

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 CASE NO. 14298
FOR COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM B. JONES, Hearing Examiner
 DAVID K. BROOKS, Legal Examiner
 TERRY G. WARNELL, Technical Examiner

March 31, 2009

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM B. JONES, Hearing Examiner, DAVID K. BROOKS, Legal Examiner, and TERRY G. WARNELL, Technical Examiner, on Tuesday, March 31, 2009, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
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A P P E A R A N C E S

FOR THE APPLICANT:

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1 MR. JONES: Let's call Case Number 14298,
2 application of Mewbourne Oil Company for compulsory
3 pooling, Eddy County, New Mexico. Call for appearances.

4 MR. BRUCE: Mr. Examiner, Jim Bruce of
5 Santa Fe representing the applicant. I have one witness,
6 Mr. Paul Haden, and if we could just have the record
7 reflect that Mr. Haden has previously been sworn and
8 qualified as an expert.

9 MR. JONES: The record will reflect that
10 Mr. Haden has been previously sworn.

11 PAUL HADEN

12 Having been first duly sworn, testified as follows:

13 EXAMINATION

14 BY MR. BRUCE:

15 Q. First off, Mr. Haden, are you familiar with
16 the land matters involved in this case?

17 A. Yes, sir, I am.

18 Q. Could you identify Exhibit 1 for the Examiner?

19 A. Exhibit Number 1 is a land plat taken from
20 Midland Map Company. It indicates the location of the
21 well, which is in the northeast/northeast quarter. It
22 also indicates the proposed spacing unit, which is the
23 east half of Section 29 of Township 22 south, range 26
24 east in Eddy County.

25 Q. And are you seeking to force pool -- you're

1 seeking to force pool the east half of 320-acre units; is
2 that correct?

3 A. That's correct.

4 Q. And are you also seeking to force pool 40- and
5 160-acre units?

6 A. Yes, sir, we are.

7 Q. What is the name of the proposed well?

8 A. The name of the proposed well is the
9 Huckleberry Draw "29" Com Well #1.

10 Q. And what is its footage location?

11 A. The footage location is 99 feet from the north
12 line and 770 feet from the east line of said Section 29.

13 Q. And the APD has been approved for this well,
14 has it not?

15 A. Yes, it has.

16 Q. So we don't need to worry about a change of
17 location. What is the working interest ownership in the
18 well unit? And I refer you to Exhibit 2.

19 A. Exhibit Number 2 is an ownership plat. It
20 indicates the current ownership. It also indicates
21 whether or not some lands are federal or fee. It
22 indicates that in the west half of the northeast quarter,
23 Mewbourne Oil Company owns 87 and a half percent of that
24 lease, and McCombs Energy LLC owns 12 and a half percent
25 interest in the northeast/northeast quarter, which is a

1 40-acre site where our well will be located. It
2 indicates Mewbourne owns 78.0098 percent; McCombs Energy
3 with 11.157 percent, and there's approximately 10.745
4 percent interest which is unleased fee minerals.

5 It also indicates federal lease NMNM 121471,
6 which is 120-acre tract, whereby Mewbourne Oil Company
7 owns 87 and a half percent, McCombs Energy with a 12 and
8 a half percent. In the southwest of the southeast
9 quarter, it indicates the ownership of Mewbourne and
10 McCombs and an unleased interest of 9.2875 percent, with
11 the southeast/southeast quarter being a fee tract, which
12 is, again, owned by Mewbourne Oil Company 87 and a half
13 percent, McCombs Energy 12 and a half percent.

14 Q. Has McCombs Energy joined in the well with
15 Mewbourne?

16 A. Yes, they have.

17 Q. And so we're here today to force pool a number
18 of unleased mineral interest owners?

19 A. Yes, sir, we are.

20 Q. Let's move on to that and we can identify them
21 as we go along. What is Exhibit 3, Mr. Haden?

22 A. Exhibit Number 3 is a compilation of the
23 letters and correspondence we sent to the interest owners
24 we have named in the forced pooling.

25 Q. Okay. And I don't have a convenient listing.

1 But before we begin to go through the correspondence,
2 what are names of the parties being force pooled?

3 A. Okay. In the northeast/northeast quarter, the
4 Bundy Family Trust owns an interest, approximately 1.6666
5 net mineral acres, which corresponds to .52081 percent
6 unit working interest. Also in the northeast/northeast
7 quarter minerals are owned by Kimberly Ann Brehm,
8 B-r-e-h-m, whereby Kimberly owns a 172nd mineral
9 interest, which is .555 net mineral acres. This
10 corresponds to .17359 percent unit working interest.

