

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 ENERQUEST OIL & GAS, )  
L.L.C., FOR COMPULSORY POOLING, )  
LEA COUNTY, NEW MEXICO )

APPLICATION OF ENERQUEST OIL & GAS )  
L.L.C., FOR AMENDMENT OF DIVISION ORDER )  
NO. R-10,986, LEA COUNTY, NEW MEXICO )

CASE NO. 12,411

CASE NO. 12,471

(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

ORIGINAL

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

August 24th, 2000

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner on Thursday, August 24th, 2000, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, 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

August 24th, 2000  
Examiner Hearing  
CASE NOS. 12,411 and 12,471 (Consolidated)

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\* \* \*

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\* \* \*

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

## FOR THE DIVISION:

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## FOR THE APPLICANT:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.  
 Suite 1 - 110 N. Guadalupe  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: WILLIAM F. CARR

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:17 a.m.:

3           EXAMINER STOGNER: I will now call Case Number  
4   12,411, which is the Application of EnerQuest Oil and Gas,  
5   L.L.C., for compulsory pooling, Lea County, New Mexico.

6           Call for appearances.

7           MR. CARR: May it please the Examiner, my name is  
8   William F. Carr with the Santa Fe law firm Campbell, Carr,  
9   Berge and Sheridan. We represent EnerQuest Oil and Gas,  
10   L.L.C. in this Application for compulsory pooling, as well  
11   as in the following case, which we would request be called  
12   at this time. Then I have an opening statement.

13          EXAMINER STOGNER: Okay, at this time I will call  
14   Case Number 12,471, which is also the Application of  
15   EnerQuest Oil Company, L.L.C., but it's for an amendment of  
16   Division Order Number R-10,986, Lea County, New Mexico.

17          Other than Mr. Carr, are there any appearances in  
18   this case, or the previous one?

19          Okay, Mr. Carr?

20          MR. CARR: May it please the Examiner, EnerQuest  
21   is successor to Pioneer. Pioneer originally obtained  
22   Division Order Number R-10,986, pooling the northeast  
23   quarter of the southwest quarter of Section 18, Township 20  
24   South, Range 39 East. They completed the well that is the  
25   subject of this Application in the Tubb and shortly

1     thereafter recompleted the well in the Blinebry formation.  
2     The Tubb was based -- is developed on 40-acre spacing.  
3     That is the acreage that was covered by the original  
4     pooling order.

5             However, a year and a half ago Pioneer  
6     recompleted the well in the Blinebry, which is developed on  
7     160-acre spacing. They dedicated 160 acres, but they did  
8     not come back and amend the pooling application to  
9     encompass the acreage within the larger spacing unit.

10            When EnerQuest acquired the property, they  
11     discovered the problem. They went back and talked to the  
12     interest owners who were affected in the 160-acre spacing  
13     unit, and for the last year have been in negotiations  
14     trying to obtain voluntary agreements for pooling the  
15     interest in this 160-acre spacing unit.

16            Negotiations with two parties have taken a  
17     substantial period of time. We, day before yesterday, were  
18     finally able to reach an agreement with Doyle Hartman, Oil  
19     Operator, by which he leased his interest in this acreage,  
20     effective back at the time of first production in the well  
21     to EnerQuest. So we have reached an agreement with Mr.  
22     Hartman.

23            The one remaining interest owner is a Ronald J.  
24     Byers. Mr. Byers leased his interest in the 40-acre tract,  
25     the northeast of the southwest of 18, to EnerQuest. His

1 lease, however, does not provide for pooling the acreage  
2 with additional lands to conform with the State of New  
3 Mexico spacing requirements.

4 And so all we're here today doing is seeking an  
5 order pooling the interest of Mr. Byers into the 160-acre  
6 spacing unit which must be dedicated in the Blinebry  
7 formation.

