

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:

ORIGINAL

APPLICATION OF MEWBOURNE OIL COMPANY
FOR COMPULSORY POOLING AND THREE
NON-STANDARD WELL UNITS, EDDY COUNTY,
NEW MEXICO

CASE NO. 14299

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

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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 go back on the record
2 and call Case 14299, application of Mewbourne Oil Company
3 for compulsory pooling and three non-standard well units,
4 Eddy County, New Mexico. Call for appearances.

5 MR. BRUCE: Mr. Examiner, Jim Bruce of
6 Santa Fe representing the applicant. I have one witness,
7 again, Mr. Haden, so if the record could reflect that he
8 was previously sworn and qualified.

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

11 PAUL HADEN

12 Having been first duly sworn, testified as follows:

13 EXAMINATION

14 BY MR. BRUCE:

15 Q. Mr. Haden, Could you identify Exhibit 1 for
16 the Examiner?

17 A. Exhibit Number 1 is a land plat. It's taken
18 from Midland Map Company. It indicates the proposed
19 spacing unit, which is the north half of Section 1 of 22
20 south/25 east. It also indicates the well location which
21 is indicated by a red dot. The north half is also
22 comprised of Lots 5 through 12. The north half contains
23 approximately 344.34 acres.

24 Q. And the well is in Lot 9, which is the
25 southwest/northwest?

1 A. That's correct.

2 Q. Do you also seek to force pool 40-acre units?

3 A. Yes, we do.

4 Q. And Lots 7 through 10 being the northwest
5 quarter roughly for 160-acre well units?

6 A. Yes, sir.

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

8 A. The name of the proposed well is the Hackberry
9 Hills Federal Com -- excuse me. It's not a Com. It's
10 just Federal #1 well. It's on one federal lease.

11 Q. What is the footage location of the well?

12 A. 1,650 from the north and 990 from the west.

13 Q. What is Exhibit 2?

14 A. Exhibit 2 is taken from our proposed operating
15 agreement. It indicates the ownership of the parties, as
16 well as their addresses and also indicates the two
17 contract areas.

18 Q. What are the depths of those contract areas?

19 A. Contract Area A covers the ownership from the
20 surface to a depth of 10,600 feet beneath the surface,
21 and Contract Area B covers depths below 10,600 feet
22 beneath the surface to the base of the Morrow formation.

23 Q. Is the target zone below 10,600 feet?

24 A. Yes, sir, which would be Morrow formation.

25 Q. And looking at Contract Area B, are all the

1 parties committed to -- in the Contract Area B, the deep
2 zone -- committed to the well?

3 A. All the parties listed in Contract Area B are
4 committed. They've signed AFEs and this operating
5 agreement.

6 Q. So in this case are you seeking to force pool
7 only parties in Contract Area A, the shallow zone?

8 A. That's correct.

9 Q. Which parties do you seek to force pool?

10 A. We are seeking to force pool the interest of
11 Paul R. Ray, also the Estate of Stanley R. Tyler, also
12 Norman L. Stevens, Jr., Trustee of the Norman L. Stevens,
13 Jr. Revocable Trust, Nielson Enterprises, Inc. and Malco
14 Products, Inc.

15 Q. Now, you are seeking to force pool people in
16 the shallower depths. What is Exhibit 3?

17 A. Exhibit Number 3 is taken from our operating
18 agreement dated October 1st, 2008. Under Article XVI(F)
19 it provides differing ownership as to depths, as to what
20 costs are associated the parties' interest in the
21 Contract Area A and B. It sets forth a formula in which
22 to calculate these proportionate costs for each of these
23 owners who own the so-called shallow rights from the
24 surface to 10-6.

25 Q. Now, will the initial cost be borne only by

1 the deep-rights owners?

2 A. That's correct.

3 Q. So 100 percent of the cost will be borne by
4 Occidental, McCombs and Mewbourne?

5 A. Correct.

6 Q. So this cost allocation would only come in
7 play if during the term of the pooling order, the well is
8 re-completed up-hole?

