

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: ) CASE NO. 12,985  
 )  
 APPLICATION OF CHESAPEAKE OPERATING, )  
 INCORPORATED, FOR COMPULSORY POOLING, )  
 EDDY COUNTY, NEW MEXICO )  
 )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

January 9th, 2003

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, January 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.

\* \* \*

## I N D E X

January 9th, 2003,  
 Examiner Hearing  
 CASE NO. 12,985

	PAGE
APPEARANCES	3
REPORTER'S CERTIFICATE	9

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	4	-
Exhibit 2	6	-
Exhibit 3	5, 6	-
Exhibit 4	7	-
Exhibit 5	7	-
Exhibit 6	7	-
Exhibit 7	7	-
Exhibit 8	7	-

\* \* \*

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

FOR THE APPLICANT:

KELLAHIN & KELLAHIN  
117 N. Guadalupe  
P.O. Box 2265  
Santa Fe, New Mexico 87504-2265  
By: W. THOMAS KELLAHIN

\* \* \*

ALSO PRESENT:

DAVID R. CATANACH  
Hearing Examiner  
New Mexico Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

\* \* \*

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

1           WHEREUPON, the following proceedings were had at  
2   8:18 a.m.:

3           EXAMINER CATANACH: Okay, we're going to go a  
4   little bit out of order this morning. We're going to skip  
5   the Seely cases for now and go directly to Chesapeake case,  
6   Case 12,985, which is the Application of Chesapeake  
7   Operating, Incorporated, for compulsory pooling, Eddy  
8   County, New Mexico.

9           I'll call for appearances in this case.

10          MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of  
11   the Santa Fe law firm of Kellahin and Kellahin, appearing  
12   on behalf of the Applicant. With your permission, we are  
13   submitting this pursuant to the Division Rules that allow  
14   us to provide the testimony by affidavit.

15          EXAMINER CATANACH: Okay, that's correct. This  
16   case is styled such that in the absence of objection this  
17   matter will be taken under advisement, so proceed from  
18   there, Mr. Kellahin.

19          (Off the record)

20          EXAMINER BROOKS: This being a compulsory pooling  
21   case, I'll probably write it, so I invite you to go ahead  
22   and proceed.

23          MR. KELLAHIN: Thank you, Mr. Brooks. If you'll  
24   open the exhibit book and turn past Exhibit 1, which is the  
25   composite affidavit of the landman, the geologist and

1 engineer, and turn to Exhibit 3, there's a plat that I can  
2 orient you as to what we're attempting to accomplish.

3 That is all of Section 7, and we're dealing with  
4 the north half of Section 7. The well is the Will 7A Fee  
5 Number 1 well. You'll see it over there in the northeast  
6 portion of the north half. That well has already been  
7 drilled. It's producing out of the Morrow. And we're  
8 attempting to pool all formations on 320-acre spacing.  
9 There's some potential in the Atoka.

10 The problem is this: You can see on the plat  
11 that there's a railroad right of way and a highway. And as  
12 a result of a condemnation suit by the State Highway  
13 Department, there was about seven acres of the north half  
14 that were condemned for use of the surface for the right of  
15 way. The judgment in that case also condemned the  
16 minerals, for reasons you can't figure out. The judgment  
17 in here and the title opinions we'll submit demonstrate  
18 that the Highway Department has those minerals. And they  
19 have 25 percent of the seven-plus acres. The rest of it is  
20 held by people that already committed into the tract.

21 So what we've done is approach the Highway  
22 Department, asked them to lease us the interest. They have  
23 said they had no procedure, no method to do it. We  
24 suggested that they deed the interest to the State Land  
25 Office and let us obtain a State Land Office lease and

1 allow it to be administered that way. They couldn't make  
2 up their mind.

3 They hired Mr. Hugh Perry, who's a landman --  
4 he's appeared before the Division on occasion -- and Mr.  
5 Perry in conversations with us finally said, Force pool us.  
6 And so that's where we are, and that's what the documents  
7 demonstrate to you.

8 This property was originally held by Devon, and  
9 Devon obtained the original permit which you'll see behind  
10 Exhibit Tab 2. It's an application for permit to drill for  
11 Devon.

12 And then before the well is drilled, Chesapeake  
13 obtains an interest, and so the subsequent documents that  
14 you see behind Exhibit Tab 2 are going to show a change  
15 where the completion reports and the requests for allowable  
16 are filed by Chesapeake. So Chesapeake is the operator.

17 And behind Exhibit Tab 3, we've talked about the  
18 first plat. Behind the first plat is a copy of the  
19 judgment. And when you turn to the end of the judgment,  
20 they have by description identified the portions of the  
21 north half. In fact, that description identifies the right  
22 of way through all of Section 7. So the survey you're  
23 looking at has excluded that portion of the judgment in the  
24 south half. So the calculation you're seeing on Exhibit 3  
25 represents the net acres in the north half, which are 7.88,

1 and they have 25 percent of that.

2 Exhibit 4 is the formal well proposal letter to  
3 the Highway Department to lease, farm out or execute  
4 participation. Following that is a copy of the AFE, other  
5 correspondence with the Highway Department.

6 And behind Exhibit Tab 5 are the various title  
7 opinions. And contained in this are a number of pages that  
8 specifically outline the ownership and how the title  
9 attorneys concluded that the interest was held by the  
10 Highway Department, including the mineral interest.

11 Exhibit 6 contains the geologic summaries. The  
12 testimony by the geologist is that prior to drilling the  
13 well this well location, in his opinion, justified the  
14 maximum 200-percent risk factor. We recognize that  
15 Division practice is to reduce that because the well is,  
16 and we would expect that you would expect that you would do  
17 that.

18 For further information, behind Exhibit Tab 7 is  
19 a copy of the actual costs of the well. And they're  
20 slightly more than the AFE costs, but these are the costs  
21 -- actual costs testified to in the affidavit, and  
22 Chesapeake concludes that they are fair and reasonable.

23 Exhibit 8 is my affidavit of notice to the  
24 Highway Department. We've talked to them on occasion,  
25 we've talked to Mr. Perry, they have chosen not to

1 participate, and they have simply told us to force pool  
2 them.

3 That concludes our presentation.

4 EXAMINER BROOKS: Very good. Thank you very  
5 much, Mr. Kellahin.

6 MR. KELLAHIN: Thank you.

7 EXAMINER BROOKS: If there's nothing further,  
8 then Case Number 12,985 will be taken under advisement.

9 (Thereupon, these proceedings were concluded at  
10 8:28 a.m.)

11 \* \* \*

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I do hereby certify that the foregoing is  
a complete record of the proceeding in  
the examiner hearing of Case No. \_\_\_\_\_,  
and by me on \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, Examiner  
Of Conservation Division

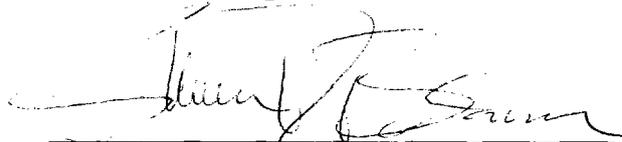
## CERTIFICATE OF REPORTER

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 January 9th, 2003.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006