

STATE OF NEW MEXICO
ENERGY, MINERAL AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

ORIGINAL

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Wendell Chino Building
Porter Hall
1220 S. St. Francis Drive
Santa Fe, New Mexico

TRANSCRIPT OF PROCEEDINGS

CASE NOS. 11465 and 11466 (Reopened)

APPLICATION OF ASPEN OPERATING COMPANY, LLC, TO REOPEN
CASE NOS. 11465 AND 11466 TO AMEND THE VERTICAL DEPTHS
OF THE LEWIS UNIT AND FOR THE APPROVAL OF AN 80-ACRE
PRORATION UNIT FOR THE LEWIS UNIT NO. 1 WELL, IN THE
SOUTHWEST/SOUTHWEST OF SECTION 3 AND THE
SOUTHEAST/SOUTHEAST OF SECTION 4, TOWNSHIP 10 SOUTH,
RANGE 36 EAST, NMPM, LEA COUNTY, NEW MEXICO

BEFORE: WILLIAM JONES, Lead Examiner
SCOTT DAWSON, Examiner
DAVID K. BROOKS, Legal Examiner

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REPORTED BY: DEBRA ANN FRIETZE
PAUL BACA COURT REPORTERS
500 4th Street, NW, Suite 105
Albuquerque, New Mexico 87102

A P P E A R A N C E S

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For the Applicant:

MODRALL SPERLING
500 Fourth Street, NW, Ste. 1000
Albuquerque, New Mexico 87102
505.264.8740
jlb@modrall.com
BY: JENNIFER L. BRADFUTE

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1 EXAMINER JONES: Let's go on the record
2 this morning and call Case Numbers 11465 and 11466
3 reopened, which are the application of Aspen Operating
4 Company, LLC, to reopen Case Numbers 11465 and 11466 to
5 amend the vertical depths of the Lewis Unit and for the
6 approval of an 80-acre proration unit for the Lewis Unit
7 Number 1 well, in the Southwest/Southwest Section 3,
8 and the southeast/southeast Section 4, Township 10
9 South, Range 36 East, Lea County, New Mexico.

10 Call for appearances.

11 MS. BRADFUTE: Mr. Examiner, my name is
12 Jennifer Bradfute, and I'm with the Modrall Sperling Law
13 Firm on behalf Aspen Operating Company.

14 EXAMINER JONES: Any other appearances?
15 Do you have witnesses?

16 MS. BRADFUTE: Yes. I have one witness
17 today, and he will be testifying over the telephone.

18 [At which time Matthew Burnett was duly
19 sworn.]

20 MS. BRADFUTE: Mr. Examiner, in front of
21 you is a black notebook which contains the exhibits that
22 we prepared today.

23 Before I start with my questioning, I just
24 wanted to briefly explain that this application involves
25 a small unit that is included within the geographic

1 boundaries of the Fire Eagle Unit that was approved for
2 Apache Corporation a little bit over a month ago. And
3 the State Land Office didn't recognize that this unit,
4 the Lewis Unit, was created to cover all depths and has
5 asked for an amendment to the unit agreement. And then
6 also noticed an issue within the order itself for the
7 Lewis Unit that David Brooks informed me about
8 indicating that the Lewis Unit Number 1 well was
9 dedicated to a 40-acre proration unit.

10 However, when you look back at the
11 testimony in that original case, the Lewis Unit was
12 created as a one-well unit to drain 80 acres, which is
13 why we are here today.

14 EXAMINER JONES: Okay.

15 MATTHEW BURNETT

16 after having been previously sworn under oath,
17 was questioned and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. BRADFUTE:

20 Q. Would you state your name for the record?

21 A. Matthew Burnett.

22 Q. And Mr. Burnett, who do you work for, and what
23 is your title?

24 A. I work for Aspen Operating Company, and my
25 title is petroleum engineer.

1 Q. And what are your responsibilities as a
2 petroleum engineer for Aspen?

3 A. Currently, I primarily do reservoir and
4 production engineering, which includes, you know,
5 geologic studies, oil and gas in place calculations,
6 mapping cross sections. In addition to that, I do, from
7 time to time, review unit agreements, division orders,
8 saltwater disposal agreements and land matters such as
9 that.