8 There is no issue as to the cost of the well,  
9 there is no issue concerning the risk penalty that should  
10 be assessed, there is no issue concerning administrative  
11 charges. Mr. Byers has a royalty interest based on the  
12 interest he owns in the 40 acres, which is dedicated to the  
13 well, but under the lease we can't combine that 40 acres  
14 with other acres to form a standard spacing unit, and that  
15 is the only reason we're here today.

16 We also originally filed Case 12,411, which was  
17 an Application I filed simply seeking the compulsory  
18 pooling of the 160 acres which now need to be dedicated to  
19 the well in the Blinebry. Mr. Hartman's counsel felt that  
20 an order simply pooling this acreage might lead to  
21 confusion. At the request of Hartman, we then filed the  
22 second case. That is Case 12,471, which is styled  
23 Amendment of Division Order Number R-10,986.

24 They both cover the same acreage, they're both  
25 designed to achieve the same objective. And with your

1 permission, we would request that Case 12,411, which seeks  
2 pooling of this acreage, be dismissed and that we then  
3 proceed with our presentation to bring Mr. Byers' interest  
4 into the spacing unit under the case styled 12,471.

5 EXAMINER STOGNER: Since there's nothing further,  
6 please proceed.

7 MR. CARR: Is the first case dismissed, Mr.  
8 Stogner?

9 EXAMINER STOGNER: Well, I want to hear the case  
10 and then -- or hear this matter and -- I'll tell you what,  
11 here's what we're going to do. We'll hear the matter and  
12 issue one order, which will deny the case. But at this  
13 point -- I tend to agree with you at this point, is to  
14 dismiss Case 12,411, but there's always a possibility that  
15 during these proceedings --

16 MR. CARR: -- something may --

17 EXAMINER STOGNER: -- something may come up. So  
18 I will wait and act on your motion after the hearing.

19 (Thereupon, the witness was sworn.)

20 M. CRAIG CLARK,  
21 the witness herein, after having been first duly sworn upon  
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CARR:

25 Q. Would you state your name for the record, please?

1 A. Craig Clark.

2 Q. Mr. Clark, where do you reside?

3 A. Midland, Texas.

4 Q. By whom are you employed?

5 A. I'm an independent landman and a consultant for  
6 EnerQuest on this matter.

7 Q. Have you previously testified before this  
8 Division?

9 A. Yes.

10 Q. At the time of that testimony, were your  
11 credentials as an expert in petroleum land matters accepted  
12 and made a matter of record?

13 A. Yes, they were.

14 Q. Are you familiar with the Application filed in  
15 this case?

16 A. Yes.

17 Q. And are you familiar with the status of the lands  
18 in the subject area?

19 A. Yes.

20 MR. CARR: Are the witness's qualifications  
21 acceptable?

22 EXAMINER STOGNER: They are.

23 Q. (By Mr. Carr) Mr. Clark, would you initially  
24 summarize for Mr. Stogner what EnerQuest seeks with this  
25 Application?



1           A.    An order pooling all minerals from the surface to  
2   the base of the Blinebry formation under the southwest  
3   quarter of Section 18, Township 20 South, Range 39 East,  
4   and for all formations in other pools developed on 160-acre  
5   spacing, which includes the Blinebry Oil and Gas Pool, to  
6   be dedicated to our McCasland "18" Fee Number 1 well, which  
7   has been drilled at a standard location in the southwest  
8   quarter.

9           Q.    Could you review for the Examiner the history of  
10  the McCasland "18" Fee Well Number 1?

11          A.    It is subject to the Oil Conservation Division  
12  Case Number 11,932, which was heard on April 2nd, 1998.  
13  Pioneer Natural Resources, USA, Inc., obtained an order  
14  pooling all the mineral interests in the northeast quarter  
15  of the southwest quarter of Section 18, and they drilled  
16  the McCasland well at a standard location.

