

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 MEWBOURNE OIL COMPANY)
FOR COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)

CASE NO. 13,158

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

October 9th, 2003

Santa Fe, New Mexico

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Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, October 9th, 2003, 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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I N D E X

October 9th, 2003
 Examiner Hearing
 CASE NO. 13,158

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<u>D. PAUL HADEN</u> (Landman)	
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* * *

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* * *

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

* * *

1 WHEREUPON, the following proceedings were had at
2 9:35 a.m.:

3 EXAMINER CATANACH: Okay, at this time I'll call
4 Case 13,158, the Application of Mewbourne Oil Company for
5 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. If the
9 record could reflect, the witness is Mr. Paul Haden who was
10 previously sworn and qualified in the prior case.

11 EXAMINER CATANACH: Okay, the record shall
12 reflect that Mr. Paul Haden has been sworn in and qualified
13 in the previous case.

14 D. PAUL HADEN,
15 the witness herein, having been previously duly sworn upon
16 his oath, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BRUCE:

19 Q. Mr. Haden, could you identify Exhibit 1 and
20 discuss the well proposal in this matter?

21 A. Yes, Exhibit Number 1 is a land plat of the area.
22 It indicates our proposed spacing unit, which is indicated
23 in yellow, which is the south half of Section 30 of 21
24 South, 27 East.

25 It also indicates a surface location in Section

1 29, which is adjoining to Section 30 with the bottomhole
2 location being in Section 30. The surface location is
3 approximately 2114 feet from the south line and 2464 feet
4 from the east line of Section 29. The well will be
5 directionally drilled to the proposed bottomhole location,
6 which is approximately 750 feet from the south line and 700
7 feet from the east line of Section 30.

8 Q. And in this case you are seeking to pool below
9 the top of the Cisco; is that correct?

10 A. That's correct, for everything spaced on 320
11 acres.

12 MR. BRUCE: Mr. Examiner, one thing. I'm not
13 sure and I don't think the Applicant is sure until the well
14 is drilled if, say, the top of the Cisco will be at an
15 orthodox well location. We're not here today seeking an
16 unorthodox well location, we're just seeking the force
17 pooling of these interests.

18 EXAMINER CATANACH: Okay, the Applicant
19 understands he may have to come back in if that's the case?

20 MR. BRUCE: That's correct.

21 EXAMINER CATANACH: Okay.

22 Q. (By Mr. Bruce) What is the reason for
23 directionally drilling this well, Mr. Haden?

24 A. Okay, the proposed bottom location, this location
25 is located less than two miles north of downtown Carlsbad.

1 There are also a number of houses, residences, in the
2 immediate area, of which our well will be bottomholed under
3 some of those.

4 Also there's pipeline concerns. We feel it's
5 unsafe to have a pipeline within the city limits, which is
6 the reason for us locating the well, the surface location,
7 outside of the city limits.

8 Q. Okay, could you move on to your Exhibit 2 and
9 just briefly identify that for the Examiner?

10 A. Okay, Exhibit Number 2 is a drilling prognosis
11 which indicates the path of the wellbore vertically from
12 Section 29 to 30. The second page indicates the horizontal
13 projection of this wellbore from the surface location in 29
14 to the bottomhole location in 30.

15 Q. So until you get to -- maybe toward the bottom of
16 the Wolfcamp, you are still in Section 29, are you not?

17 A. That is correct.

18 Q. And Mewbourne does not own the minerals or the
19 leasehold interest in that, does it?

20 A. No, we don't -- no leasehold or minerals in
21 Section 29.

22 Q. And so you had to come to terms with the
23 leaseholders there regarding the drilling of this well?

24 A. Yes, we did. We obtained a subsurface easement
25 from OXY USA, who -- they are the operator of two wells

1 within Section 29. We also obtained subsurface easements
2 from all of the mineral owners wherein our -- the path of
3 our wellbore would be going through their property.

4 Q. Could you refer next to your Exhibit 3 and give
5 us an ownership summary?

6 A. Exhibit Number 3 includes a tract ownership. It
7 indicates the specific acreage in which we are pooling. A
8 lot of these lands are described by metes and bounds, which
9 some of them are very lengthy, so I've summarized those.

10 It also indicates the owners of those tracts,
11 some of which we own an interest, and others we have not
12 been able to make a trade with the people. Either they
13 have refused or we have not been able to locate them.