10 Q. And with respect to your responsibilities at
11 Aspen, do those responsibilities include the Devonian
12 formation in Lea County, New Mexico?

13 A. Yes, they do.

14 Q. Mr. Burnett, have you previously testified
15 before the Division?

16 A. No, I have not.

17 Q. Would you please outline your educational
18 background for the Hearing Examiners?

19 A. I graduated from Texas A&M University in
20 College Station in May 2006 with a petroleum engineering
21 degree.

22 Q. And what has been your work experience since
23 you graduated?

24 A. I graduated and came to work here at Aspen
25 Operating. I originally started out doing more

1 operations engineering and then transferred over -- or
2 kind of transitioned into the reservoir engineering
3 geological side of things.

4 Q. And are you a member of any professional
5 organizations?

6 A. Yes, the Society of Petroleum Engineers.

7 Q. And how long have you been a member of that
8 society?

9 A. Since 2001.

10 Q. And are you licensed as a Professional
11 Engineer?

12 A. Yes, I am.

13 Q. And in which state is that?

14 A. Texas.

15 Q. Are you familiar with the applications that
16 have been filed by Aspen in this case to reopen Case
17 Numbers 11465 and 11466?

18 A. Yes, I am.

19 Q. And are you familiar with the status of the
20 lands that are included within the Lewis Unit area
21 that's the subject of this application?

22 A. Yes.

23 Q. Could you please turn to what's been marked as
24 Exhibit Number 1?

25 What is this exhibit?

1 A. This exhibit is asking the Division to amend
2 the vertical depths of the Lewis Unit, which, as
3 previously stated, is located in the southwest corridor
4 of Section 3, and the southeast corridor/southeast
5 corridor of Section 4 in Township 10 South, Range 36
6 East, Lea County, New Mexico.

7 And in addition, we're also asking to
8 approve an 80-acre non-standard proration unit.

9 Q. And can you please briefly explain, in your own
10 words, to the Hearing Examiners why Aspen is making
11 these requests?

12 A. Yes. As far as amending the vertical depths,
13 we have no plans to produce anything other than the
14 Devonian and the Lewis Number 1 well.

15 By amending the vertical depths, that would
16 allow Apache to exploit this acreage in their same
17 interest unit, which would give all the interest owners
18 in the Lewis some interest in the Apache San Andres
19 Unit.

20 As far as amending the 80-acre non-standard
21 proration unit, we believe that was originally intended
22 in the initial order. That is because that one well in
23 the Lewis Unit should effectively drain that whole 80
24 acres.

25 Q. And could you please turn to what's been marked

1 as Exhibit Number 2?

2 Can you please explain to the Hearing
3 Officers what this exhibit is?

4 A. This exhibit, this Division order, this created
5 the original boundaries for the Lewis Unit and then also
6 unitized all formations within the Lewis Unit.

7 Q. And is that a copy of Order Number R-10555,
8 issued by the Division?

9 A. Or the 10554?

10 Q. Oh, 554. Yes, thank you.

11 A. Yes.

12 Q. Could you please turn to what's been marked as
13 Exhibit Number 3?

14 And could you please describe this exhibit
15 to the Hearing Examiners?

16 A. Sure. This is the original Unit Agreement. It
17 was approved by the State Land Office, and it covers
18 those 80 acres over the Lewis Unit and it unitizes all
19 depths.

20 Q. And what's the effective date of that
21 agreement?

22 A. It is February 22nd, 1996.

23 Q. To your knowledge, was this original Unit
24 Agreement reviewed and approved by both the Division and
25 the State Land Office?

1 A. Yes.

2 Q. And could you please turn to Exhibit A within
3 that original Unit Agreement and explain to the Hearing
4 Examiners what that exhibit shows?

5 A. This shows the Lewis Unit currently consists of
6 80 acres of all State land, with half of the units
7 located in Section 3 and the other half in Section 4.

8 Q. And who was designated as the operator of the
9 Lewis Unit under this agreement?

10 A. It was Cobra Oil and Gas Corporation.

11 Q. Did Cobra drill any wells within the unit
12 boundaries?

13 A. Yes, they drove the Lewis Unit Number 1. And
14 that was in 1996, and it is still producing today as a
15 vertical well in Section 3.

