

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

26 August 1987

EXAMINER HEARING

IN THE MATTER OF:

Application of Barbara Fasken for CASE
compulsory pooling, Lea County, New 9201
Mexico.

BEFORE: David R. Catanach, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

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MR. CATANACH: Call next Case
Number 9201.

MR. TAYLOR: Application of
Barbara Fasken for compulsory pooling, Lea County, New
Mexico.

MR. CATANACH: Call for
appearances in this case.

MR. KELLAHIN: May it please
the Examiner, I'm Tom Kellahin for the law firm of Kellahin,
Kellahin, & Aubrey, of Santa Fe, appearing for Barbara
Fasken.

I have two witnesses to be
sworn.

(Witnesses sworn.)

WILLIAM D. PATTERSON,
being called as a witness and being duly sworn upon his
oath, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Will you state your name please?

A William D. Patterson.

1 Q By whom are you employed, Mr. Patterson,
2 and in what capacity?

3 A I'm Manager for Barbara Fasken of Fasken
4 Oil and Ranch Interest in Midland, Texas.

5 Q Mr. Patterson, have you previously testi-
6 fied as an expert in petroleum land matters before the Oil
7 Conservation Division?

8 A I have not.

9 Q Would you take a moment and describe when
10 and where you obtained your degree in law?

11 A I attended Baylor University Law School
12 from the fall of 1979 through February of 1982 and I ob-
13 tained a JD and practiced law in Midland since that time.

14 Q During the time that you practiced law
15 would you describe for us what, if any, specific expertise
16 you had in dealing with petroleum land titles?

17 A I have been an oil and gas title examiner
18 since the first day I began to practice law.

19 Q Do you continue to fulfill that function
20 on behalf of Barbara Fasken?

21 A Sometimes I do. We sometimes have out-
22 side attorneys perform the title work and I sometimes do
23 title work in-house and generally handle all matters relat-
24 ing to land.

25 Q Are you knowledgeable about and have you

1 been informed of the petroleum land title situation with re-
2 gards to the northwest quarter of the northwest quarter of
3 the Section 33 that's the subject of this application?

4 A I am familiar with it.

5 MR. KELLAHIN: We tender Mr.
6 Patterson as an expert in petroleum land matters.

7 MR. CATANACH: He is so quali-
8 fied.

9 Q Mr. Patterson, let me direct your atten-
10 tion to what is marked as Fasken Exhibit Number One and
11 let's spend some time talking about some of the attachments
12 to this exhibit.

13 First of all, sir, would you identify it
14 for me?

15 A I'm looking at Exhibit Number One. It's
16 a Model Form Operating Agreement, 1982 form, naming Barbara
17 Fasken as operator and Union Texas as nonoperator. Barbara
18 Fasken and Union Texas each own a 50 percent interest in the
19 lands which are the subject of this proceeding.

20 Q Does this operating agreement cover the
21 40-acre tract that's the subject of this pooling case?

22 A Yes, it does.

23 Q Can you describe for us in a general way
24 what is the proposal with regards to the well to be drilled
25 pursuant to this operating agreement?

1 A We plan to drill a Devonian test, a
2 wildcat, in the northwest quarter of the northwest quarter
3 of Section 33.

4 Q Have you satisfied yourself that a 40-
5 acre dedication is the appropriate dedication for an oil
6 well at this particular location?

7 A Yes, I have. There are no field rules
8 and I believe it goes under state, statewide.

9 Q Under this arrangement Barbara Fasken is
10 the proposed operator?

11 A That's correct.

12 Q And the working interest owners are
13 Barbara Fasken and Union Texas Petroleum?

14 A That's correct.

15 Q Let me direct your attention to the COPAS
16 attachment to the operating agreement and have you identify
17 for us what are the proposed overhead charges that Union
18 Texas has agreed to for the drilling of this well.

19 A The drilling well rate is \$4000 and the
20 producing well rate is \$400.

21 Q Do you have an opinion, Mr. Patterson,
22 as to whether that is a fair and reasonable rate to assess
23 against any of the nonconsenting owners you seek to pool un-
24 der this application?

25 A I do have an opinion and I believe it's

1 an extremely reasonable amount.

2 Q All right, sir. Let me turn also in this
3 package of exhibits attached to the operating agreement, and
4 have you locate on Exhibit A-1, is this the land plat upon
5 which has been located the acreage that's subject to the
6 operating agreement?

7 A Yes, it is.

8 Q And the acreage to be covered by the
9 operating agreement is acreage including but in addition to
10 the 40-acre tract?

