

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. 22185, 22186, 22187, 22189, 22190
Application of for Compulsory Pooling and
Eddy County, New Mexico

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, OCTOBER 7, 2021

EXAMINER HEARING

This matter came on for hearing before the
New Mexico Oil Conservation Division, William
Brancard, Esq. Hearing Examiner, Dylan Rose-Coss,
Technical Examiner, on Thursday, October 7, 2021,
via Webex Virtual Conferencing Platform hosted
by the New Mexico Department of Energy, Minerals and
Natural Resources

Reported by: Mary Therese Macfarlane.
New Mexico CCR #122
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1 (Time noted 10:00 a.m.)

2 EXAMINER BRANCARD: Okay. We are back on the
3 record in the Oil Conservation Division hearings,
4 October 7, 2021, and we are about to dive into Items 35
5 through 40, Cases 22185, -186, -187, -188, -189 and -190,
6 Devon Energy Production.

7 MR. SAVAGE: Good morning. Darin Savage, Abadie
8 & Schill appearing on behalf of Devon Energy Production
9 Company, LP.

10 EXAMINER BRANCARD: Thank you. I have an entry
11 of appearance for Sabinal?

12 MR. RODRIGUEZ: Good morning, Mr. Examiner.
13 Michael Rodriguez of Hinkle Shanor on behalf of Sabinal
14 Energy Operating, LLC. And Sabinal does not oppose these
15 matters moving forward today.

16 MR. BRANCARD: Thank you. Any other entries of
17 appearance in any of 22185, -186, -187, -188, -189, and
18 -190? (Note: Pause.)

19 MS. MUNDS-DRY: Good morning, Mr. Examiner,
20 Ocean Munds-Dry for ConocoPhillips appearing in Case
21 22185. We also do not object to this case going forward
22 by affidavit.

23 EXAMINER BRANCARD: And you're just for that
24 first case; is that correct, Ms. Munds-Dry?

25 MS. MUNDS-DRY: Yes, sir.

1 EXAMINER BRANCARD: Anyone else? (Note:
2 Pause.)

3 Hearing none, you may proceed, Mr. Savage.

4 MR. SAVAGE: Thank you, Mr. Brancard. Since
5 there is no objections to Cases 22185, 22186, 22187,
6 22188, 22189 and 22190, with the Division's consent we are
7 presenting these cases by affidavit in consolidated form.

8 These cases cover lands in a number of
9 units in Sections 27 -- 26, 27, 28, Township 20 South,
10 Range 28 East, in Eddy County, New Mexico.

11 There's quite a bit of information, over
12 500 pages of information and moving parts in the exhibits
13 in the hearing packet, so it may help the parties involved
14 and the examiners initially if I could direct your
15 attention to the Table of Contents, which is the second
16 page after the cover page. It shows the cases divided by
17 the north half and the south half in the sections, and in
18 each case there is an Exhibit A for the landman, Exhibit B
19 for the geologist, along with sub exhibits. Each Exhibit
20 A and B and the Table of Contents references a specific
21 case involved, and Exhibit C for the north half covers
22 Notice for all the north half cases, and Exhibit C for the
23 south half covers Notice for all of the south half cases.
24 So hopefully this will be as easy to follow as A, B, C,
25 but I have to admit there are a number of As, Bs and Cs

1 involved and the divider tabs also provide an outline of
2 the contents of each section which should help me with an
3 organized review.

4 The landman Andy Bennett for the cases has
5 testified before the Division, his credentials have been
6 accepted and made a matter of record; and the geologist
7 Joe Dixon has also testified before the Division and his
8 credentials have been accepted and made a matter of
9 record.

10 In the first case in the north half,
11 Case 22185, Devon seeks an Order creating a standard
12 800-acre, more or less, spacing unit comprised of the
13 northwest quarter of Section 26 and the north half of
14 Section 27 and 28 and pooling all uncommitted interests in
15 the Bone Spring Formation underlying the unit.

16 The unit will be dedicated to three wells,
17 the Burton Flat 26-28 Fed State Com 331H well; the Burton
18 Flat 26-28 Fed State Com 332H well; and the Burton Flat
19 26-28 Fed State Com 333H well.