16 Q. And what formation does that well produce from?

17 A. The Devonian.

18 Q. Could you please turn to what's been marked as
19 Exhibit Number 4?

20 And could you please explain what this
21 exhibit is to the Hearing Examiners?

22 A. This is the Assignment, Bill of Sale, Transfer
23 and Conveyance from Durango Production Corp, into Aspen.

24 Q. And who is Durango Production Corp.

25 A. They were the lessee of record and majority

1 interest owner of Lewis.

2 Q. Does Cobra still own an interest within the
3 Lewis Unit?

4 A. They do not. That was all conveyed over to
5 Aspen in the Assignment, Bill of Sale, Transfer and
6 conveyance, which was, let's see, effective July 1st,
7 2003.

8 Q. And after receiving that July 1st, 2003,
9 assignment, did Aspen become the operator of the unit?

10 A. Yes. They filed a Change of Operator form, and
11 that was filed at the Division in late January/early
12 February '04. And I believe the effective date of that
13 was December 1st of '03.

14 Q. And can you please explain to the Hearing
15 Examiners what specific amendments Aspen is seeking to
16 make to this Unit Agreement?

17 A. We're asking to amend the vertical limits or
18 the vertical formations that are covered in the Lewis
19 Unit. That's actually outlined in Exhibit 5,
20 highlighted at the bottom of page 3 of 12, and at the
21 top of page 4 of 12 in Exhibit 5.

22 Q. And could you please explain to the Hearing
23 Examiners what Exhibit 5 is?

24 A. Sure. Oh, that's Aspen's Revised Unit
25 Agreement that has been submitted at the New Mexico

1 State Land Office.

2 Q. And again, for clarification, you have
3 indicated what depths you would like to amend the Lewis
4 Unit to, and that's included within Exhibit 5?

5 A. That is correct. If they are aligned, as I
6 said, they're highlighted at the bottom of page 3 and
7 the top of page 4. And that would amend the depths for
8 the Lewis Unit to be from the top of Glorieta to the
9 base of the Devonian.

10 Q. And are there any other proposed changes
11 included within the proposed amended agreement?

12 A. On page 7 of 12, the signature blocks have been
13 updated to reflect the changes of ownership. And then
14 let me skip over to Exhibit A. That just shows the two
15 tracts included within the unit.

16 On the next page, Exhibit B, that has been
17 updated to show all the current owners in each tract,
18 and the next page, Exhibit C, shows the tract
19 participation percentages for each tract, which is split
20 50/50.

21 Q. And has this proposed agreement been presented
22 to the State Land Office?

23 A. Yes, it has.

24 Q. And has Aspen received preliminary approval
25 from the State Land Office for these claims?

1 A. Aspen has received preliminary approval, and
2 that is included as Exhibit 12.

3 Q. And turning to Exhibit Number 12, what is the
4 date that Aspen received preliminary approval?

5 A. It was April 20th, 2016.

6 Q. Okay. And as to the owners that are listed
7 within the exhibits to the Amended Lewis Unit Agreement,
8 have all of those owners been notified about this
9 application?

10 A. Yes, they have.

11 Q. You testified earlier that Aspen is also asking
12 the Division to create an 80-acre proration unit for the
13 Lewis Unit Number 1 well, correct?

14 A. Yes.

15 Q. Could you please turn back to Exhibit Number 2,
16 which is Order Number R-10554?

17 Does this order allow Aspen to develop the
18 entire 80-acre unit as a single participating area?

19 A. This order is somewhat unclear. We believe the
20 intent was to create an 80-acre unit, but if you'll look
21 at paragraph 4 it says that the well will be dedicated
22 to form a standard 40-acre oil spacing and proration
23 unit.

24 But then as you go down to paragraph 7, it
25 talks about combining the 40-acre tracts in Section 3

1 and Section 4, to form a single exploratory unit, or I
2 guess the effective drainage area will show in both
3 those southwest/southwest at Section 3 and
4 southeast/southeast at Section 4.

5 So it seems that the intent was to create
6 an 80-acre single proration unit.

7 Q. And after the Lewis Unit Number 1 well was
8 drilled, do you know what size of proration unit the
9 well was actually dedicated to?