11 A That's correct.

12 Q Would you identify for us what is the 40-
13 acre tract that you seek to pool with this case?

14 A It is the northwest quarter of the north-
15 west quarter of Section 33, Township 11 South, Range 38
16 East, NMPM, Lea County, New Mexico.

17 Q What is your anticipated commencement
18 date for the spudding and drilling of the well?

19 A Just as soon as we can get an order from
20 the Commission.

21 Q All right. Are there any other working
22 interest owners that are required to approved the operating
23 agreement?

24 A There are none.

25 Q Have Barbara Fasken and Union Texas Pet

1 roleum executed and agreed upon an AFE?

2 A Yes, they have.

3 Q And they've agreed upon a drilling and
4 completion program for the well?

5 A That's correct.

6 Q Let me turn your attention to Exhibit
7 Number Two, Mr. Patterson. Can you identify Exhibit Number
8 Two for me?

9 A Exhibit Number Two is an excerpt taken
10 from a drilling title opinion rendered by the law firm of
11 Lynch, Chapel, Aldine, and Alsup, of Midland, Texas, dated
12 August 21, 1987, covering the entire northwest quarter of
13 Section 23, which includes the 40-acre proration unit.

14 Q Of the individuals, in fact I believe
15 they're all individuals or trustees on behalf of trusts, of
16 all the individuals indicated on Exhibit Number Two, are
17 there any mineral owners --

18 A There are.

19 Q -- that have not agreed to commit their
20 interest in writing to you or to Union Texas for the drill-
21 ling of this well?

22 A Yes, there are.

23 Q Could you identify those for us?

24 A On the second page of the exhibit about
25 3/4 of the way down the page, Dean S. Merilatt. His wife is

1 Betty J. Merilatt. He is credited with a 1/160th undivided
2 mineral interest.

3 At the bottom of that same page, Pauline
4 Larson Bailey, who owns a 2/80th undivided mineral interest.

5 Q Are these the only two remaining
6 interests in the 40-acre tract that have not committed
7 themselves in writing for the drilling of the well?

8 A Yes.

9 Q Let me direct your attention to Exhibit
10 Number Three, now, and have you generally summarize for us
11 what have been your efforts on behalf of Fasken and to your
12 knowledge the efforts of Union Texas Petroleum to secure --
13 well, first of all, to identify and locate those two
14 individuals, and then to secure their voluntary
15 participation in the well.

16 A Barbara Fasken originally purchases half
17 of the interest in this prospect from Union Texas Petroleum,
18 I believe, formally in October of 1986. Prior to that time,
19 in 1984, Union Texas made attempts by sending out letters to
20 the last known addresses of these two people mentioned.

21 In one situation a letter was returned
22 with no addressee at that address and the other letter,
23 there was no answer to. I know that Union Texas made
24 various phone calls, checked phone directories, and other
25 attempts to locate these people unsuccessfully.

1 When Barbara Fasken took over as operator
2 of this prospect and getting it ready in the preliminary
3 stages, we had an independent landman attempt to locate
4 these two owners, as well as others. He was successful in
5 locating the others but on these last known address for
6 Albany, Larson, Larson, and Bailey is the only thing that he
7 had to go on. He again went to the phone directory search
8 and checked tax rolls and things of that nature, and was un-
9 successful.

10 With regard to Dean S. Merilatt, he was
11 able through various telephone calls to other persons who
12 are mineral owners to determine that it appears that Dean
13 Merilatt has died and that his wife, Betty Merilatt, may
14 possibly be the owner of his interest but we do not know be-
15 cause we have not been furnished with probate. He made an
16 attempt to contact her on several occasions, both by tele-
17 phone and letter.

18 He did receive a response back from her.
19 She is in her summer home in Idaho and will not be able to
20 respond to our offer for lease until she gets back to her
21 winter home in Tucson, Arizona.

22 We've made reasonable offers to her. She
23 has not accepted them and she has not been able to furnish
24 us with probate on her husband, and so we -- we really don't
25 know if she even owns the interest.

1 Q In terms of the Dean Merilatt interest
2 and your contacts with his surviving wife, have you made her
3 the same type of offer that you have made to other mineral
4 owners that those other mineral owners have accepted and
5 agreed to?

6 A Yes.

7 Q And as to the Pauline Bailey interest,
8 despite your best efforts neither you nor anyone else, to
9 your knowledge, in dealing with this property has been able
10 to locate that individual.

