location?

2 A. It's 660 from the north and east.

3 Q. Same section.

4 A. Yes.

5 Q. You're requesting to pool from the surface to the  
6 base of the Morrow. Is that for a 320-acre unit only?

7 A. That is correct, east half of 34.

8 Q. Now the list, Exhibit 2, the column Force Pool,  
9 do you have a number for everybody that you're -- in that  
10 column for everyone you're now attempting to force pool?

11 A. That is correct.

12 Q. And this is a complete list, right?

13 A. This is a complete list.

14 Q. Now where was it that some people were left off?

15 MS. MUNDS-DRY: Mr. Brooks, I believe I can  
16 answer.

17 That's on our Exhibit A to our Application.

18 EXAMINER BROOKS: Okay, so Exhibit A to the  
19 Application does not state all of the potential -- Now what  
20 about the affidavit of publication?

21 MS. MUNDS-DRY: That we only included the unknown  
22 interest owners in the affidavit of publication --

23 EXAMINER BROOKS: Okay.

24 MS. MUNDS-DRY: -- which I don't think we would  
25 include the -- you know, those interest owners who were

1 known anyway in that --

2 EXAMINER BROOKS: Right. The -- You included in  
3 the affidavit of publication everyone that you intended to  
4 include, correct?

5 MS. MUNDS-DRY: No --

6 EXAMINER BROOKS: Or --

7 MS. MUNDS-DRY: -- only those lost interest  
8 owners are in the publication.

9 EXAMINER BROOKS: Well, I understand that, but  
10 you have asked to continue this case because some people  
11 were not properly noticed; is that correct?

12 MS. MUNDS-DRY: Yes, sir.

13 EXAMINER BROOKS: And are those people unknown,  
14 or are they people whose addresses are known, but they were  
15 not --

16 MS. MUNDS-DRY: Those people, their addresses are  
17 known.

18 EXAMINER BROOKS: They're unknown?

19 MS. MUNDS-DRY: They are known.

20 THE WITNESS: No, they're known.

21 EXAMINER BROOKS: They are known.

22 MS. MUNDS-DRY: Uh-huh.

23 EXAMINER BROOKS: So you will be mailing --

24 MS. MUNDS-DRY: So we will mail them a notice.

25 EXAMINER BROOKS: -- notice to them?

1 MS. MUNDS-DRY: Uh-huh.

2 EXAMINER BROOKS: But you have not mailed notice  
3 to them as of now?

4 MS. MUNDS-DRY: We have not.

5 EXAMINER BROOKS: Okay.

6 THE WITNESS: Certified letters have gone out.

7 EXAMINER BROOKS: I think I understand the  
8 situation.

9 MS. MUNDS-DRY: You're ahead of me, then.

10 EXAMINER BROOKS: I assume that this large  
11 exhibit would be the official one for the record, and you  
12 handed -- did you hand the court reporter other copies of  
13 the exhibits?

14 MS. MUNDS-DRY: Yes.

15 EXAMINER BROOKS: Okay. Do you want this one  
16 back, then?

17 Because we would have to fold it to put it --

18 THE WITNESS: You can have a small one or a large  
19 one.

20 MS. MUNDS-DRY: It's up to you, we can --

21 EXAMINER BROOKS: Okay, I've got the small one,  
22 so I will return the large one to you.

23 Is there nothing further?

24 MS. MUNDS-DRY: Nothing further.

25 EXAMINER BROOKS: Case Number 14,024 will be

1 continued for the purpose of supplementing the record until  
2 January 10th, 2008.

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

4 (Thereupon, these proceedings were concluded at  
5 11:37 a.m.)

6 \* \* \*

7  
8  
9  
10 I do hereby certify that the foregoing is  
11 a complete record of the proceedings in  
12 the Examiner hearing of Case No. 14024  
13 heard by me on 11-29-07  
14 David K. Bostrom Examiner  
15 Oil Conservation Division  
16  
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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 February 27th, 2008.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2010