10 A. Yes. It was dedicated to an 80-acre proration
11 unit which, you know, it's dedicated on C-102 and also
12 in the Division records.

13 Q. Have the offset operators been notified about
14 this request?

15 A. Yes.

16 Q. And to your knowledge, have you received any
17 objections to amend the order to reflect that the
18 80-acre proration unit was established for the Lewis
19 Unit Number 1 well?

20 A. No objections have been received.

21 Q. And if the Division grants this request, will
22 the entire unit area continue to be developed and
23 operated as a single participating area?

24 A. Yes, it would.

25 Q. Have you also conducted a geologic study of the

1 Devonian formation underlying the unit area that's the
2 subject of this application?

3 A. Yes.

4 Q. And have you previously conducted these types
5 of studies for Aspen?

6 A. Yes, I have. In engineering, it's common to
7 do, you know, field reservoir studies, you know, to
8 determine oil or gas in place, as well as doing, you
9 know, cross-sections to define analogs to horizon and
10 whatnot, so it's a pretty common thing.

11 Q. And have you prepared some exhibits as part of
12 your study?

13 A. Yes, I have.

14 Q. Could you please turn to what's marked as
15 Exhibit Number 8?

16 And could you please explain what that
17 exhibit is to the Hearing Examiners? I believe that
18 exhibits has two pages.

19 A. Correct. The first page, this just shows --
20 this is the top of the -- this is a structure map with
21 25-foot contour intervals. And it shows the top of the
22 Glorieta formation, which is the top of our proposed new
23 unitized interval. And this just simply shows, you
24 know, that Glorieta is fairly consistent across this
25 area and has a dip to the southeast.

1 And if you'll go to page 2, this is
2 actually the original map Cobra included with their
3 application during the hearing. I included this because
4 we have a -- this map that Cobra has here is based off
5 of the seismic and well control. And we have an updated
6 seismic and well control map that is proprietary, so we
7 weren't able to submit it for this.

8 But I included this structure map because
9 it is very similar to the seismic map, as far as the
10 structure and the features that you see here. And the
11 northwest faulting, as shown on this map, is consistent
12 with the map that we have. So I included this one as an
13 explanation of the Devonian structure here.

14 Q. And could you please explain what you have
15 observed about the Devonian structure within the Lewis
16 Unit area?

17 A. Sure. In the Lewis Unit area, I guess the
18 productive Devonian -- here, you know, the Devonian is
19 widespread, but where you get productive Devonian is
20 where you have localized highs where the oil is trapped.

21 So on the Lewis, looking at this map, you
22 can see that the high extends across Sections 3 and 4.
23 And you have the faulting seal on the west side, and
24 either a structural lobe or what is indicated here as
25 another fault on the east side. And then going to the

1 north, you come out of structure, so that's your seal
2 there. So it's a localized high either with closure or
3 sealing on all four sides.

4 Q. And are there any faults or pinchouts or
5 geological impediments within the Lewis Unit area?

6 A. Sure. There's that north/south trending fault
7 on the west side of the Lewis Unit area, and on this
8 Cobra map, they indicate a fault on the east side. On
9 our seismic map, we indicate that's either a fault or
10 it's a structure of low, so that gives you your closure
11 on that side.

12 Q. And has a cross-section of logs been prepared
13 to study the Devonian formation within that area?

14 A. Yes.

15 Q. And could you please turn to Exhibit Numbers 9
16 and 10, and explain what those exhibits are to the
17 Hearing Examiners?

18 A. Sure. Exhibit 9, this ties into page 1 of
19 Exhibit 8. As you see on page 1 of Exhibit 8, in the
20 north area you have A, then you go down to A prime in
21 the south.

22 So flipping back to Exhibit 9, this is just
23 a cross-section outlining our proposed new unit unitized
24 interval from the top of the Glorieta down to the base
25 of the Devonian. This just shows where you can pick the

1 Devonian up in your logs.

2 You'll notice that it's -- you always know
3 you're in the Devonian after you drill through your
4 massive line or your Mississippian and it starts to
5 shale out. And following that shaleout, when you start
6 picking up dolomite, you've entered the Devonian.