20 The orientation of the wells is laydown,
21 east to west, and all setback requirements are met.

22 The location of the 332H well qualifies as
23 a proximity well in order to pull in proximity tracts to
24 create the large 800-acre unit.

25 Mr. Bennett's Exhibit A for Case 22185

1 includes the landman's affidavit, the C-102, and ownership
2 breakdown, the Well Proposal Letter, an AFE, and a
3 Chronology of Contacts showing good faith negotiations.

4 Mr. Dixon's Exhibit B for 22185 includes
5 his geology affidavit along with the five standard geology
6 exhibits that show it is a good potential for development.

7 And Exhibit C provides the Affidavit of
8 Notice for mailings and Publication Notice.

9 All letters were timely sent and all
10 working interest owners were accounted for.

11 There are -- on the ownership exhibit there
12 are numerous overriding royalty owners, and these parties
13 also received Notice Letters except for 14 as of the date
14 of this hearing, and those letters are listed as Still in
15 Transit and are described and listed in the landman
16 affidavit.

17 Publication Notice was also timely to
18 account for any contingencies in the Notice.

19 Next, in the north half, in Case 22186
20 Devon seeks an Order creating a standard 400-acre, more or
21 less, spacing unit comprised of the north half/northwest
22 quarter of Section 26 and the north half/north half of
23 Sections 27 and 28, and pooling all uncommitted interests
24 in the Wolfcamp Formation. And this is a Wolfcamp
25 Formation designated as an oil pool underlying the unit.

1 The unit will be dedicated to the Burton
2 Flats 26-28 Fed State Com 621H well. Orientation of the
3 well is laydown, east to west, and all setback
4 requirements under the statewide rules are met.

5 Mr. Bennett's Exhibit A for this case
6 includes again his landman's affidavit, the C-102,
7 Ownership Breakdown, the Well Proposal Letter and AFE, and
8 a Chronology of Contacts showing good faith negotiations.

9 Mr. Dixon's Exhibit B for this case
10 includes his geology affidavit along with the five
11 standard geology exhibits that show good potential for
12 development.

13 Notice letters were timely sent and the
14 interest owners were accounted for. The letters to the
15 same 14 overriding royalty interest owners mentioned
16 previously are listed as In Transit and Publication Notice
17 was timely.

18 In the final case for the north half,
19 that's Case 22187, Devon is seeking an Order creating a
20 standard 400-acre, more or less, spacing unit comprised of
21 the south half/northwest quarter of Section 26 and the
22 south half/north half of Sections 27 and 28, and pooling
23 all uncommitted interests in the Wolfcamp Formation, again
24 an oil pool underlying the unit.

25 The unit will be dedicated to the Burton

1 Flats 26-28 Fed Com 622H well. Orientation of the well is
2 laydown, east to west. All setback requirements under the
3 statewide rules are met.

4 Mr. Bennett's Exhibit A for Case 22187
5 includes the landman affidavit and all the proper land
6 exhibits: the C-102, the Ownership Breakdown, Well
7 Proposal Letter with AFE, and a Chronology of Contact
8 showing good faith negotiations.

9 Mr. Dixon's Exhibit B for this case
10 includes his geology affidavit and the five standard
11 geology exhibits that show good potential for development.

12 Again, Exhibit C provides the Affidavit of
13 Notice. The Notice Letters were timely sent, the owners
14 were accounted for, except for the same 14 overriding
15 royalty interest owners mentioned previously, and are
16 still in transit.

17 Publication Notice was timely.

18 Now moving to the south half cases, first
19 we have Case No. 22188. Devon seeks an Order creating a
20 standard 800-acre, more or less, spacing unit comprised of
21 the south half of Section 26 and the south half of
22 Sections 27 and 28, and the southwest quarter of Section
23 26 and the south half of Sections 27 and 28, and pooling
24 all uncommitted interests in the Bone Spring Formation
25 designated as an oil pool underlying the unit.

1 The unit will be dedicated to three wells,
2 the Burton Flats 26-28 Fed State Com 334H wells, the
3 Burton Flats 26-28 Fed State Com 335H wells, and the
4 Burton Flats 26-28 Fed Com 336H well.

