

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: )  
APPLICATION OF OXY USA WTP LIMITED )  
PARTNERSHIP FOR COMPULSORY POOLING, )  
EDDY COUNTY, NEW MEXICO )

CASE NO. 13,789

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

September 28th, 2006

Santa Fe, New Mexico

2006 OCT 12 AM 10 15

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, September 28th, 2006, 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.

\* \* \*

I N D E X

September 28th, 2006  
Examiner Hearing  
CASE NO. 13,789

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APPLICANT'S WITNESS:	
<u>DAVID RAY EVANS</u> (Landman)	
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\* \* \*

## A P P E A R A N C E S

## FOR THE DIVISION:

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Deputy General Counsel  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

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

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:23 a.m.:

3           EXAMINER CATANACH: At this time I'll all Case  
4   13,789, which is the Application of OXY USA WTP Limited  
5   Partnership for compulsory pooling, Eddy County, New  
6   Mexico.

7           Call for appearances.

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

12          EXAMINER CATANACH: Any additional appearances?  
13   Okay, get the witness to be sworn in, please.

14          (Thereupon, the witness was sworn.)

15                         DAVID RAY EVANS,

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.    Would you state your full name for the record,  
21   please?

22           A.    David Ray Evans.

23           Q.    Mr. Evans, where do you reside?

24           A.    1505 Douglas, Midland, Texas.

25           Q.    By whom are you employed?

1 A. Occidental Permian Limited Partnership.

2 Q. And what is your current position with Occidental  
3 Permian Limited Partnership?

4 A. Land negotiator.

5 Q. Have you previously testified before the New  
6 Mexico Oil Conservation Division?

7 A. Yes, I have.

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

11 A. Yes, they were.

12 Q. Are you familiar with the Application filed in  
13 this case on behalf of OXY?

14 A. Yes.

15 Q. And are you familiar with the status of the lands  
16 in the area that is the subject of this pooling  
17 Application?

18 A. Yes.

19 MR. CARR: We tender Mr. Evans as an expert  
20 witness in petroleum land matters.

21 EXAMINER CATANACH: Mr. Evans is so qualified.

22 Q. (By Mr. Carr) Would you briefly state what OXY  
23 seeks with this Application?

24 A. We're looking to pool the mineral interest in the  
25 Morrow, Atoka and Strawn formations and/or pools developed

1 on 320-acre spacing.

2 Q. And what acreage is covered by this Application?

3 A. The west half of Section 35, 17-27, Eddy County,  
4 New Mexico.

5 Q. And what is the name of the well to which you  
6 wish to dedicate this acreage?

7 A. The Oxy Admiral Federal Well Number 1.

8 Q. And what is the location for that well?

9 A. 660 from the north line and 1310 from the west  
10 line, Unit D, Section 35.

11 Q. And that's a standard location?

12 A. Yes, it is.

13 Q. Would you refer to what has been marked OXY  
14 Exhibit Number 1 and review that for Mr. Catanach?

15 A. That is OXY's land plat that reflects the acreage  
16 that we are wanting to pool and the override royalty owners  
17 that we are trying to pool.

18 Q. And in this case we're only pooling overriding  
19 royalty interests; is that correct?

20 A. That's correct.

21 Q. What is the primary objective in the proposed  
22 well?

23 A. Morrow formation, Atoka, Strawn.

24 Q. And the rules that govern the development are  
25 what?

1 A. Statewide rules, 320-acre spacing, 660.

2 Q. Would you refer to what has been marked as OXY  
3 Exhibit Number 2 and identify that, please?

4 A. That is our approved communitization agreement  
5 for the OXY Admiral Fed.

6 Q. And does this agreement set forth the percentage  
7 overriding royalty interest owners of each of those parties  
8 subject to pooling?

9 A. Yes, it does.

10 Q. And could you just give the names of those  
11 parties and their percentage overriding royalty interest?

12 A. That is First Interstate Bank of Arizona, Howard  
13 Wright, deceased, .6667 percent; Joan Hudson Moore, .04167  
14 percent; and Jane Ann Hudson Davis, .375 percent.

15 Q. And if we look at this com agreement we can see  
16 that 100 percent of the working interest has voluntarily  
17 agreed to participate in the development of this property;  
18 is that correct?