7 Not many wells in this area penetrate very
8 far into the Devonian. Common practice was to drill
9 just into the top of it, and then you would produce it
10 from there because it is a water dry reservoir, and you
11 don't want to drill into it and water out your well
12 prematurely.

13 Q. And could you please turn to what's been marked
14 as Exhibit Number 7 and explain what that exhibit is to
15 the Hearing Examiners?

16 A. Sure. This is just -- we introduced Lewis Unit
17 1 as the type log. And again, this is zoomed in on the
18 top of Glorieta, which is right after the base of the
19 San Andres.

20 You can see the top of the Glorieta there.
21 That happened. The San Andres, also a dolomite or a
22 lime or limey dolomite, was very blocking under gamma
23 ray, and you know you get into your Glorieta as you
24 drill out of that or come out of that. And this just
25 shows all the formations, you know, with the wellbore.

1 And then as I explained previously, there's
2 then part of the Mississippian and Devonian portions on
3 the left side of this exhibit. This shows, like I
4 explained, you come out of your massive line, your
5 Mississippian, it shelves out, and you get into Devonian
6 dolomite.

7 Q. And what conclusions have you drawn from your
8 geologic study of the area?

9 A. From the geologic study in the area, you know,
10 it definitely looks like that one well is going to drain
11 all 80 acres within the Lewis Unit 80-acre unit. It
12 wouldn't make sense to drill another well in any other
13 section or anything because that's down structure.

14 So I guess that one well, we'll drain it
15 efficiently. And the location of the well, you know,
16 prevents waste. That's what I have about that.

17 Q. And in your opinion, will the granting of this
18 application prevent waste within the Lewis Unit?

19 A. Yes, it will. It can be -- you know, it's just
20 going to result in an efficient recovery of resources
21 because like I said, that one well will drain the full
22 80 acres.

23 And if we're granted this application, you
24 know, it will prevent waste by allowing Apache to
25 exploit the San Andres, which would otherwise, you know,

1 just be 80 acres of unexploited San Andres because, like
2 I said, we had no plans to do anything with the San
3 Andres.

4 Q. And in your opinion, will the granting of this
5 application also protect correlative rights?

6 A. Yes. Correlative rights will not be impaired.

7 Q. And could you please turn to what's been marked
8 as Exhibit Number 13, and just briefly explain what this
9 exhibit is to the Hearing Examiners?

10 A. This is just a well-spot map of the area around
11 the Lewis Unit. The Lewis Unit is right there in the
12 center with the Number 33350, which are the last five
13 digits of the OTI number.

14 This just shows that, you know, in this
15 area there are -- you know, there's no offset productive
16 wells. And you can see where Apache has their
17 San Andres wells permitted. It's just basically a
18 well-spot map of the area, you know, showing that
19 there's not many wells on production.

20 Q. And the well that's marked as 21706, is that a
21 dry hole?

22 A. That is a dry hole. I believe that was
23 actually a San Andres test well that did not penetrate
24 the Devonian.

25 Q. And is the same true of the 21073 and the

1 23618?

2 A. Those may have been Devonian test wells, but
3 they're both dry holes, yes.

4 Q. Could you please turn to what's been marked as
5 Exhibit Number 11, and explain what this exhibit is to
6 the Hearing Examiners?

7 A. This is the affidavit prepared by Aspen's
8 counsel. This just shows all the working interest
9 owners, lessees of record, overriding royalty owners,
10 and also the operators that were notified about this
11 application.

12 MS. BRADFUTE: And I just wanted to point
13 out to the Hearing Examiners we did not receive green
14 cards back for four different individuals or entities,
15 and we did publish notice and listed those entities and
16 people by name.

17 Mr. Hearing Examiner, I'd like to move that
18 Exhibits 1 through 13 be admitted into evidence.

19 EXAMINER JONES: Exhibits 1 through 13 are
20 admitted.

21 [Exhibits 1 through 13 admitted.]

22 MS. BRADFUTE: And that concludes my
23 questions.

24 EXAMINER JONES: Scott?

25 EXAMINER DAWSON: Mr. Burnett, in your

1 meeting with the State Land Office, did you provide them
2 a copy of your new map that you're referring to?