5 Orientation of the wells is laydown east to
6 west, and all setback requirements are met.

7 The location of the 335H well qualifies as
8 the proximity well and brings in the proximity tracts that
9 create the larger 800-acre unit.

10 Mr. Bennett's Exhibit A for Case 22188
11 includes his landman affidavit, C-102s, Ownership
12 Breakdown, Well Proposal Letter with AFE, and Chronology
13 of Contacts showing good faith negotiations.

14 Mr. Dixon's Exhibit B for Case 22188
15 includes his geology affidavit along with the five
16 standard geology exhibits that show good potential for
17 development.

18 Exhibit C provides the Affidavit of Notice;
19 all Letter Notices were timely sent and owners accounted
20 for. Again we have the same 14 overriding royalty
21 interest owners, these letters are still in transit. And
22 the Publication Notice was also timely, to account for any
23 contingencies with Notice.

24 Next, in the south half, Case 22189, Devon
25 seeks an Order creating a standard 400-acre, more or less,

1 spacing unit comprised of the north half/southwest quarter
2 of Section 26 and the north half/south half of Sections 27
3 and 28, and pooling all uncommitted interests in the
4 Wolfcamp Formation designated as an oil pool underlying
5 the unit.

6 The unit will be dedicated to the Burton
7 Flats 26-28 Fed Com 623H well. The orientation is
8 laydown, east to west, and all setback requirements are
9 met.

10 Mr. Bennett's Exhibit A for this case
11 includes his landman affidavit, the C-102, Ownership
12 Breakdown, the Well Proposal Letter with AFE, and a
13 Chronology of Contact.

14 Mr. Dixon's Exhibit B for this case
15 includes his geology affidavit and the five standard
16 geology exhibits that show good potential for development.

17 Exhibit C the provides the Affidavit of
18 Notice for Mailings and Publication Notice. Notice
19 Letters were timely sent and publication was timely. And
20 we still have the same 14 letters for the overriding
21 royalty interest owners in transit for this.

22 And the last case, in the last case for the
23 south half, in Case 22190 Devon seeks an Order creating a
24 standard 400-acre, more or less, spacing unit comprised of
25 the south half/southwest quarter of Section 26 and the

1 south half/south half of Sections 27 and 28, and pooling
2 all uncommitted interest in the Wolfcamp Formation
3 designated an oil pool underlying the unit.

4 This last unit will be dedicated to the
5 Burton Flats 26-28 Fed State Com 624H well. The
6 orientation of well is laydown, east to west, and all
7 setback requirements under the statewide rules are met.

8 Mr. Bennett's Exhibit A for this case
9 includes his landman affidavit, and all the proper land
10 exhibits, the C-102, Ownership Breakdown, Well Proposal
11 Letter and AFE, and Chronology of Contact showing good
12 faith negotiations.

13 Mr. Dixon's Exhibit B for this case
14 includes his geology affidavit along with the five
15 standard geology exhibits that show good potential for
16 development.

17 Finally, Exhibit C provides the Affidavit
18 of Notice. Notice Letters were timely sent, as well as
19 the Publication Notice was timely, as well.

20 Both Mr. Bennett and Mr. Dixon affirm that
21 the approval of these six applications is in the best
22 interest of conservation, protection of correlative
23 rights, prevention of waste, and the drilling of
24 unnecessary wells.

25 Mr. Brancard, if I could direct your

1 attention -- we submitted an Exhibit 1 yesterday which
2 will be filed to help address some of the complexities of
3 this case. Devon has been also working closely with the
4 BLM and with New Mexico State Land Office to develop these
5 units. They are straddle Com units which have lands both
6 inside and outside of a Federal Exploratory Unit.

7 Exhibit 1 shows -- uh, it gives the
8 description of these units, and the bold line for the west
9 half and the north part -- for the west part and the north
10 part and the east part of the diagram, the bold line
11 represents the boundaries of the FEU, the Federal
12 Exploratory Unit.

13 The bold line to these -- the FEU actually
14 extends further south than the bottom bold line. The FEU
15 encompasses about 3,000-plus acres, so that south bold
16 line is not part of the boundary on that, which just helps
17 illustrate the unit involved.