17                The well was initially completed in the Abo and  
18  Tubb formations, but then in January of 1999 they  
19  recompleted the well in the Blinebry formation, which is  
20  spaced on 160 acres. And in August of 1999, EnerQuest  
21  acquired the interests of Pioneer in this acreage, and  
22  EnerQuest is now seeking to form the proper spacing unit  
23  for the Blinebry formation.

24          Q.    Let's go to what has been marked as EnerQuest  
25  Exhibit Number 1. Would you identify and review this?

1           A.    It is a land plat of the southwest quarter of  
2    Section 18, 20 South, 39 East.

3           Q.    And when we look at this, it shows the two leases  
4    in that 160-acre tract, one being the northeast of the  
5    southwest and the other the remaining acreage, correct?

6           A.    That's correct.

7           Q.    We have been able to get all the interest owners  
8    in the 120 acres to be added to this spacing unit. We've  
9    got all of those to voluntarily join, have we not?

10          A.    That is correct.

11          Q.    At this time we're only looking at the interest  
12   of Ron Byers?

13          A.    Correct.

14               EXAMINER STOGNER: I'm sorry, who?

15               MR. CARR: Ronald J. Byers, B-y-e-r-s.

16          Q.    (By Mr. Carr) Is the entire southwest quarter  
17   fee land?

18          A.    Yes, it is.

19          Q.    And can you give me the name of the pool from  
20   which the McCasland well is now producing?

21          A.    The Blinebry Oil and Gas Pool.

22          Q.    How many interest owners are subject to this  
23   case? Only Mr. Byers?

24          A.    Only Mr. Byers.

25          Q.    And you have obtained a lease covering the

1 Hartman interest in this acreage?

2 A. That is correct.

3 Q. That lease was obtained yesterday?

4 A. Yes.

5 Q. What is Mr. Byers' interest in the southwest  
6 quarter of Section 18?

7 A. In the 40-acre tract he has about 3-1/2-percent  
8 interest, which results in a 9/10 of an interest, or 900 --  
9 90 -- pardon me --

10 Q. 9/10 --

11 A. -- 9/10 of an interest in the 160-acre unit.

12 Q. So 9/10 of one percent is what he has in the --

13 A. That's correct.

14 Q. Let's go to Exhibit Number 2. Would you identify  
15 that?

16 A. Exhibit Number 2 is the oil and gas lease that  
17 EnerQuest acquired from Mr. Byers in the northeast quarter  
18 of the southwest quarter.

19 Q. This lease contains no clause which would  
20 authorize you to combine this acreage to form a standard  
21 spacing unit; is that correct?

22 A. That's correct.

23 Q. Is Mr. Byers someone with whom you have dealt in  
24 the past?

25 A. Yes, Mr. Byers -- or his father, actually,

1 acquired hundreds of mineral interests through Eddy and Lea  
2 Counties and also throughout Texas in the early 1930s and  
3 1940s.

4 Q. And he is an experienced person in oil and gas  
5 transactions?

6 A. Yes, he is.

7 Q. In fact, he acquired these interests in deals  
8 with the Comb family, did he not?

9 A. Many of the tracts in there, the Comb family did  
10 own interest, and Dan Glades and all sorts of owners have  
11 bought minerals back during that time.

12 Q. Could you summarize for the Examiner the efforts  
13 that you have made with Mr. Byers to obtain from him a  
14 voluntary pooling agreement to put together this 160-acre  
15 spacing unit?

16 A. I initially contacted him last summer when  
17 EnerQuest bought out Pioneer's interest in this tract and  
18 talked with him on the phone about him signing some type of  
19 pooling agreement with us to form this unit. And at that  
20 point he said he would look it over. We then contacted him  
21 with a formal agreement, and after that point he responded  
22 to us in writing that he didn't really see -- he didn't  
23 want to pool his interest with us.