3 THE WITNESS: I believe I did not.

4 EXAMINER DAWSON: Did you show it to them
5 in the meeting?

6 THE WITNESS: No.

7 EXAMINER DAWSON: Okay. The Land Office,
8 were they the ones that requested this amendment?

9 THE WITNESS: We requested it so that
10 Apache could exploit the San Andres.

11 EXAMINER DAWSON: Okay.

12 THE WITNESS: During their hearing to get
13 their unit put together, it was noticed that part of the
14 acreage included in their unit was our Lewis Unit, which
15 was unitized at all depths, so that prevented that from
16 being approved.

17 EXAMINER DAWSON: Okay.

18 MS. BRADFUTE: And Mr. Dawson, that request
19 was probably made from the State Land Office to Apache,
20 is the way I think it initially came up.

21 EXAMINER DAWSON: Oh, I see. That's kind
22 of what initiated this?

23 MS. BRADFUTE: Yes.

24 EXAMINER DAWSON: Mr. Burnett, in looking
25 at your Exhibit 7, your type log.

1 THE WITNESS: Uh-huh.

2 EXAMINER DAWSON: And on the -- as you look
3 down on the depth on the right, the depths of that well,
4 it looks like there's -- is that the perforations of the
5 red box? Is that where you're perforated?

6 THE WITNESS: That's correct.

7 EXAMINER DAWSON: Okay.

8 So that well was perforated only in the
9 very top of the Devonian, correct?

10 THE WITNESS: Yes, that is correct.

11 EXAMINER DAWSON: Okay. And on the Exhibit
12 8, your top of Glorieta structure, I'm assuming that
13 those faults do not extend up to the top of Glorieta?
14 There's deep-seated faults in the Devonian?

15 THE WITNESS: You are correct.

16 EXAMINER DAWSON: The reason I'm asking is
17 because on Exhibit 8, I do not see those faults in the
18 Glorieta structure, so that's why I asked that question.

19 THE WITNESS: You are correct, yes, sir.

20 EXAMINER DAWSON: Okay. On your
21 cross-section on Exhibit 9, those other wells depicted
22 on your cross-section, were those -- I know a few of
23 those produced in the Devonian, but did all those wells
24 produce in the Devonian?

25 THE WITNESS: They did not. The Sawyer

1 well did. I believe it made almost 200,000 barrels.
2 Our Lewis Unit produced in it. And then the T&P State
3 Number 1 and the Gainer 22.1 did not produce in the
4 Devonian.

5 EXAMINER DAWSON: That's all the questions
6 I have. Thank you.

7 EXAMINER JONES: Mr. Brooks?

8 EXAMINER BROOKS: I don't have any
9 questions. And if I asked any, I would probably reveal
10 that I don't have a very good memory because I've been
11 over all this before and I don't remember it.

12 EXAMINER DAWSON: It's been a few years.

13 EXAMINER BROOKS: No, no. This has only
14 been a month or so, but I'm just going to pass.

15 EXAMINER JONES: Well, if you think of
16 something, let me know.

17 So Mr. Burnett, the Devonian is being -- is
18 that being skimmed or is it being pumped from total
19 down?

20 THE WITNESS: No. The Devonian is being
21 skimmed just because it's got such a high productivity
22 index.

23 Like on our Lewis, they actually have one
24 on live pump, so you could say it is skimming. But I
25 believe it's at about 3,000 feet, so it's still

1 producing, you know, with the bottom oil pressure
2 probably 3- or 4,000 psi.

3 It's just not feasible. I guess the
4 diameter of the wellbore you'd have to drill to the
5 Devonian to get pumping equipment large enough to
6 actually pump it off is cost prohibitive.

7 EXAMINER JONES: But you are convinced that
8 is down in the Devonian and not in the Mississippi?
9 You're producing from the Devonian?

10 THE WITNESS: Absolutely, yes, because it's
11 cased -- the Lewis is cased all the way to the Devonian.

12 EXAMINER JONES: And Rubicon still holds
13 these leases, these two state leases?

14 THE WITNESS: Yes. It's operated by Aspen
15 Operating Company.

16 EXAMINER JONES: Okay. So Aspen, without a
17 working interest, is just a contract operator?

18 THE WITNESS: Yes. And we're all the same
19 people, Rubicon Energy and -- we're all the same office,
20 same people. You know, as a practice, we don't have the
21 same company that owns all the mineral rights and
22 everything, we don't have that be the operator also.
23 It's just a liability, you know, separations.