14 Q. Which persons listed on Exhibit 3 do you need to
15 pool at this point?

16 A. Okay, Exhibit Number 3, we need to pool Tony
17 Giarratano; Ben C. Cavender and his wife Christine
18 Cavender; Family Eldercare, Inc., apparently the guardian
19 for Martha Leigh Cardwell, or the J.P. Morgan Chase Bank,
20 Trustee of the Leigh Cardwell Irrevocable Trust; Dr. Thomas
21 W. Pendergrass; Burlington Northern and Santa Fe Railway
22 Company; R.E. Fox and his wife Annie Fox; Dennis A. Morris
23 and his wife Verlyn Morris.

24 Q. And on the second page of the summary sheet under
25 unit ownership, the only working interest owner at this

1 point is Mewbourne Oil Company, is it not?

2 A. That is correct.

3 Q. And all of the other mineral interest owners are
4 unleased mineral interest owners?

5 A. Right.

6 Q. So for about 4.5 percent of the well?

7 A. That's correct.

8 Q. Would you move on to Exhibit 4 and discuss your
9 efforts to obtain the voluntary joinder of these interest
10 owners?

11 A. Right, Exhibit Number 4 describes a summary of
12 communications for these parties. For example, Mr. Tony
13 Giarratano, he had originally been contacted by our land
14 broker whose name is Jack Madison. Mr. Madison had sent
15 him an oil and gas lease with our lease bonus check. He
16 apparently cashed the check but never signed the lease.

17 I followed up with letters to him to either send
18 back our check, which he apparently already cashed, or
19 execute the lease. The guy lives in Ruidoso. Apparently
20 this matter is no concern to his.

21 The next interest owner is Ben C. Cavender and
22 his wife Christine E. Cavender. We have, in fact, talked
23 to some of their old neighbors. They indicated that they
24 thought that they probably were both deceased. We had sent
25 a well proposal letter with our AFE to one address in Lake

1 Buchanan Dam in Texas. That correspondence was returned to
2 us. Also the same thing happened to an AFE with the letter
3 sent to an address in Wichita Falls, Texas. That was
4 returned unclaimed.

5 The next interest owner, J.P. Morgan Chase Bank,
6 Trustee for Leigh Cardwell, I've talked with Mr. Roy
7 Buckley. Apparently he is a trust officer for that entity.
8 We had initially sent a lease offer to him. He indicated
9 that they had no authority to execute leases, that to their
10 knowledge they had no interest owned in New Mexico as being
11 owned by the Cardwell trust, therefore he could no sign a
12 lease with us.

13 Same thing happened with Family Eldercare, Inc.,
14 who, it showed up in the records, they were the guardian
15 for Martha Leigh Cardwell. We had again sent a lease
16 offer. They did not respond.

17 We finally talked to Wendy Schaeffer who is the
18 attorney for Eldercare, Inc., and Martha Leigh Cardwell.
19 She had initially called Mr. Bruce. He had given me her
20 name. I called her, explained the situation to her, what
21 interest the Cardwell Trust owned.

22 She indicated that they had no authority in New
23 Mexico to execute leases. They did have that authority in
24 Texas. She told me that the cost involved with the quiet
25 title suit, getting that authority for her to be able to

1 execute leases for that entity would be far more than what
2 it was worth. She indicated she obviously did not want to
3 participate in the well, that they just preferred being
4 force pooled.

5 We had also sent a check with a lease to
6 Eldercare, Inc. They cashed our check. She indicated that
7 that was their obligation to obtain moneys for this person.
8 She didn't sign a lease, she took our money, but -- c'est
9 la vie.

10 There's another interest owner, Dr. Thomas W.
11 Pendergrass. I had sent my well proposal to him, however I
12 got this back unclaimed. He had apparently sent a letter
13 to you all indicating that he was unsure what he wanted to
14 do. Then I called him the day before yesterday, left a
15 message for him to call me.

16 He did call me yesterday, called my house in
17 Midland. I got the message and then later called him and
18 explained the situation to him, what his options were. I
19 advised him that I would send him another letter Monday
20 which would indicate in writing what his exact options are
21 and what his interests would be if he participated in the
22 well.