9 A. That's correct.

10 Q. And would you ask that the provisions of this
11 cost allocation be incorporated in the order?

12 A. Yes, we do.

13 MR. BROOKS: Where is the cost allocation?

14 MR. BRUCE: Exhibit 3, Mr. Examiner.

15 THE WITNESS: Which comes from page 17 and
16 page 17A of our joint operating agreement.

17 MR. BRUCE: The very bottom item, XVI(F).

18 Q. (By Mr. Bruce) And, Mr. Haden, does Exhibit 4
19 contain copies of your correspondence with the parties
20 being pooled?

21 A. Yes. Exhibit Number 4 contains the copies of
22 the correspondence with all the parties being pooled.

23 Q. And I notice there's some handwritten notes on
24 there. Have you tried to have telephone calls with these
25 parties also?

1 A. Yes. We've talked with some of these people
2 via telephone, one being the Estate of Stanley R. Tyler.
3 We talked with Jim Tyler. He had some questions
4 regarding what we're proposing to do. He apparently has
5 no experience in oil and gas at all, and we've explained
6 to him what his options were.

7 Q. And I think the correspondence goes from the
8 most recent back to the earliest correspondence. The
9 original letters to the interest owners were mailed
10 approximately a month and a half ago?

11 A. Right.

12 Q. And in your opinion have you made a good-faith
13 effort to obtain the voluntary joinder of these five
14 interest owners in the well?

15 A. Yes, we have. And we also sent all of these
16 interest owners our proposed operating agreement for
17 their signature. We've advised them that once they're
18 signed up, they would be dismissed from the pooling
19 hearing. Some of them have signed, some have not.

20 Q. Now, of the parties listed on Exhibit 2, are
21 there any unlocateable interest owners?

22 A. There's one unlocateable interest owner, Malco
23 Products, Inc.

24 Q. And what's the status of that corporation?

25 A. This apparently is a defunct corporation,

1 apparently was established in June of 1952. Also, it was
2 incorporated June 28th, 1965. Apparently this
3 corporation dissolved.

4 Q. And Exhibits 5 and 6 are copies of online data
5 from the New Mexico Public Regulation Commission?

6 A. Yes.

7 Q. And there were two corporations with the same
8 name, were there not?

9 A. Correct.

10 Q. And they were both dissolved and you don't
11 have any further information on the corporation?

12 A. No further information.

13 Q. In your opinion has Mewbourne -- let's take a
14 step back. Apparently Malco Products acquired its
15 interest some time ago?

16 A. Yes, long ago.

17 Q. And so when you examined the Eddy County
18 records --

19 A. Total dead end. We had sent a proposal letter
20 to the last known address and it obviously came back.

21 Q. In your opinion has Mewbourne made a
22 good-faith effort either to obtain the voluntary joinder
23 of the interest owners in the well or to locate the
24 unlocateables?

25 A. Yes.

1 Q. What is Exhibit 7?

2 A. Exhibit 7 is a copy of our proposed AFE for
3 the Hackberry Hills Federal #1 well. It indicates the
4 estimated well cost of -- completed well cost of
5 \$2,915,900 with a cost case in point of 1,943,800. It
6 also gives the proposed depth of 12,000 feet and the well
7 location which I've indicated previously.

8 Q. Are these costs in line with costs of other
9 wells drilled at this depth in this area of New Mexico?

10 A. Yes, they are.

11 Q. And, again, this AFE is a little older so some
12 of these costs may have come down since then?

13 A. Right. This AFE is actually dated July of
14 '08. That was at the very top of the well costs,
15 estimated well costs, for these wells of this depth.
16 This estimated cost has come down in our opinion at least
17 30 to 33 percent since July of '08.

18 Q. And are the costs that you believe will be
19 applied today in line with costs of other wells drilled
20 at this depth in this area of Eddy County?

21 A. Correct.

22 Q. Do you request Mewbourne be appointed operator
23 of the well?

24 A. Yes, we do.

25 Q. What overhead rates are you requesting?

1 A. We're requesting an overhead rate of 7,000 per
2 month for a drilling overhead rate, and \$700 a month for
3 a producing well rate should this well be productive.

4 Q. And are those amounts equivalent to those
5 charges by Mewbourne and other operators in this area for
6 wells of this depth?