18 The BLM and SLO have expressed their
19 interest in having the Division determine issues of waste
20 and correlative rights for the proposed units, and
21 hopefully we are requesting that the units as proposed are
22 situated for optimal development, if this is determined to
23 be the case, which Mr. Bennett and Mr. Dixon have worked
24 to show. A full description of the interactions between
25 the parts of the units outside and inside the FEU have

1 been provided in the Prehearing Statement and Mr.
2 Bennett's land testimony.

3 The BLM has informed Devon that they plan
4 to issue a communitization agreement, a participatory
5 agreement that will cover the units proposed once they
6 meet the Division's approval, which will account for
7 allocation within the units as described.

8 At this time I move that Exhibits A, B and
9 C and all sub exhibits be accepted into the record for
10 Cases 22185, 22186, 22187, 22188, 22189 and 22190, and
11 that these cases be taken under advisement.

12 And I'm certainly available for any
13 questions the examiners may have.

14 MR. BRANCARD: Thank you, Mr. Savage, a very
15 thorough explanation there. I appreciate that Exhibit 1.
16 I like little maps and colors.

17 MR. SAVAGE: I remember that. I remember that.

18 EXAMINER BRANCARD: Mr. Rodriguez, any
19 questions?

20 MR. RODRIGUEZ: No questions, Mr. Examiner.

21 MR. BRANCARD: Ms. Munds-Dry, any questions?

22 MS. MUNDS-DRY: No questions. Thank you.

23 EXAMINER BRANCARD: Mr. Rose-Coss, I'm sure you
24 have read all 558 pages of exhibits. Do you have any
25 questions?

1 EXAMINER ROSE-COSS: I have scrolled all 558
2 pages. I suppose I'd be curious where one might find the
3 colorful description of the 3,000 acres that you were
4 speaking about.

5 MR. SAVAGE: So we did not -- the 3,000 acres is
6 the FEU. We did not include a full description of that.
7 We just included the part that would affect the standard
8 unit that was described and proposed. But if you want or
9 need a description of the full acreage -- it covers quite
10 a bit of the acreage. We were focusing on the 800-acre
11 unit, the 400-acre units, showing where the FEU overlaps
12 those proposed units.

13 MS. ROSS: I see. You were mentioning below a
14 bold line and above a bold line on Exhibit 1. So --

15 MR. SAVAGE: So on Exhibit 1 the bold line
16 circumscribes the FEU land, and so, for example on Case
17 22185, which is the north half, the green is the land
18 inside the FEU, in orange the land outside the FEU. And
19 then the bold line kind of shows how that FEU east
20 boundary goes across those sections.

21 But there's a bold line on the very
22 south -- actually --

23 EXAMINER ROSE-COSS: Which page are you on?

24 MR. SAVAGE: Exhibit 1. That was submitted
25 yesterday, separately.

1 EXAMINER ROSE-COSS: Oh. I see. Yes. Okay.

2 I'm looking at it.

3 MR. SAVAGE: Okay. So the bold line on the
4 south line of those sections, that is not a limitation of
5 the FEU. The FEU actually extends out beyond that. But
6 it does not extend north, and it does not extend east or
7 west. Actually, those bold lines actually represent the
8 boundaries of the FEU, but the south line does not because
9 it extends beyond that south line, the bold one.

10 Does that make sense? I hope that makes
11 sense.

12 EXAMINER ROSE-COSS: Well, I'm also wondering
13 what the orange signifies and the green?

14 MR. SAVAGE: The orange signifies the lands that
15 are outside the FEU and then the green signifies the lands
16 within the FEU.

17 EXAMINER ROSE-COSS: And the white is?

18 MR. SAVAGE: Then the white is not -- it's not
19 part of the unit for Case 22185, which gives a description
20 of the unit proposed that just includes the colored part
21 of the section. So that would be an 800-acre unit that
22 cuts across the northwest of Section 26 and the north half
23 of Section 27 and north half of Section 28, and that would
24 be the unit.

25 And then the white part is outside the

1 proposed unit. It just -- you know, we wanted to include
2 the section for context.

3 And then so you can see that the green
4 part -- in this particular unit for the north half, the
5 green part is going to -- that's part of the FEU included,
6 going to include the northwest quarter of Section 26 and
7 the north half of Section 27. That's the part that's in
8 that proposed unit.