23 However, he indicated he's not interested in
24 participating in the well. He has approximately -- not
25 quite 2 percent of the well. He has 5.9 acres or so. He

1 would probably lease his acreage on the terms we had
2 offered, which were the same terms that were accepted by
3 everybody to date, exact same terms, but he just needed
4 some more time in which to decide or figure out what he
5 needs to do. Apparently he inherited this interest from
6 his father. He lives in Washington state now.

7 The next interest is Burlington Northern and
8 Santa Fe Railway Company. There's a railroad that goes
9 north-south, southerly direction, in the east half of
10 Section 30, which I've determined that this acreage
11 comprises approximately 1.5 acres. They apparently
12 obtained this from Santa Fe Energy Company. Of course,
13 Santa Fe Energy Company owns Santa Fe Railroads.

14 I talked to Mr. Golladay. He had indicated that
15 under their agreement, that Devon Energy has the first
16 right of refusal as to acquiring a lease. I sent a copy of
17 my letter to Devon, have not heard back from them and
18 really don't expect to. This is such a small interest that
19 I'm sure that they're going to just be force pooled.

20 I have another interest owner named R.E. Fox and
21 his wife Annie Fox. I sent a letter with AFE, certified
22 mail. That letter was returned unclaimed.

23 Same situation goes for Dennis A. Morris and his
24 wife Verlyn Morris. A letter was sent to him at the known
25 address with AFE via certified mail. The letter was

1 returned unclaimed.

2 Q. And with respect to the people who are
3 unlocatable, did you do the normal county and Internet
4 searches?

5 A. Yes, we did.

6 Q. And you're just unable to locate these --

7 A. Right.

8 Q. In your opinion, has Mewbourne Oil Company made a
9 good-faith effort to obtain the voluntary joinder of the
10 parties you located?

11 A. We believe we have.

12 Q. And have you made a good-faith effort to track
13 down the parties who are deceased or otherwise don't appear
14 any longer in the county records?

15 A. Right.

16 Q. Would you move on to your Exhibit 5 and discuss
17 the cost of the proposed well?

18 A. Exhibit Number 5 is an AFE that indicates the
19 estimated well cost, of which a dryhole cost would be
20 \$966,400, with a total completed cost of \$1,433,000. It
21 also lists the bottomhole location and the -- also the true
22 vertical depth with the measured depth of this well
23 estimate.

24 Q. And considering the directional drilling, is the
25 cost of this well in line with the cost of other wells

1 drilled in this area of Eddy County?

2 A. To our knowledge, that's correct.

3 Q. And does Mewbourne Oil Company request that it be
4 designated operator of the well?

5 A. Yes, sir.

6 Q. And what are your recommendations for the
7 overhead rates?

8 A. \$6000 for drilling and \$600 for a producing well
9 rate.

10 Q. And are these amounts in line with those charged
11 by Mewbourne and other operators in this area?

12 A. To our knowledge that's correct.

13 Q. And do you request that these overhead rates be
14 adjusted periodically under the COPAS accounting procedure?

15 A. Yes, we do.

16 Q. Does Mewbourne request the maximum cost-plus-200-
17 percent risk charge on nonconsenting owners?

18 A. Yes, we do.

19 Q. And were the parties who you were able to locate
20 notified of this hearing?

21 A. Yes, they were.

22 Q. And that is reflected in Exhibit 6?

23 A. Correct.

24 Q. Were Exhibits 1 through 6 prepared by you or
25 under your supervision or compiled from company business

1 records?

2 A. Yes, they were.

3 Q. And in your opinion is the granting of
4 Mewbourne's Application in the interests of conservation
5 and the prevention of waste?

6 A. That's correct.

7 MR. BRUCE: Mr. Examiner, I'd move the admission
8 of Mewbourne Exhibits 1 through 6.

9 EXAMINER CATANACH: Exhibits 1 through 6 will be
10 admitted.

11 EXAMINATION

12 BY EXAMINER CATANACH:

13 Q. Mr. Haden, the surface location, has that been
14 established? Is that going to be the one you're going
15 to --

16 A. Yes, that's -- We have an agreement with the
17 surface owner at that location. We'd been out there on the
18 surface and have staked a well there.

19 Q. And that's outside the city limits?

20 A. Yes, that's right. We know that because there's
21 a map available commercially that indicates the boundaries
22 of the city limits?