24 I again contacted him by letter in November of  
25 1999 and again requested that he commit his interest to the

1 pooled unit, that we needed to have it in order to form  
2 the --

3 Q. Have you also discussed this matter with him  
4 since that time by telephone?

5 A. I have numerous times, or else just left messages  
6 trying to get him to call back. I called him when we filed  
7 these applications originally, told him we were going to be  
8 doing it, and he has basically -- My last conversation was,  
9 he was going to make us just go through the steps in order  
10 to do this.

11 A. If we look at what has been marked as EnerQuest  
12 Exhibit Number 3, is the September 8th, 1999, letter the  
13 letter by which you transmitted the formal pooling  
14 agreement to him?

15 A. That's correct.

16 Q. And then his response is the September 24th  
17 letter to you?

18 A. That's his response to our --

19 Q. And then you followed up on November the 8th?

20 A. Correct.

21 Q. The delay and behind all of that is the pooling  
22 agreement that was submitted to him?

23 A. Correct.

24 Q. Is this similar to the pooling agreement that's  
25 been executed by other interest owners in the southwest

1 quarter of Section 18?

2 A. It is.

3 Q. And the delay between November, 1999, and today's  
4 hearing is the result of negotiations that were ongoing  
5 with Mr. Hartman and his representatives?

6 A. That's correct.

7 Q. In your opinion, have you made a good faith  
8 effort to obtain a voluntary commitment to the pooling from  
9 Mr. Byers?

10 A. Yes.

11 Q. And you're not trying to combine his lands per  
12 se, except trying to commit those to a larger spacing?

13 A. That's correct.

14 Q. What have you done with the funds that are  
15 attributable to the Byers interest in this property?

16 A. He was paid up until January of this year, and  
17 then all the revenue was suspended at that point for all  
18 royalty owners, until we had this unit formed.

19 Q. And once this unit is properly formed, then all  
20 royalty would be paid by all owners?

21 A. That's correct.

22 Q. Is Exhibit Number 4 an affidavit with an attached  
23 letter confirming that notice of today's hearing has been  
24 provided to Ronald Byers?

25 A. That's correct.

1 Q. Does EnerQuest Oil and Gas, L.L.C., seek to be  
2 designated operator of the McCasland well when it is  
3 properly dedicated to this 160-acre tract?

4 A. They do.

5 Q. In your opinion, will granting this Application  
6 be in the best interest of conservation, the prevention of  
7 waste and the protection of correlative rights?

8 A. It will.

9 Q. Were Exhibits 1 through 4 either prepared by you  
10 or compiled under your direction?

11 A. They were.

12 MR. CARR: May it please the Examiner, at this  
13 time we would move the admission into evidence of EnerQuest  
14 Exhibits 1 through 4.

15 EXAMINER STOGNER: Exhibits 1 through 4 will be  
16 admitted into evidence at this time.

17 MR. CARR: And that concludes my direct  
18 examination of Mr. Clark.

19 EXAMINATION

20 BY EXAMINER STOGNER:

21 Q. Okay, let me make sure I've got this right. Mr.  
22 Byers -- Is it -- How do you pronounce it? Byers or Byers?

23 A. Byers.

24 Q. Mr. Byers is a portion of a royalty owner in  
25 here; is that right?

1           A.    That's correct, he owns a small interest in the  
2 northeast quarter of the southwest quarter.

3           Q.    And that was what, 3-1/2-percent just of that 40  
4 acres?

5           A.    Of that 40 acres, yes, sir.

6           Q.    Okay. Now, he joined in the 40-acre --

7           A.    No, he leased his interest.

8           Q.    He leased his interest, okay. So at this time,  
9 because the lease agreement did not contain provisions for  
10 anything other than 40-acre spacing --

11          A.    The lease agreement just contained no pooling  
12 provision.

13          Q.    Is this unusual in today's environment?

14          A.    Well, if you'll notice on our pooling agreement  
15 there, we had several mineral owners that you have to get  
16 their consent in order to pool their interest. A lot of  
17 times people don't want to be diluted. And Mr. Byers is  
18 from Texas; it is not an uncommon practice in Texas to get  
19 consents to pool interest. And this is his own lease form,  
20 and therefore that -- he has that provision in there. And  
21 so no, I would say that it is not unusual to get permission  
22 to sign. We had to work with several owners that had  
23 interests to form this unit.

