

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION  
STATE LAND OFFICE BLDG.  
SANTA FE, NEW MEXICO

27 February 1985

EXAMINER HEARING

IN THE MATTER OF:

Application of Harben-Davis, a Partner-  
ship, for compulsory pooling, Lea                      CASE  
County, New Mexico.                                      8501

BEFORE: Michael E. Stogner, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation	Jeff Taylor
Division:	Attorney at Law
	Legal Counsel to the Commission
	State Land Office Bldg.
	Santa Fe, New Mexico 87501

For the Applicant:	William F. Carr
	Attorney at Law
	CAMPBELL & BLACK P. A.
	P. O. Box 2208
	Santa Fe, New Mexico 87501

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I N D E X

F. FERRELL DAVIS

Direct Examination by Mr. Carr	3
Cross Examination by Mr. Stogner	12

E X H I B I T S

Applicant Exhibit One, Plat	6
Applicant Exhibit Two, Ownership List	6
Applicant Exhibit Three, AFE	8
Applicant Exhibit Four, Letter	8
Applicant Exhibit Five, Letter	9
Applicant Exhibit Six, Letter	10

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MR. STOGNER: We'll call next  
Case Number 8501.

MR. TAYLOR: The application of  
Harben-Davis, a partnership, for compulsory pooling, Lea  
County, New Mexico.

MR. CARR: May it please the  
Examiner, my name is William F. Carr, with the law firm  
Campbell and Black, P. A., of Santa Fe, appearing on behalf  
of Harben-Davis.

I have one witness who needs to  
be sworn.

MR. STOGNER: Are there any  
other appearances in this matter?

Will the witness please stand?

(Witness sworn.)

F. FERRELL DAVIS,  
being called as a witness and being duly sworn upon his  
oath, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. CARR:

Q Would you state your full name and place  
of residence?

A Frank Ferrell Davis from Midland, Texas.

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Q Mr. Davis, by whom are you employed?

A I'm a partner in the firm of Harben-Davis, a Partnership.

Q Are you by experience and training a landman?

A Yes.

Q Have you previously testified before the Oil Commission or one of its examiners and had your credentials accepted and made a matter of record?

A No, I have not testified.

Q Would you please summarize your educational background and your work experience for Mr. Stogner?

A Yes. I graduated in 1967 from Stephen F. Austin University with a BS degree.

I've been employed by Shell Oil Company five years, BTA Oil Producers, two years, and five years for Coquina Oil Corporation, and the last eight years in the partnership of Harben-Davis.

Q At all times have you been employed as a landman?

A Yes, all of them --

Q Are you a certified petroleum landman?

A Yes, sir.

Q Are you familiar with the application filed in this case on behalf of Harben-Davis?

A Yes.

Q And are you familiar with the subject

1 area?

2 A Yes, sir.

3 MR. CARR: Are the witness'  
4 qualifications acceptable?

5 MR. STOGNER: Mr. Davis, you  
6 said you received a BS degree from Stephen F. Austin?

7 A Yes.

8 MR. STOGNER: What was that in?

9 A General business.

10 MR. STOGNER: Mr. Davis is so  
11 qualified as a practical landman.

12 Q Mr. Davis, will you briefly state what  
13 Harben-Davis seeks in this case?

14 A Yes, we seek the order pooling all the  
15 mineral interests in the southwest/southwest quarter of Sec-  
16 tion 22, being in Unit M, from the surface to the base of  
the Abo formation.

17 Q Does Harben-Davis also seek the imposi-  
18 tion of a risk factor on those interests that do not volun-  
19 tarily join in the well?

20 A Yes, we do.

21 Q Are you asking that the order provide for  
22 overhead and administrative costs while drilling and produc-  
ing the well?

23 A Yes, sir.

24 Q And does Harben-Davis seek to be desig-  
25 nated operator of the subject well?

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A Yes, sir.

Q Have you prepared certain exhibits for introduction in this case?

A Yes, sir.

Q Would you refer to what's been marked for identification as Exhibit Number One, identify --

A Yes, this is a land plat depicting the southwest/southwest quarter of Section 22, 16 South, 38 East, being Unit M.

Q Does it show the proposed well location?

A Yes. This location is proposed as 990 feet from the south line and 330 feet from the west line of said section.

Q And what is the primary objective in the proposed well?

A The Abo Reef formation at approximately 8500 feet.

Q Is this well to be drilled at a standard location?

A Yes, this is a standard location.

