

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. 13,306

APPLICATION OF MEWBOURNE OIL COMPANY)
FOR COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

August 5th, 2004

Santa Fe, New Mexico

2004 AUG 19 AM 10 27

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, August 5th, 2004, 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.

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I N D E X

August 5th, 2004
 Examiner Hearing
 CASE NO. 13,306

PAGE

APPLICANT'S WITNESS:

STEVEN J. SMITH (Landman)

Direct Examination by Mr. Carr

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Examination by Examiner Catanach

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REPORTER'S CERTIFICATE

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* * *

E X H I B I T S

Applicant's

Identified

Admitted

Exhibit 1

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Exhibit 2

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Exhibit 3

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Exhibit 4

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Exhibit 5

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A P P E A R A N C E S

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
 110 N. Guadalupe, Suite 1
 P.O. Box 2208
 Santa Fe, New Mexico 87504-2208
 By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 10:07 a.m.:

3 EXAMINER CATANACH: Okay, I'll call the hearing
4 back to order, and at this time I'll call Case 13,306, the
5 Application of Mewbourne Oil Company for compulsory
6 pooling, Eddy County, New Mexico. Call for appearances.

7 MR. CARR: May it please the Examiner, my name is
8 William F. Carr with the Santa Fe office of Holland and
9 Hart, L.L.P. We represent Mewbourne Oil Company in this
10 case. I have one witness.

11 EXAMINER CATANACH: Any additional appearances?
12 Okay, will the witness please stand to be sworn
13 in?

14 (Thereupon, the witness was sworn.)

15 STEVEN J. SMITH,
16 the witness herein, after having been first duly sworn upon
17 his oath, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CARR:

20 Q. Will you state your name for the record, please?

21 A. Steven Smith.

22 Q. Mr. Smith, where do you reside?

23 A. Midland, Texas.

24 Q. By whom are you employed?

25 A. Mewbourne Oil Company.

1 Q. And what is your position with Mewbourne?

2 A. Petroleum landman.

3 Q. Have you previously testified before this
4 Division?

5 A. I have.

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

9 A. Yes, I was.

10 Q. Are you familiar with the Application filed in
11 this case?

12 A. Yes, I am.

13 Q. And are you familiar with the status of the lands
14 in the area that is the subject of this Application?

15 A. Yes.

16 MR. CARR: We tender Mr. Smith as an expert in
17 petroleum land matters.

18 EXAMINER CATANACH: Mr. Smith is so qualified.

19 Q. (By Mr. Carr) Would you briefly summarize for
20 Mr. Catanach what it is that Mewbourne seeks with this
21 Application?

22 A. We seek to pool all minerals underlying -- from
23 the surface to the base of the Morrow as to formations
24 spaced on 320 acres under the south half of Section 2,
25 Township 20 South, Range 27 East, Eddy County, New Mexico,

1 in the Angel Ranch-Atoka-Morrow Pool.

2 Q. And to what well do you propose to dedicate this
3 unit?

4 A. That would be dedicated to our Angel Draw 2 State
5 Com Number 1 well. The well will be located 990 feet from
6 the south line and 660 feet from the east line of Section
7 2. That's in Unit P.

8 Q. Mr. Smith, could you identify what has been
9 marked Mewbourne Exhibit Number 1?

10 A. Exhibit 1 is a photocopy of a Midland map that
11 shows the south half of Section 2 highlighted in yellow,
12 with the proposed location -- or the location of the well
13 shown as a red dot. Attached to the plat is a summary of
14 the ownership, first on a tract basis and finally on a
15 south-half pool basis.

16 Q. What is the primary objective in the proposed
17 well?

18 A. The Morrow.

19 Q. And what interest will be subject to this pooling
20 order?

21 A. Currently the only party that we've not reached a
22 voluntary agreement is Ben Fortson at Fortson Oil Company.

23 Q. All interests other than the Fortson interest are
24 voluntarily committed?

25 A. Correct.

1 Q. Could you summarize your efforts to reach a
2 voluntary agreement with the Fortson interest?

3 A. We mailed our well proposal to Fortson Oil on May
4 21st. We've had numerous phone conversations with Brett
5 Taylor representing Fortson and also with a gentleman,
6 Verne Dwyer, in Midland, who also works for Brett Taylor.
7 I've had subsequent written correspondence both back and
8 forth from us and Fortson, one transmitting the JOA for
9 their review and approval.