11 A No. As a matter of fact, in our title
12 opinion we have few people who have Bailey either as their
13 last name or a middle name and there were telephone
14 conferances with these people but none of them knew who this
15 -- this woman was.

16 Q At this point is it fair to say that
17 you've exhausted all reasonable efforts to contact Bailey,
18 as well as efforts to obtain a voluntary agreement from Mrs.
19 Merilatt and that you now need to commence the drilling of
20 your well?

21 A Yes.

22 Q Does Exhibit Three represent some of the
23 information available to you on various attempts to contact
24 either one of these individuals?

25 A Yes, it does.

1 Q Let me direct your attention to Exhibit
2 Four and have you summarize for me what information is
3 contained in this package of correspondence.

4 A Well, briefly, Exhibit Four is --
5 contains some of the correspondence involving our attempts
6 to locate these people.

7 The letter dated February 23, 1987, is
8 the first contact made by our company through Richard S.
9 Brooks, who's no longer with us, to our independent broker
10 asking him to locate various people, including the two that
11 we're talking about today.

12 The March 24, 1987 letter was written by
13 the same person to the same person based upon a title
14 opinion that had been furnished to Mr. Brooks. He found out
15 some additional information and notified the broker as to
16 various avenues that he might take in attempting to locate
17 them.

18 Let's see, there is a June 25, 1987,
19 letter both to Pauline Lawson Bailey and also Dean S.
20 Merilatt, which was sent by our landman to these people
21 making an offer to lease.

22 Let's see, I do not have a copy of the
23 certified return receipt for -- for the Bailey woman, but I
24 do for the Merilatt.

25 I just misplaced it.

1 The July 30, 1987, letter from Rocky
2 Kimball to myself indicates that he had found Dean
3 Merilatt's widow, Betty Merilatt, and she had rented a condo
4 in Idaho and that he was mailing a lease to her with some
5 explanations about it, and he did subsequent do the same.

6 The letter dated August 17, 1987, from
7 Mr. Kimball to myself indicates that he sent out another
8 letter to Mrs. Dean Merilatt in an attempt to try to -- to
9 get hold of the probate materials and also to lease the in-
10 terest, and to no avail.

11 Q Am I clear in understanding that indivi-
12 duals on behalf of Barbara Fasken have in fact been in com-
13 munication with Mrs. Merilatt.

14 A That's true.

15 Q They've talked to her.

16 A She apparently -- she doesn't have a
17 phone at her summer home in Idaho, and I -- let's see, yeah,
18 I believe that he has talked to her. And when he did talk
19 to her she indicated that she wouldn't be able to deal with
20 the matter until she returned to her home, her winter home.

21 Q Let me show you out of sequence a copy of
22 the Fasken Exhibit Number Seven, which is our certificate of
23 mailing of notice of hearing to various individuals of the
24 hearing here today, and on the attached Exhibit A there is a
25 list of five individuals.

1 In addition I want to show you the appli-
2 cation for hearing that we filed on behalf of Barbara Fasken
3 that lists other individuals for which you seek a pooling
4 order. Will you take a moment and review both of those
5 documents and advise me now at this time which of the indi-
6 viduals you need to be covered by the forced pooling order?

7 A The only two that we need to cover by
8 this forced pooling are Dean S. Merilatt and Pauline Lawson
9 Larsen Bailey.

10 Q Okay. Let me direct your attention now
11 to the AFE, Mr. Patterson and would you identify Exhibit
12 Number Five?

13 A Exhibit Number Five primarily consists of
14 the AFE for the well. It also contains the recommended
15 drilling and completion procedure and the casing program.

16 Q Is this the AFE that you referred to ear-
17 lier as being one agreed upon between Fasken and Union Texas
18 for the drilling of the well?

19 A That's correct.

20 Q Is this the AFE that you would recommend
21 to the Examiner be utilized in the issuance of the forced
22 pooling order?

23 A Yes.

24 Q Tell me how the AFE has been prepared.
25 Who is this individual and what, if any, relationship does

1 this individual have to Barbara Fasken?

2 A The AFE and the remainder of the docu-
3 ments were prepared by Robert H. Angevine, who is a petro-
4 leum engineer with Barbara Fasken. You'll notice that the
5 letter dated March 5, 1987, is written on Henry Engineering
6 letterhead. Well, he is actually an employee of Barbara
7 Fasken, and prepared it in that capacity.

8 Q Did Union Texas request any alterations,
9 amendments, or changes to the AFE that Barbara Fasken pro-
10 posed to Union Texas?