23 Q. Is that in an area where there's not a lot of
24 houses or --

25 A. There's no houses whatsoever. There is a trailer

1 house which is probably 2000 -- at least 2000 feet away to
2 the east.

3 Q. So it's in a much safer location than drilling a
4 vertical well?

5 A. Right.

6 Q. With regards to this Thomas Pendergrass interest,
7 we did receive a letter from Mr. Pendergrass, and he's --
8 I'm not sure what he's requesting us. He wanted the OCD to
9 protect his rights.

10 A. Right, he apparently doesn't know anything about
11 the oil and gas business or minerals or drilling or
12 anything like that. That's why I told him I would explain
13 to him in detail exactly what his obligations were, what
14 his choices were, and set them out categorically. Based on
15 that, either lease to us at these terms, or you'd be force
16 pooled and this would happen, or you could join as to your
17 percentage interest, and this is the amount of money that
18 you would have at risk.

19 MR. BRUCE: Mr. Examiner, if we could treat that
20 as an entry of appearance, and I will write to Mr.
21 Pendergrass and explain that procedure to him, in case he
22 decided to appeal on the order issued.

23 EXAMINER CATANACH: I think that would be a good
24 idea to treat that as an entry of appearance, Mr. Bruce. I
25 don't know if he wants to appeal the case, but I certainly

1 would give him that right if he wanted to.

2 Q. (By Examiner Catanach) But Mr. Haden, you
3 believe that -- Well, let me say this. In his letter he
4 said he's had insufficient time to be appraised of my
5 rights and responsibilities.

6 A. Well, that's because he hasn't taken the time to
7 look at it. Our broker has been in -- or tried to get in
8 touch with him, left messages for him to call. He's just a
9 busy doctor. He's more concerned with saving lives and
10 helping people than his own affairs, apparently.

11 Q. Which is admirable.

12 A. Right.

13 Q. But my question is -- You've spoken to him
14 yesterday, and you believe that you've conveyed to him his
15 rights and --

16 A. Absolutely, I told him that he would have some
17 money at risk if he wanted to join with us. This is a
18 fairly expensive well. And he said no, he didn't want to
19 do that.

20 Q. Okay. So from your discussion with him you
21 believe that that was his decision, that he's elected not
22 to join in the well?

23 A. Right, absolutely. I believe he will lease to us
24 eventually, under the terms offered.

25 Q. Okay, so there may be some hope in terms of him

1 leasing to you guys?

2 A. Absolutely.

3 Q. Okay. The interest of Tony Giarratano --

4 A. Right.

5 Q. -- is that the one that you said cashed the
6 check?

7 A. Yes, he's --

8 Q. Did not lease, though?

9 A. He did not lease to us.

10 Q. So you consider him a force-pooled --

11 A. Yes, I believe he will be force pooled as to his
12 .3075 net acres.

13 Q. Okay, the Cavender interest you couldn't locate?

14 A. Could not locate, absolutely.

15 Q. You did talk to the Family Eldercare parties?

16 A. Yes, and with J.P. Morgan.

17 Q. Okay. And the Burlington Northern, you don't
18 expect that they'll join?

19 A. No.

20 Q. And the other two, the Fox and the Morris
21 interest --

22 A. Couldn't locate them, right.

23 EXAMINER CATANACH: Okay. I don't have anything
24 else.

25 MR. BRUCE: I don't have anything further in this

1 matter, Mr. Examiner.

2 EXAMINER CATANACH: Okay, there being nothing
3 further, Case 13,158 will be taken under advisement.

4 Let's take a break here, 10 or 15 minutes.

5 (Thereupon, these proceedings were concluded at
6 9:57 a.m.)

7 * * *

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15 I do hereby certify that the foregoing is
16 a complete record of the proceedings in
17 the Examiner hearing of Case No. 13158
18 heard by me on October 9 2013
19 David R. Catanach, Examiner
20 Oil Conservation Division
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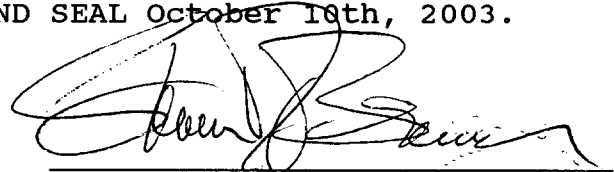
CERTIFICATE OF REPORTER

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 October 10th, 2003.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006