10 Q. Is there a reasonable chance that you can reach
11 agreement with Fortson?

12 A. Well, as of yesterday we got a letter which
13 showed their willingness to finally commit subject to
14 execution of a mutual joint operating agreement, and I
15 believe we can get there and would certainly agree to
16 notify the OCD in the event an agreement was reached and
17 dismiss this case.

18 Q. What is Exhibit Number 2?

19 A. Exhibit Number 2 are copies of all the written
20 correspondence, again, back and forth between us and
21 Fortson, and Mr. Dwyer representing Fortson Oil.

22 Q. Mewbourne Exhibit Number 3 is the AFE for this
23 well?

24 A. That is correct.

25 Q. Would you review the totals set forth on that

1 exhibit?

2 A. The dryhole cost for this well is estimated at
3 \$752,900 with, if completed, a total well cost of
4 \$1,252,400.

5 Q. Are these costs in line with what is charged by
6 other operators for similar wells in the area?

7 A. I believe so.

8 Q. Is Mewbourne Exhibit Number 4 the accounting
9 procedure for joint operations that is part of the joint
10 operating agreement you have proposed for the well?

11 A. Yes, it is.

12 Q. Do these COPAS accounting procedures provide for
13 periodic adjustments of the overhead and administrative
14 costs?

15 A. Yes, they do.

16 Q. Does Mewbourne request that the order entered in
17 this case contain the provisions that authorize the
18 adjustment of the costs assessed to pooled parties in
19 accordance with this procedure?

20 A. Yes, we do.

21 Q. You've made an estimate of these overhead and
22 administrative costs?

23 A. Yes.

24 Q. And what are they?

25 A. \$6000 drilling and \$600 producing.

1 Q. And what is the basis for these figures?

2 A. Comparative rates in the area.

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

5 A. Yes, we do.

6 Q. And these are the figures that have been accepted
7 by those who are voluntarily committing to the well?

8 A. Yes, they are.

9 Q. Does Mewbourne request that in accordance with
10 Division Rules the maximum charge for this, 200 percent, be
11 imposed upon each working interest not voluntarily
12 committed to the well?

13 A. Yes, we do.

14 Q. Mewbourne seeks to be designated operator of the
15 well?

16 A. Yes, we do.

17 Q. In your opinion, will the granting of this
18 Application be in the best interest of conservation, the
19 prevention of waste and the protection of correlative
20 rights?

21 A. Yes, we do.

22 Q. How soon do you plan to commence drilling?

23 A. We plan to -- the well is currently scheduled to
24 spud on the 25th of this month.

25 Q. Is Exhibit Number 5 an affidavit confirming that

1 notice of this hearing has been provided in accordance with
2 Division Rules?

3 A. Yes, it is.

4 Q. Were Exhibits 1 through 5 prepared by you or
5 compiled under your direction?

6 A. Yes, they were.

7 MR. CARR: May it please the Examiner, at this
8 time we would move the admission into evidence of Mewbourne
9 Exhibits 1 through 5.

10 EXAMINER CATANACH: Exhibits 1 through 5 will be
11 admitted.

12 MR. CARR: And that concludes my direct
13 examination of Mr. Smith.

14 EXAMINATION

15 BY EXAMINER CATANACH:

16 Q. Mr. Smith, the only thing that needs to be done
17 is, Fortson needs to execute the JOA?

18 A. That's correct.

19 Q. And you anticipate that might happen or probably
20 will --

21 A. I think we can certainly get there. It's our
22 desire, we'd much rather have them under a voluntary
23 agreement. They're -- we've worked with them in the past,
24 and they're -- our only problem is, they -- we have a 1989
25 form that's been accepted by all the other parties, and

1 they're proposing a different form. And that can be
2 accommodated if our management agrees to it, but at this
3 point in time I don't have authority to do that.

4 EXAMINER CATANACH: Okay, I don't have anything
5 else.

6 MR. CARR: That concludes our presentation in
7 this case.

8 EXAMINER CATANACH: Okay, there being nothing
9 further, Case 13,306 will be taken under advisement.

10 (Thereupon, these proceedings were concluded at
11 10:15 a.m.)

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17 I do hereby certify that the foregoing is
18 a complete record of the proceedings in
the Examiner hearing of Case No. 13306,
19 heard by me on April 5, 2004.
20 David R. Catnach, Examiner
Oil 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 August 8th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006