Q Would you now review Exhibit Number Two for the Examiner?

A Yes, Exhibit Number Two is a -- is a synopsis of the mineral ownership under the subject acreage and it shows the status of each mineral owner, the fractional mineral interest, and the decimal mineral interest.

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2 Q What mineral owners have at this point  
3 not voluntarily joined in the drilling of the well or leased  
4 to you or entered a farmout arrangement?

5 A We have obtained either joinder or oil  
6 and gas leases from all owners with the exception of approx-  
7 imately 4 percent, which are Edward Dreessen, Jr., a 3/800  
8 mineral interest.

9 Q Mr. Davis, those parties who have not  
10 voluntarily joined are indicated by the word "open" preced-  
11 ing their name, is that correct?

12 A Yes, they are, and of course the bottom  
13 of Exhibit Two.

14 Q All right, will you continue to review  
15 the individuals who have not joined?

16 A Yes. The next one being Craig C. Powell  
17 and Ingrid D. Powell, Trustees of the C and I Powell Revo-  
18 cable Living Trust, dated June 6, 1978, being a 3/800 miner-  
19 al interest.

20 Next being Priscilla A. Kyte, Conservator  
21 of the Estate of David Bond Kyte, incapacitated, represent-  
22 ing a 1/32 mineral interest.

23 And the last being the Unknown Heirs of  
24 Della Mae Pritchett, deceased, being a 1/384 mineral inter-  
25 est.

Q Mr. Davis, in excess of 95 percent of the  
mineral interest have voluntarily joined or committed to the  
drilling of the well?

1  
2           A           Yes, sir, we've -- we've obtained oil and  
3 gas leases from all with the exception of these parties I  
4 mentioned, and we have had joinder by approximately 13 per-  
cent of the mineral owners within the subject acreage.

5           Q           Would you now review Exhibit Number Three  
6 with Mr. Stogner?

7           A           Yes, this is an AFE which has been pre-  
8 pared for the drilling of this well, showing a total cost of  
9 approximately \$489,000 for a completed well.

10          Q           Are these costs in line with what's being  
11 charged by other operators for similar wells?

12          A           Yes, sir.

13          Q           Would you summarize the efforts you've  
14 made to obtain voluntary joinder of all interest owners in  
15 the proposed spacing unit and in so doing refer to your Ex-  
hibits Four and Five?

16          A           Exhibit Four refers to the -- trying to  
17 locate a one Della Mae Pritchett, whom we have now learned  
18 is deceased and we could not find her heirs.

19                   The first part of Exhibit Four is a let-  
20 ter addressed to an unrelated mineral owner where I was  
21 trying to find the whereabouts of Della Mae Pritchett, and  
22 the other handwritten notes on the next page are some notes  
23 that I made where I was inquiring where -- where Della Mae  
24 Pritchett might be, and back in 1947, according to these  
25 notes, one of our lessors had conveyed to Pritchett, and I  
contacted an heir of this lessor and she stated that Della



1 Mae Pritchett was deceased. She thought she had left every-  
2 thing to her sister, whom she also thinks is deceased.

3 And no one that I've been able to contact  
4 knows the whereabouts of Della Mae Pritchett.

5 Q And have you, in your opinion, made a  
6 good faith effort to locate the heirs of Della Mae Prit-  
7 chett?

8 A Yes, sir.

9 Q And at this time you do not know their  
10 whereabouts?

11 A No.

12 Q Would you now refer to Exhibit Number  
13 Five?

14 A Okay. Exhibit Number Five refers to the  
15 Bank of California, whom I might mention we have now ob-  
tained an oil and gas lease from them.

16 If you'll look on Exhibit Two towards the  
17 bottom of the page, there's two references to #31, and we  
18 have obtained leases from this party; however, the Bank of  
19 California had represented to me that they represented the  
20 other -- the other open mineral owners with the exception of  
21 Della Mae Pritchett. All of that is in an aggregate of a  
22 1/16 mineral interest and it was from one family. We see  
23 Dreessen, the name Dreessen referred to in there numerous  
times and Kyte, and the Kyte-Dreessen is one family.

24 Q As of this time have you been able to ob-  
25 tain a lease or any -- reach any agreement with the Bank of

1  
2 California concerning these -- these interests?

3 A Well, we did, we have obtained a lease  
4 from the bank on the trust that they represent. We received  
5 that lease Monday.