11 Also, the Fasken Foundation party which we're
12 seeking to pool owns 5 percent of 1/16 mineral interest,
13 which corresponds to a .125 net acres and a .03906
14 percent unit working interest. Also Dorchester Minerals
15 LP, in the northeast/northeast quarter, they own a 74.3
16 percent of 1/16 mineral interest, which is -- excuse
17 me -- 1.8575 net acres. Also, Randy and Sandy Geiselman,
18 they own a 1.8 percent of 1/16 mineral interest, which is
19 .1152 net acres, which corresponds to .036 percent unit
20 working interest.

21 Also, Dorchester Minerals LP owns, in the
22 southwest of the southeast quarter, 74.3 percent of 1/8
23 unleased mineral interest, which corresponds to 3.715 net
24 acres. Collectively, Dorchester Minerals on a unit basis
25 owns a 1.7414 percent unit working interest.

1 Q. Let's just briefly go through the
2 correspondence. Does this contain, Exhibit 3, your
3 proposal letters to all of the unleased mineral interest
4 owners?

5 A. Yes.

6 Q. Does it also, for each mineral interest owner,
7 list the correspondence, whether it's actual letters or
8 phone calls with them?

9 A. Correct.

10 Q. And you've had a number of contacts with each
11 of the parties being pooled, have you not?

12 A. Yes, we have.

13 Q. Mr. Haden, I believe I informed you yesterday
14 that I had gotten a call from somebody named Bundy in
15 Casper, Wyoming. Is he one of the trustees of the Bundy
16 Family Trust?

17 A. That's correct.

18 Q. And I notice in the correspondence you've
19 included a form of lease that you submitted to the Bundy
20 Family Trust. At the time you sent the unmarked lease,
21 did you think you had a deal with them?

22 A. Absolutely. They agreed to lease to us a
23 six-month term with the lease providing a one-fifth
24 royalty interest, no bonus, because it's only a six-month
25 term lease. They sent the lease back to us. They marked

1 out one-fifth and put one-quarter royalty interest
2 without talking to us about it.

3 They also marked out several provisions in the
4 lease which are unacceptable. They did not talk to us
5 about those, either. So we advised them that the form of
6 lease in which we sent them is -- that's -- we will take
7 a lease on that basis, or they can join in the well as to
8 their proportionate part of the well as to their mineral
9 interests.

10 Q. So you have not been able to reach agreement
11 with the Bundy Family Trust?

12 A. We have not thus far. Hopefully, we will.

13 Q. In your opinion has Mewbourne made good-faith
14 effort to obtain the voluntary joinder of the interest
15 owners in the well?

16 A. Yes.

17 Q. Are there any unlocateable interest owners?

18 A. No, there are not.

19 Q. Could you identify Exhibit 4 for the examiners
20 and discuss the cost of the proposed well?

21 A. Exhibit 4 is a copy of our AFE, which is an
22 estimated well cost for the Huckleberry "29" State Com #1
23 well. It indicates the location of the well, which is
24 990 from the north and 770 feet from the east line of
25 Section 29, 22 south, 26 east. It also indicates a

1 proposed depth of 11,800 feet. It also indicates the
2 estimated well cost -- total completed cost being
3 \$2,871,700; a cost case in point, also known as dry hole
4 cost, would be 1,873,600.

5 Q. Are these costs in line with the costs of
6 other wells drilled of this depth in this area of Eddy
7 County?

8 A. Yes. These are costs that are in line.

9 Q. Do you request that Mewbourne be appointed
10 operator of the well?

11 A. Yes, we do.

12 Q. What is the recommendation for overhead rates?

13 A. 7,000 for a drilling overhead rate; \$700 per
14 month for a producing well rate.

15 Q. And are these amounts equivalent to those
16 charged by Mewbourne and other operators in this area for
17 wells of this depth?

18 A. They are.

19 Q. Do you request these rates be adjusted under
20 the COPAS accounting procedure?

21 A. We do.

22 Q. Does Mewbourne request the maximum cost plus
23 200 percent risk charge?

24 A. We do.

25 Q. And were all of the parties being pooled

1 notified of this hearing?