11 A They did not. They signed in the form
12 that it was submitted to them.

13 Q Do you have any opinion as to whether
14 this is a fair and reasonable estimate of well costs for
15 this particular well?

16 A I do. I believe it is very reasonable.

17 Q Would you recommend to the Examiner that
18 we include this in the pooling order?

19 A Yes.

20 MR. KELLAHIN: Mr. Examiner,
21 that concludes my examination of Mr. Patterson.

22 I will note for you on Exhibit
23 Number Seven that we furnished Mrs. Merilatt a notice of the
24 hearing today along with a copy of the application and
25 there's an appropriate return receipt card showing that she

1 received it at her address in Rexburg, Idaho.

2 We would move at this time the
3 admission of Fasken Exhibits One through five and then Exhi-
4 bit Number Seven.

5 MR. CATANACH: Exhibits One
6 through Five and Seven will be admitted into evidence at
7 this time.

8 Mr. Kellahin, is your other
9 witness a geologist?

10 MR. KELLAHIN Yes, sir, as well
11 as a geophysicist, and he will talk about the risk factor
12 penalty he's recommending for this well.

13 MR. CATANACH: Okay.

14 Mr. Patterson, do these
15 drilling costs reflect the current costs for wells?

16 A Actually they reflect costs back a little
17 bit prior to March because that's when the AFE was prepared.
18 I was talking to Mr. Angevine yesterday about these costs
19 and he told me that he feels like they are still reasonable
20 and he has indicated that he's concerned that the costs are
21 going to be going up because of the lack of availability of
22 rigs.

23 MR. CATANACH: That's all I
24 have for this witness.

25 He may be excused.

1 RALPH LaFORGE,
2 being called as a witness and being duly sworn upon his
3 oath, testified as follows, to-wit:

4

5 DIRECT EXAMINATION

6 BY MR. KELLAHIN:

7 Q All right, sir, would you please state
8 your name and occupation?

9 A My name is Ralph LaForge. I'm a geophy-
10 sicist for Barbara Fasken.

11 Q Mr. LaForge, for the record would you
12 please state your last -- spell your last name for us?

13 A L-A capital F-O-R-G-E, one word.

14 Q Mr. LaForge, have you previously testi-
15 fied before the Oil Conservation Division?

16 A No, I have never.

17 Q Would you take a moment and summarize for
18 us what has been your educational background as a geologist
19 and as a geophysicist?

20 A I received a BS degree in geology from
21 Sul Ross State University in Alpine in 1958, and I've pur-
22 sued a career in geology and geophysics for the past 39
23 years, uninterrupted.

24 Q Would you describe for us what is your
25 employment with Barbara Fasken?

1 A I've been working for Barbara Fasken
2 either on a consulting basis or an employee of for the past
3 sixteen years.

4 Q Would you describe for us what has been
5 your involvement in picking and developing this prospect
6 that is the subject of the case before the Examiner today?

7 A I first was called to review this pros-
8 pect approximately a year ago as a Union Texas prospect. I
9 was called to look at it and screen it and evaluate it and
10 see if it was one we'd like to act upon.

11 MR. KELLAHIN: We tender Mr.
12 LaForge as an expert petroleum geologist.

13 MR. CATANACH: He is so quali-
14 fied.

15 Q Let me direct your attention to what
16 we've marked as Fasken Exhibit Number Six and have you take
17 a moment and simply identify the exhibit for us. What is
18 it?

19 A The map you have in front of you is a map
20 of the terrain and the structural configuration of the De-
21 vonian formation in the subject area.

22 Q Locate for us the proposed 40-acre tract
23 for the Devonian test.

24 A The proposed tract is in the northwest
25 corner of the northwest corner of Section 3 of 11 South, 38

1 East, Lea County, New Mexico.

2 The field you see in front of you is the
3 Gladiola Devonian Field that's located approximately ten
4 miles east and ten miles north of Tatum, New Mexico.

5 Q Did you prepare this exhibit?

6 A This exhibit was prepared by me in its
7 entirety.

8 Q All right. Describe for the Examiner
9 what information you looked at, what data you utilized in
10 preparing the structure map.

11 A I had available to me all the well
12 information, borehole information, plus approximately 45
13 miles of good, high quality, CDP seismic data.

14 Q Obviously there's a certain portion of
15 the acreage that has been excluded from this display. What
16 was the reason for taking that off?