7 A. Yes.

8 Q. Do you request that these overhead rates be
9 adjusted periodically under the COPAS accounting
10 procedure?

11 A. Yes, we do.

12 Q. Does Mewbourne request the maximum cost plus
13 200 percent risk charge?

14 A. We do.

15 Q. Were the parties being pooled notified of this
16 hearing?

17 A. Yes, sir, they were.

18 Q. And Exhibit 8 is my Affidavit of Notice?

19 A. That's correct.

20 Q. In this letter, Mr. Haden, I notified several
21 additional parties, other than the ones you've indicated
22 on Exhibit 2 that were being pooled. Your prior listing
23 is correct at this time as to the parties being pooled;
24 is that right? Several of these parties have since
25 joined in the well?

1 A. Correct. The interest of Sharbro Oil Limited
2 and Sacramento Partners Limited, they have signed our
3 operating agreement. Also, CBR Oil Properties signed the
4 agreement. Norman L. Stevens, Jr. Revocable Trust signed
5 an AFE but thus far has not signed the operating
6 agreement. The other parties listed have not signed the
7 operating agreement.

8 Q. Marathon has joined in the well, has it not?

9 A. We've obtained a term assignment from them
10 covering their interest.

11 Q. And Fasken Land and Minerals has joined in,
12 have they not?

13 A. Yes. We've obtained a term assignment for
14 their interest, also.

15 Q. And will you notify the Division if any
16 additional parties join in the well?

17 A. Yes, we will.

18 MR. BRUCE: And, Mr. Examiner, Exhibit 9
19 is simply the Affidavit of Publication from the Carlsbad
20 newspaper as against Malco Products, Inc., the
21 unlocateable.

22 Q. (By Mr. Bruce) Mr. Haden, were Exhibits 1
23 through 9 prepared by you or under your supervision or
24 compiled from company business records?

25 A. Yes, they were.

1 Q. In your opinion is the granting of this
2 application in the interest of conservation and the
3 prevention of waste?

4 A. That's correct.

5 MR. BRUCE: Mr. Examiner, I move the
6 admission of Exhibits 1 through 9.

7 MR. JONES: Exhibits 1 through 9 will be
8 admitted.

9 (Exhibits 1 through 9 were admitted.)

10 MR. JONES: Mr. Haden, this AFE -- well,
11 first of all, these people that may have joined
12 recently -- was it recently that they joined?

13 THE WITNESS: Yeah. The interest of CBR,
14 they've signed the operating agreement, also, Fasken.
15 These people that have recently joined, it's been within
16 the last two to three weeks.

17 MR. JONES: Okay. The AFE being last
18 year's AFE, do you think -- and being a lot higher than
19 it probably is now, do you think that influenced anybody
20 not to join? In other words, they just took it at face
21 value and used that for their economics and decided --

22 THE WITNESS: Well, the companies who have
23 given us term assignments, they have their own staff in
24 which they know approximately what these well costs are
25 now so they can make their determination based on their

1 own information.

2 MR. JONES: And they farmed it out?

3 THE WITNESS: Right. They elected to farm
4 it out, to not participate.

5 MR. JONES: Everybody's geologist looks at
6 it a little bit differently.

7 THE WITNESS: Absolutely. Plus product
8 cost, too. That's keeping a lot of folks from joining in
9 wells because of economics for good reason.

10 MR. JONES: That was my concern about this
11 AFE being so much higher than it might be now. I don't
12 know if that --

13 THE WITNESS: I don't think that would
14 influence --

15 MR. JONES: It would influence anything?
16 The 10,000 versus the 10,600, what was the issue there?

17 THE WITNESS: Well, for whatever reason
18 Charles B. Reed -- he is the one who started this
19 segregation of the rights as to depth. There must have
20 been a well drilled, say, to the Strawn Formation, which
21 is shallower than the Morrow, and that's how the interest
22 got severed.

23 MR. JONES: At 10,000?

24 THE WITNESS: Yeah, 10,600 feet.
25 Basically 10,600 feet is the very top of the Morrow

1 Formation, which around 10-6, according to geologists,
2 that interval at 10-6 itself probably is not productive.
3 It's depths below that that is actually our target zone.
4 Above 10-6 would include formations such as the Strawn,
5 which has a possibility for this well, but most likely
6 not.