6 Q But you've not been able --

7 A The other ones, we have not been able to  
8 obtain leases from at this time.

9 Q Would you now refer to what has been  
10 marked as Harben-Davis Exhibit Number Six and identify that,  
11 please?

12 A Yes. This was the application, a certi-  
13 fied copy -- well, you sent by certified mail, the applica-  
14 tion to the Commission and this shows that the Bank of Cali-  
15 fornia and the other named parties with the open interest,  
16 received a copy of notification of this application for  
17 pooling.

18 Q They also received notice of the hearing  
19 today.

20 A Yes.

21 Q Are you prepared to make a recommendation  
22 to Mr. Stogner as to the risk penalty that should be asses-  
23 sed against the nonconsenting mineral interest owners?

24 A Yes, sir.

25 Q And what is that figure?

A 200 percent.

Q And, Mr. Davis, upon what do you base  
this recommendation?

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2           A           Well, our objective in this well is the  
3 Abo Reef formation and the closest proximity of production  
4 in the Abo Reef is approximately eight miles west/southwest  
5 from said location.

6                       Another factor being that your standard  
7 operating agreement grants an operator their cost back plus  
8 a penalty of 300 percent.

9           Q           And this is the arrangement that you will  
10 have with those that are voluntarily coming into the well?

11           A           Yes, sir.

12           Q           Do you believe there's a chance that in  
13 drilling a proposed well you may get a well that is unable  
14 to make commercial production?

15           A           Well, that's always a chance, you know,  
16 in wildcat drilling.

17           Q           Have you made an estimate of the overhead  
18 and administrative cost to be assessed against these noncon-  
19 senting interest owners if -- while drilling and also while  
20 producing, if in fact you have a successful well?

21           A           Yes, our AFE refers to a drilling over-  
22 head rate of \$3000 per month and that \$3000 per month would  
23 be prorated.

24                       Our proposed operating agreement will  
25 have a \$300 per month operating charge.

26           Q           Mr. Davis, how do these --

27           A           On a producing well.

28           Q           How do these figures compare with the

1 figures being charged by other operators for similar wells?

2 A They're in line.

3 Q Do you recommend that these figures be  
4 incorporated into any order which results from this hearing?

5 A Yes, sir.

6 Q In your opinion will granting this appli-  
7 cation be in the best interest of conservation, the preven-  
8 tion of waste, and protection of correlative rights?

9 A Yes, it will.

10 Q Were Exhibits One through Five either  
11 prepared by you or compiled under your direction and super-  
12 vision?

13 A Yes, sir.

14 MR. CARR: At this time, Mr.  
15 Stogner, we would offer into evidence Harben-Davis Exhibits  
16 One through Five.

17 MR. STOGNER: Exhibits One  
18 through Five will be admitted into evidence.

19 MR. CARR: That concludes my  
20 direct examination of Mr. Davis.

21 CROSS EXAMINATION

22 BY MR. STOGNER:

23 Q Mr. Davis, up toward the middle of the  
24 top sheet on Exhibit Number Two there shows to be an open on  
25 the J. Hiram Moore interest.

Could you explain that?

1  
2           A           Yes.   That's just an oversight on my  
3 part.

4                   That should be they're either going to  
5 join or lease. They've given me their verbal consent to do  
6 one of the two.

7           Q           But you haven't got that here?

8           A           No, but I will have it.

9           Q           You're proposing a risk factor of 200  
10 percent and an overhead charge of \$3000 and \$300?

11          A           Yes, sir.

12          Q           Would you please submit a copy of the  
13 operating agreement?

14          A           I will. We have not prepared one yet.

15          Q           Could you please submit that whenever one  
16 is available, and when do you think that might become avail-  
17 able?

18          A           This well will commence on or before  
19 April 1st, 1985, so we will have an operating agreement  
20 prior to the commencement of the well.

21          Q           Okay. Would you submit that to me when  
22 you can?

23          A           Yes, I will.

24                   MR. STOGNER: Are there any  
25 other questions of this witness?

If not, he may be excused.

Anything further in Case Number

8501?

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2 MR. CARR: Nothing further, Mr.  
3 Stogner.

4 MR. STOGNER: Being none, this  
5 case will be taken under advisement.

6 (Hearing concluded.)  
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## C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY  
CERTIFY that the foregoing Transcript of Hearing before the  
New Mexico Oil Conservation Division was reported by me;  
that the said transcript is a full, true, and correct record  
of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 8501  
heard by me on 27 February 1985.  
Michael E. Boyer, Examiner  
Oil Conservation Division