17 A I didn't want to disclose that part at
18 this time.

19 Q This represents your seismic and your
20 interpretation of seismic data that is considered
21 proprietary?

22 A That is correct.

23 Q All right. That interpretation does not
24 affect your opinion with regards to this well location?

25 A None whatsoever.

1 Q Let me have you describe what it is that
2 you have concluded after preparing the structure map utilizing
3 this data. What does it show you?

4 A This map shows me a separate structure
5 from the main Gladiola Field.

6 The first thing that led us to it was the
7 Shell Ivey up here in Section 29. You'll see a plugged and
8 abandoned well there.

9 This well is low to the one to the west
10 yet the one to the west swabbed nothing but water. The
11 Shell Ivey produced approximately 117,000 barrels of oil before
12 being plugged.

13 This tells me that there is separate oil-
14 /water contact, that the well to the west is on the main
15 Gladiola structure. Our structure is separated from it by a
16 very pronounced low that's shown clearly on the seismic
17 data.

18 Q Do you have an opinion as to what is the
19 risk factor penalty that you would recommend to the Examiner
20 be applied against the nonconsenting working owners that
21 have not participated in the well?

22 A Since we're moving into a virgin structure
23 with all its inherent risk, new structural attitude,
24 porosity variations, I'd say it's subject to the maximum.

25 Q The maximum statutory penalty for forced

1 pooling orders is 200 percent plus recovery of the cost
2 involved in the drilling and completion of the well.

3 Using that as the maximum, do you believe
4 that percentage is fair and reasonable to assess in this
5 case?

6 A Yes, I do.

7 Q Let's talk for a moment about the seismic
8 information that was run that you analyzed. Where -- what
9 is the general source of that seismic information?

10 A Union Texas actually shot the data them-
11 selves so I don't know who the contractor was at the time.

12 Q Approximately how old is that seismic
13 data.

14 A It was done within the last three years.

15 Q In your opinion is it still current
16 enough to be accurate and reliable?

17 A It's very current and very reliable.

18 Q Were there a sufficient number of seismic
19 lines run through this approximate area to give you the
20 reasonable opportunity to draw the anticipated structure?

21 A Yes, yes, there were. I feel like the
22 area is very well evaluated.

23 Q In terms of the risk factor penalty, what
24 are the significant reasons in your mind that cause you to
25 believe the maximum penalty ought to be awarded? What are

1 the factors that we would look at to reach that opinion?

2 A We are approximately 3/4 of a mile, you
3 could see, from the nearest plugged and abandoned well over
4 in Gladiola and we have dry holes separating us from it.
5 There's just no reason to believe it's not on a separate
6 structure due to the oil/water contact and it's a wildcat
7 location.

8 MR. KELLAHIN: That concludes
9 my examination of Mr. LaForge.

10 We move the introduction of
11 Exhibit Number Six.

12 MR. CATANACH: Exhibit Number
13 Six will be admitted into evidence.

14 CROSS EXAMINATION

15 BY MR. CATANACH:

16 Q Mr. LaForge, is your well location a
17 standard well location?

18 A Yes, it is. It's 660 out of the north-
19 west corner.

20 Q Feet from the north and --

21 A And feet from the west.

22 Q -- from the west? Is this the only -- or
23 this is the primary target, the Devonian. Are there any
24 other secondary targets?
25

1 A There are up hole possibilities in the
2 Wolfcamp. There are wells to the east of here that have
3 produced like 8000, one of them has cumed like 50,000, so
4 it's strictly a salvage situation and in no way is it our
5 objective.

6 Q Have you used seismic in this area before
7 to drill a well?

8 A Yes.

9 Q Was it successful?

10 A Yeah, occasionally we -- we do find an
11 acre.

12 Q Is that location within a -- is it within
13 a mile of the current Gladiola Devonian Pool? Do you know
14 what the boundaries are of the Gladiola Devonian?

15 A The unit boundary?

16 Q The pool boundary.

17 A The pool boundary? I don't have that
18 information in front of me, what the -- what the boundary
19 line is.

20 Q But you think it's a separate common
21 source of supply, anyway?

22 A Oh, yes.

23 MR. CATANACH: I think that's
24 all I have of the witness.

25 Mr. Kellahin, anything further?

1 MR. KELLAHIN: No, sir.

2 MR. CATANACH: Okay. Being
3 nothing further in Case 9201 it will be taken under
4 advisement.

5

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 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. 9201,
heard by me on August 26, 1987.

David R. Catanzaro, Examiner
Oil Conservation Division