24 EXAMINER JONES: Do you work with a
25 landman?

1 THE WITNESS: Do I work with a landman?

2 EXAMINER JONES: Yeah.

3 THE WITNESS: I did work with a landman up
4 until about a month ago.

5 EXAMINER JONES: Okay.

6 I saw that this well has been producing for
7 a long time, and the State has always had an 80-acre
8 spacing set on it. I don't think it's ever had anything
9 different.

10 But the question is: Was the production
11 always allocated to 80 acres, or was it always allocated
12 to -- it was probably allocated to 80 because the unit
13 never shrunk; is that correct? Because if it was a
14 State unit, it would have shrunk after five years to
15 release the --

16 EXAMINER DAWSON: Contract for the -- with
17 the contraction clause within the Unit Agreement?

18 EXAMINER JONES: Yeah.

19 EXAMINER DAWSON: After five years, it
20 would have contacted to the initial well spaces. But
21 since those tracts were unitized, that well held the
22 whole 80?

23 EXAMINER JONES: Yeah. Pete Martinez, at
24 the State Land Office, he could check real quickly to
25 make sure that production unit number has been drawn

1 from both 40s all these years. You know, he could just
2 look that up --

3 MS. BRADFUTE: Yeah.

4 EXAMINER JONES: -- and see.

5 So this hearing is just to contract
6 vertically the unit and acknowledge the previous
7 testimony that it's draining 80 acres?

8 MS. BRADFUTE: It is, yeah.

9 THE WITNESS: Correct.

10 EXAMINER JONES: Okay.

11 MS. BRADFUTE: And if you'll look at the
12 map well in Exhibit Number 13, the well is 33350. And
13 it's been drilled -- it was drilled at an unorthodox
14 location in the original case, and it's almost right on
15 that section line, right in between the two 40s.

16 EXAMINER JONES: Yeah. For some reason,
17 Mr. Carr didn't ask for the 80 acres --

18 MS. BRADFUTE: Yes.

19 EXAMINER JONES: -- here in the -- he just
20 asked for an NSL, but they set up the State unit on 80
21 acres?

22 MS. BRADFUTE: Yes.

23 EXAMINER JONES: So maybe he figured after
24 five years, somebody would fix the problem or --

25 MS. BRADFUTE: Yes.

1 EXAMINER JONES: Dave?

2 EXAMINER BROOKS: I would add, if I may
3 speak to this, it's probably improper because the
4 Hearing Examiner -- it would certainly be improper for a
5 judge to testify from the bench. Here it probably is
6 for an Administrative Hearing Examiner as well.

7 But I would say that -- and my memory is a
8 little unclear. I talked to Paul about this unit. And
9 as I recall, he said that it was dedicated to the wrong
10 spacing unit. But you know, my recollection of that
11 conversation is hazy.

12 EXAMINER JONES: The hearing order says 40
13 acres.

14 EXAMINER BROOKS: Yes, I'm aware of that.
15 But I think Paul said -- if I recall what was said
16 correctly, Paul said, "Well, it should have been
17 dedicated to the 80 acres originally."

18 MS. BRADFUTE: And that is what you
19 conveyed to me, Mr. Brooks.

20 EXAMINER JONES: But it's got a strict
21 segregation clause on both those leases.

22 Is that normal, Scott?

23 EXAMINER DAWSON: That is normal for an
24 exploratory -- State exploratory unit, yes.

25 EXAMINER JONES: So I guess the question is

1 the effective date of the -- if it's been allocated to
2 80 all along and we change it officially to 80, that's
3 no big deal. But if --

4 THE WITNESS: It's been allocated to 80 for
5 the whole life of the Lewis well, yes.

6 MS. BRADFUTE: And when you look up the
7 well on the OCD's Website, it's dedicated to 80 acres.
8 So I think everything has been consistently paid on 80
9 acres.

10 The C-102 notes that it's an 80-acre
11 proration unit. So we would ask that it be
12 retroactively established as an 80-acre proration unit
13 just to correct that issue.