7 MR. JONES: Strawn gas?

8 THE WITNESS: Strawn gas.

9 MR. JONES: There's no Atoka?

10 THE WITNESS: Probably not. You can run
11 into Atoka anywhere in Eddy County. It depends on your
12 luck.

13 MR. JONES: I notice that it did change
14 from 10,000 to 10,600, just, basically, last week on
15 your --

16 THE WITNESS: Yeah. Well, that was a
17 typo. Actually, that was a typo. It should have been
18 10-6.

19 MR. JONES: Oh. It was always 10-6?

20 THE WITNESS: Yes, always been 10-6.

21 MR. JONES: This is just a 320 only; is
22 that right? I guess I should read the --

23 MR. BRUCE: No. It is 40- and 160-acre
24 units also. But in this instance, 40- and 160-acre units
25 have uniform ownership under that contract area.

1 MR. JONES: And they're all non-standard
2 according to the definition?

3 MR. BRUCE: Yes, they are all
4 non-standard. I'm sure this acreage was resurveyed at
5 some point by the federal government, so it all became
6 non-standard.

7 MR. JONES: Okay.

8 MR. BROOKS: Okay. I didn't understand
9 what you last said about the ownership, because you've
10 got this distinction between deep and shallow rights.

11 MR. BRUCE: But as to the shallow rights,
12 anything --

13 MR. BROOKS: From 10-6 up?

14 MR. BRUCE: Yes. From 10-6 up, ownership
15 is uniform, whether you're on 40, 60 or even at 320.

16 MR. BROOKS: So the only distinction then
17 is below -- the deep rights below 10-6 and the shallow
18 rights?

19 MR. BRUCE: Correct.

20 MR. BROOKS: Now, this allocation formula,
21 is this from the operating agreement that governs this
22 particular tract, the one that the consenting parties
23 have agreed to?

24 THE WITNESS: That's correct.

25 MR. BROOKS: Okay. All of these parties,

1 of course -- or most of them, are people who are active
2 in the oil and gas business --

3 THE WITNESS: Right.

4 MR. BROOKS: -- and presumably know what
5 they're doing?

6 THE WITNESS: Presumably.

7 MR. BRUCE: If I may, Mr. Examiner?

8 Q. (By Mr. Bruce) Mr. Haden, is this an
9 allocation formula that's been used by Yates on a fairly
10 regular basis?

11 A. Yes. We got it from Yates Petroleum
12 Corporation. They use this, apparently.

13 MR. BROOKS: I read through it rather
14 quickly. I'm not sure to what extent these provisions
15 would have to be adapted to apply them to a compulsory
16 come pooling context. We just have to think it through.
17 But since they are in the joint operating agreement, that
18 would is seem to be an appropriate approach. But I will
19 go through it and see if I can figure it out.

20 THE WITNESS: I'm sure you can, Mr.
21 Examiner.

22 MR. BROOKS: It's a little bit
23 complicated.

24 THE WITNESS: Yes. Extremely.

25 MR. WARNELL: Mr. Haden, I noticed on

1 Exhibit 2, you've got 343.54 acres, but yet in the
2 newspaper ad, Exhibit 9, it's 344.34.

3 THE WITNESS: Well, that could have been a
4 typographical error.

5 MR. WARNELL: Which one shall we go with?

6 THE WITNESS: It should be 343.54 acres.

7 MR. WARNELL: Which is there at the top of
8 Exhibit 2?

9 THE WITNESS: Yes, sir, it is.

10 MR. BRUCE: Mr. Examiner, I think if you
11 can read it, Exhibit 2 does have the acreage of each lot.
12 You could also --

13 MR. WARNELL: -- do the math.

14 MR. BRUCE: Yeah. I tried but I may have
15 failed.

16 MR. JONES: Okay. Thank you very much.
17 Thanks for coming up to Santa Fe. Thanks, Mr. Bruce.
18 We'll take Case 14299 under advisement. That being the
19 last case in this docket, the docket is adjourned.

20 * * *

21

22 I do hereby certify that the foregoing is
23 a complete record of the proceedings in
24 the Examiner hearing of Case No. _____
heard by me on _____

25 _____, Examiner
Oil Conservation Division

REPORTER'S CERTIFICATE

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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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