9 Then the north half of Section 28 is the
10 part of the proposed unit that's outside the FEU.

11 EXAMINER ROSE-COSS: Okay. And in the bold line
12 again, it has an irregular shape that's not a perfect
13 rectangle.

14 MR. SAVAGE: No, it's not. Like I said, part of
15 the bold line that's in Section 28 on the east -- I'm
16 sorry, on the west part, that bold line, that represents
17 the true boundary of the FEU. Then going across Section
18 27 and 26 this bold line represents the true boundary of
19 the FEU. Then coming down on the east side that bold line
20 represents the true boundary the FEU. But the south bold
21 line does not. The FEU actually extends into other
22 sections as you go out, so that's not a limitation of the
23 FEU.

24 EXAMINER ROSE-COSS: Okay. And each of these
25 are to be different, uh, to the case being different

1 intervals but kind of the same broader development?

2 MR. SAVAGE: Yeah. Each case provides for a
3 unit within these sections as described, and they are
4 going to involve parts of the FEU and parts outside the
5 FEU.

6 EXAMINER ROSE-COSS: Okay. And the part of the
7 case file that discusses this FEU and the negotiations
8 thereon is in Exhibit A?

9 MR. SAVAGE: Yes. It's in Mr. Bennett's
10 testimony. That's Exhibit A. For the north half of the
11 south half, which has the three wells, it starts around
12 paragraph 20, somewhere in there, and gives a full
13 discussion OF what's involved; and then for the smaller
14 units, I believe it starts around paragraph maybe 16, 15,
15 somewhere in there, and that gives a full discussion of
16 the scenario involving the FEU.

17 And, Mr. Examiner, also the Prehearing
18 Statements that we filed, they give a full discussion of
19 the situation under the Special Consideration. There's a
20 separate section called Special Consideration of Cases,
21 and that gives a full discussion.

22 EXAMINER ROSE-COSS: Okay. Well, I'm not going
23 to wade through all of this right now, but it seems like
24 it's all been addressed and considered. And thanks for
25 the description of the colorful Exhibit 1.

1 And I don't have any additional questions
2 at this time.

3 MR. SAVAGE: All right.

4 EXAMINER BRANCARD: Thank you.

5 You've answered most of my questions, Mr.
6 Savage, except that I noticed -- these are
7 two-and-half-mile laterals, right?

8 MR. SAVAGE: Yes.

9 EXAMINER BRANCARD: Which means we are leaving
10 out the east half of Section 26.

11 MR. SAVAGE: That is correct.

12 EXAMINER BRANCARD: Which one would think you
13 could do a stand-up well there, but your geologist
14 testified that laydown wells are the preferred orientation
15 in this area. So is there a stranded-acreage problem
16 here?

17 MR. SAVAGE: I don't believe so. The east half
18 is fully -- you know, I don't think so. I'd have to check
19 with the client to get additional information on that to
20 address any concerns along those lines, but I do not
21 believe that would be the case.

22 EXAMINER BRANCARD: Okay. Thank you.

23 Are there any other questions or concerns
24 from anyone on Cases 22185 through 22190, Burton Flats?

25 (Note: Pause.)

1 Hearing none, these cases will be taken
2 under advisement, and your very thorough exhibits will be
3 admitted into the record.

4 MR. SAVAGE: All right. Thank you.

5 (Time noted 10:25 a.m.)

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1 STATE OF NEW MEXICO)
2 : ss
3 COUNTY OF TAOS)

4

5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday,
8 October 7, 2021, the proceedings in the above-captioned
9 matter were taken before me; that I did report in
10 stenographic shorthand the proceedings set forth herein,
11 and the foregoing pages are a true and correct
12 transcription to the best of my ability and control.

13 I FURTHER CERTIFY that I am neither employed by
14 nor related to nor contracted with (unless excepted by the
15 rules) any of the parties or attorneys in this case, and
16 that I have no interest whatsoever in the final
17 disposition of this case in any court.

18

 /s/ Mary Macfarlane

19

20 _____
21 MARY THERESE MACFARLANE, CCR
 NM Certified Court Reporter No. 122
 License Expires: 12/31/2021

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