14 EXAMINER DAWSON: And I would assume that
15 all the royalties paid on that well have been
16 adjudicated accordingly to each 40-acre tract lease for
17 each tract?

18 MS. BRADFUTE: Yes. Each tract, it was a
19 50/50 divide. Each party would get 100 percent of the
20 respective tracts they were in, but 50 percent of the
21 total unit, and there are two separate leases that
22 create the unit.

23 EXAMINER DAWSON: And they've been paid
24 ever since that well initiated production, correct?

25 MS. BRADFUTE: Is that correct, Matt?

1 THE WITNESS: That is correct, yes.

2 EXAMINER DAWSON: All right. Thank you.

3 EXAMINER JONES: We can retroactively -- if
4 it was done retroactively. If it hasn't, we probably
5 can't, you know, but --

6 MS. BRADFUTE: Yes, I understand.

7 EXAMINER JONES: Yogi Berra died last year,
8 so that's probably something he would say.

9 I don't have any other questions.

10 Mr. Brooks?

11 EXAMINER BROOKS: I don't, either.

12 MS. BRADFUTE: Well, the only other thing
13 that we would ask is for an expedited review, and I'll
14 send you an order. Aspen and Apache are both interested
15 in having an expedited review.

16 This is located in a prairie chicken area,
17 so there's a restriction on drilling the wells through
18 midway June, and then there are some lease expiration
19 issues that Apache faces, and they need to get a well
20 drilled in July, early July.

21 EXAMINER JONES: Is it going to affect
22 Apache's unit -- Apache's unit was set up to exclude
23 this Lewis Unit area?

24 MS. BRADFUTE: So it will not -- so the
25 Apache unit includes this area, which is why the State

1 Land Office wanted us to amend the vertical depths of
2 the Lewis Unit. So the Apache Fire Eagle Unit will
3 cover the San Andres formation.

4 EXAMINER JONES: So it already includes
5 this?

6 MS. BRADFUTE: It does.

7 EXAMINER JONES: It's just a correction?

8 MS. BRADFUTE: It is.

9 EXAMINER JONES: Is that correct, Matt?

10 THE WITNESS: Yes, that's correct.

11 EXAMINER JONES: I just want to make sure
12 there's a witness still there.

13 Well, I don't have anything else. We'll go
14 fast on it.

15 MS. BRADFUTE: Thank you.

16 We'd ask that the case be -- that that
17 application be granted and be taken under advisement.

18 EXAMINER JONES: Okay. Case Numbers 11465
19 and 11466 reopened are taken under advisement.

20 That's the last case on the docket, so this
21 docket is adjourned.

22 Thank you.

23 MR. BROOKS: Very good.

24 MS. BRADFUTE: Thank you.

25 EXAMINER DAWSON: Thank you, Matthew.

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THE WITNESS: Thank you for your time. I appreciate it.

[The proceedings concluded at 10:35 a.m.]

I do hereby certify that the foregoing is a correct and true report of the proceedings in the above captioned case of Case No. _____, heard by me on _____.

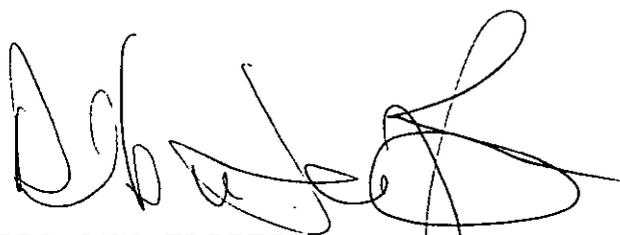
_____, Examiner
Oil Conservation Division

1 STATE OF NEW MEXICO.
2 COUNTY OF BERNALILLO

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8 REPORTER'S CERTIFICATE

9
10 I, DEBRA ANN FRIETZE, New Mexico Certified Court
11 Reporter No. 251, do hereby certify that I reported the
12 foregoing proceeding in stenographic shorthand and that
13 the foregoing pages are a true and correct transcript of
14 those proceedings and was reduced to printed form under
15 my direct supervision.

16 I FURTHER CERTIFY that I am neither employed by nor
17 related to any of the parties or attorneys in this case
18 and that I have no interest in the final disposition of
19 this case.
20

21 

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