2 A. Yes, they were.

3 Q. Is that reflected in Exhibit 5?

4 A. Yes, sir, it is.

5 Q. In addition to the parties you named in the
6 pooling, there is Maecenas Minerals, LLP. Have you
7 reached an agreement with them?

8 A. Yes, we have. We have executed an oil and gas
9 lease covering their mineral interest.

10 Q. So they are not being force pooled?

11 A. They are not being pooled.

12 Q. Were Exhibits 1 through 5 prepared by you or
13 under your supervision?

14 A. Yes.

15 Q. In your opinion is the granting of this
16 application in the interest of conservation and the
17 prevention of waste?

18 A. Yes.

19 MR. BRUCE: Mr. Examiner, I move the
20 admission of Exhibits 1 through 5.

21 MR. JONES: Exhibits 1 through 5 will be
22 admitted.

23 (Exhibits 1 through 5 were admitted.)

24 MR. BROOKS: First of all, do I understand
25 you located all the parties --

1 THE WITNESS: Yes.

2 MR. BROOKS: -- the parties you're seeking
3 to pool?

4 THE WITNESS: Yes, sir, we have.

5 MR. BROOKS: How many pool parties -- how
6 many parties are to be pooled?

7 THE WITNESS: It would be the Bundy Family
8 Trust, that's one; Kimberly Ann Brehm, that's two;
9 Fasken Foundation, that's three; Dorchester Minerals, LP,
10 that's four; Randy and Sandy Geiselman, that's five.

11 MR. BROOKS: Okay. What was the
12 interval -- what's the depth interval that you're pooling
13 in this case?

14 THE WITNESS: From the surface to the base
15 of the Morrow.

16 MR. BROOKS: Okay. Is it common ownership
17 for the entire interval?

18 MR. BRUCE: No, it's not, Mr. Examiner.
19 If you look at Exhibit 2 --

20 THE WITNESS: It's different tracks.

21 MR. BROOKS: Is there a depth severance,
22 though, is what I was trying to --

23 THE WITNESS: Well, for instance --

24 MR. BRUCE: Mr. Examiner, if I may, I
25 think his testimony -- all of the parties being pooled do

1 own in the northeast/northeast where the well is located.
2 So although interests will differ -- but, you know,
3 everybody will own an interest in all depths.

4 MR. BROOKS: Okay. But the percentages
5 will differ?

6 MR. BRUCE: Will differ.

7 THE WITNESS: Correct.

8 MR. BROOKS: And what have you asked for
9 in terms of configuration of the -- is it -- you're
10 asking for a 320-acre unit. Are you asking for any
11 smaller units, as well?

12 THE WITNESS: Yes. In the
13 northeast/northeast quarter, a 40-acre tract for those
14 formations spaced on 40 acres. Also, should we run into
15 some -- a productive interval, which would cover 160
16 acres, we're requesting the northeast quarter be pooled,
17 as well as the east half of 29 being pooled for 320
18 formations.

19 MR. BROOKS: I guess my concern in these
20 cases has to do with, one, if we have to allocate costs
21 or production among people where there are differing
22 interests, we don't have any evidence on that subject in
23 this proceeding. It might require a subsequent amendment
24 of an order if you complete in a different formation.

25 MR. BRUCE: That would be acceptable.

1 MR. BROOKS: We received a letter from the
2 Bundy Family Trust. It doesn't show a copy to you

3 MR. BRUCE: He did call me. I forget what
4 his first name -- he did call. He didn't leave a phone
5 number. He left a voice mail message on Friday morning,
6 but I never did get a copy of that letter.

7 MR. BROOKS: It was received yesterday.
8 You can look at it. He has attempted to raise a contest
9 to the risk penalty provision -- to the risk penalty
10 request, but he hasn't complied with the OCD rules on
11 that subject so I do not think it's effective to raise
12 that issue.

13 THE WITNESS: As part of the exhibit, it
14 gives the phone number of David Allen Bundy.

15 MR. BROOKS: Right. Well, I merely
16 mentioned that. I reviewed the rule in view of that
17 letter, and the rule requires that to raise a contest to
18 the risk penalty provision, it has to be done in a
19 pre-hearing statement or by appearance at the hearing.
20 And this could not be interpreted as a pre-hearing
21 statement even liberally, because it wasn't received in
22 the time provided for pre-hearing statements and also was
23 not served. Furthermore, he didn't appear. So I don't
24 think it's of any significance. I just wanted to make
25 you aware of it.