24          Q.    Were you a party to the original case, 11,932, in  
25 which Order Number R-10,986 was issued?



1 A. Yes, sir.

2 Q. And you were working for Pioneer at the time?

3 A. Yes, sir.

4 Q. Do you know if this well penetrated the Abo  
5 formation?

6 A. It did.

7 Q. It did. And it was completed in the Blinebry  
8 zone or --

9 A. It was recompleted in that zone.

10 Q. Okay, from the Abo?

11 A. We come up from the Tubb.

12 Q. From the Tubb. So that was a Tubb oil well?

13 A. It was an Abo test, was the total depth, that  
14 completed in the Tubb. I mean, they tested the Abo, they  
15 completed it in the Tubb and produced it for about half a  
16 year and then recompleted it in the Blinebry.

17 Q. What Tubb formation or Tubb pool was produced?

18 A. The Warren East.

19 Q. The Warren East. And that's an oil pool?

20 A. Yes, sir.

21 Q. Is the well currently shut in pending this order?

22 A. No, sir, the well is producing right now.

23 Q. It is producing?

24 A. That's right.

25 Q. Is it producing oil or gas?

1           A.    It's producing gas.

2           Q.    How long has it been producing gas?

3           A.    Well, since it's been recompleted it's been  
4 producing.

5           Q.    And when was that?

6           A.    It was recompleted January 16th, 1999.

7           Q.    So it's been producing on 160-acre spacing for  
8 over a year and a half?

9           A.    Yes, sir.

10          Q.    Have you been paying Mr. -- Byers?

11          A.    Byers.

12          Q.    Byers?

13          A.    We paid him up until January this year, based on  
14 40-acre spacing. We're going to have to go back and  
15 reallocate to the other owners.

16          Q.    Okay.

17          A.    The pooling agreement that we attached to it with  
18 the other owners was effective back to when the Blinebry --  
19 when it began producing out of the Blinebry.

20               EXAMINER STOGNER: Anything further of this  
21 witness?

22               MR. CARR: No, sir, Mr. Stogner, that concludes  
23 our presentation with this witness, and that also concludes  
24 our presentation in this matter.

25               EXAMINER STOGNER: Okay, at this time Case Number

1 12,411 will be dismissed, and I will take 12,471 under  
2 advisement.

3 And Mr. Carr, I haven't written a compulsory  
4 pooling order just for royalty in quite some time. Could  
5 you provide me a rough draft?

6 MR. CARR: Yes, sir, I can.

7 EXAMINER STOGNER: I would appreciate it.

8 And if there's nothing further in either -- or if  
9 there's nothing further in 12,471, then this matter will be  
10 taken under advisement.

11 MR. CARR: Thank you, Mr. Stogner.

12 THE WITNESS: Thank you.

13 (Thereupon, these proceedings were concluded at  
14 8:40 a.m.)

15 \* \* \*

16  
17  
18 I do hereby certify that the foregoing is  
19 a complete record of the proceedings in  
the Examiner hearing of Case Nos. 12411 and 12471  
20 heard by me on 24 August 2000

21  Examiner  
Oil Conservation Division  
22  
23  
24  
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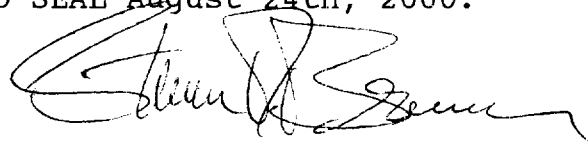
## CERTIFICATE OF REPORTER

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 August 24th, 2000.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002