1 MR. BRUCE: Thank you, Mr. Examiner. With
2 respect to the item you mentioned before about
3 differences in ownership as to certain depths, putting
4 some provision in the order is certainly acceptable.
5 Obviously Mewbourne drills these as Morrow tests or deep
6 gas tests, and --

7 MR. BROOKS: Right. These are your
8 bail-out zones.

9 MR. BRUCE: These are the bail-out zones.
10 As 260 acres, obviously, I could not find any pool --
11 there are a number of pools out there, but there aren't
12 any particular pools spaced on 160 acres. That doesn't
13 mean you can't find a Lone Spring gas zone that may be
14 spaced on 160 acres.

15 MR. BROOKS: I would assume what would be
16 reasonable in the absence of any evidence to the
17 contrary, would be that if you did decide to complete in
18 another zone, the people would own in that zone
19 complete -- share in the cost of completion, but there
20 wouldn't be any reallocation of the drilling costs. They
21 would be shared -- the drilling costs would be shared in
22 proportion to the Morrow only since that's the primary
23 target.

24 MR. BRUCE: Yes. I think that's
25 reasonable. Because at that point the drilling costs

1 probably would have been recouped anyway.

2 THE WITNESS: Hopefully.

3 MR. BRUCE: It would just be the
4 recompletion costs.

5 MR. BROOKS: Okay.

6 MR. JONES: You're saying put a provision
7 in the order to that effect?

8 MR. BROOKS: I think we need to talk about
9 that. We may have to -- in view particularly of the
10 questions that Mr. Ezeanyim raised when we had a similar
11 case a few weeks ago, so we may want to put a provision
12 in the order that if they want to recomplete and assess
13 the recompletion costs subject to the nonconsent penalty,
14 or they may have to have another hearing to modify the
15 order. We'll see where we come down on that. And we
16 don't have any evidence before us of what would be fair
17 and reasonable. It's just my rambling thoughts on the
18 subject.

19 MR. JONES: They get down and they log the
20 well and they decide not even to shoot the Morrow, if
21 they wanted to shoot some shallow oil zone of the hole,
22 then that would be a different situation.

23 MR. BROOKS: There would be some questions
24 that may arise. I just think we ought to hash this one
25 over a little bit, that issue.

1 MR. JONES: Okay.

2 THE WITNESS: Mr. Examiner, all of these
3 parties being pooled own an interest in the
4 northeast/northeast quarter.

5 MR. JONES: So that would be --

6 THE WITNESS: If there's 160-acre spacing,
7 they would all be subject to that, too.

8 MR. JONES: They would all be subject, and
9 they're all -- they're all obviously in all depths but
10 just different percentages.

11 THE WITNESS: Right.

12 MR. JONES: This must be an earlier AFE
13 than the other one. You've got a little bit more
14 expensive pipe costs.

15 THE WITNESS: Yes. This one is dated
16 November 1st, '08. The costs have, as I advised you
17 before, they have gone down about 30 percent since
18 January, so the cost is a little bit less than this.

19 MR. JONES: I don't remember us talking
20 about the COPAS on the other case. I guess it was in
21 there.

22 MR. BRUCE: We did. It was 7,000 and 700
23 in both cases. The wells are equivalent in depth.

24 MR. JONES: Okay. Anything else?

25 MR. BROOKS: Nothing further.

1 MR. JONES: Let's take Case 14298 under
2 advisement.

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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. _____
heard by me on _____

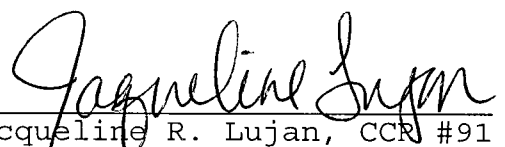
_____, Examiner
Oil Conservation Division

REPORTER'S CERTIFICATE

I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on March 31, 2009, proceedings in the
above captioned case were taken before me and that I did
report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by
nor related to nor contracted with any of the parties or
attorneys in this case and that I have no interest
whatsoever in the final disposition of this case in any
court.

WITNESS MY HAND this 13th day of April, 2009.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2009

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