19 A. That's correct.

20 Q. Could you summarize for Mr. Catanach the efforts  
21 that you have made to obtain the voluntary participation of  
22 all the working or overriding royalty interest owners in  
23 this property?

24 A. Yes, we sent out a letter dated July 10th, 2006,  
25 requesting execution of the com agreement and followed that

1 up with multiple phone conversations and calls requesting  
2 signatures.

3 Q. And you've been able to get a number of people to  
4 participate; isn't that right?

5 A. That's correct.

6 Q. What is the status of the three overriding  
7 royalty interest owners that are the subject of this case?

8 A. They're non-responsive.

9 Q. In your opinion, have you made a good faith  
10 effort to identify and to obtain the voluntary  
11 participation or commitment to the well of each of these  
12 interest owners?

13 A. Yes.

14 Q. And as overriding royalty interest owners they're  
15 not asked to pay anything, they're not subject to the AFE  
16 or --

17 A. No.

18 Q. -- Or any of the other costs associated with the  
19 well; it's just simply a cost-bearing interest?

20 A. That's correct.

21 Q. Is Exhibit Number 3 a copy of letters and related  
22 documents? This is the letter to those individuals and a  
23 com agreement that was provided on July the 10th --

24 A. Yes.

25 Q. -- is that right?

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24 Q. (BY Mr. Carr) Mr. Evans, with approval of this  
25 Application be in the best interests of conservation, the

STEVEN T. BRENNER, CCR  
(505) 989-9317

1 A. That's right.

2 Q. Now, who is going to actually be the operator of  
3 this well?

4 A. That will be Occidental Permian Limited  
5 Partnership.

6 Q. Okay. And is Exhibit Number 4 a copy of an  
7 affidavit confirming that notice of this Application has  
8 been mailed to each of the individual interest owners who  
9 are subject -- of the subject of this hearing?

10 A. Yes.

11 Q. Have you attempted and established that the  
12 addresses you've been using are, in fact, current  
13 addresses --

14 A. That's right.

15 Q. -- for these entities?

16 A. Yes, I have.

17 Q. Were Exhibits 1 through 4 either prepared by you  
18 or compiled under direction and supervision?

19 A. Yes, they were.

20 MR. CARR: Mr. Catanach, at this time we move the  
21 admission of OXY Exhibits 1 through 4.

22 EXAMINER CATANACH: OXY Exhibits 1 through 4 will  
23 be admitted as evidence.

24 Q. (By Mr. Carr) Mr. Evans, will approval of this  
25 Application be in the best interests of conservation, the

1 prevention of waste and the protection of correlative  
2 rights?

3 A. Yes, it would be.

4 MR. CARR: And with that, Mr. Catanach, that  
5 concludes my direct examination of Mr. Evans.

6 EXAMINER CATANACH: Okay.

7 EXAMINATION

8 BY EXAMINER CATANACH:

9 Q. Mr. Evans, where can I find the three parties  
10 that you're pooling again? Can you --

11 A. Right back here, if you look in the Exhibit 2 --  
12 Let's see, this should be --

13 MR. CARR: Mr. Catanach, I believe their  
14 interests are in tract 4 and 5 and are identified in the  
15 com agreement --

16 THE WITNESS: Right.

17 MR. CARR: -- and their names and their  
18 percentage over a royalty interest ownership is set forth  
19 on Exhibit 1.

20 EXAMINER CATANACH: Okay.

21 THE WITNESS: Right.

22 Q. (By Examiner Catanach) Now this is -- the west  
23 half of Section 35, is that all federal leases?

24 A. West half of 35? I believe it is. There's a  
25 state --

1 Q. I think that's on an Exhibit 2 -- Exhibit A to  
2 Exhibit 2, there's a tract that shows the lease numbers,  
3 and I think that -- according to that, it looks like  
4 they're all federal leases.

5 A. All federal leases, yes.

6 EXAMINER CATANACH: Mr. Carr, I don't recall  
7 doing one like this. Have we done something like this?

8 MR. CARR: Normally we'd bring this to you by  
9 affidavit, because we're required by statute to combine all  
10 interests and under their leases we can't commit them,  
11 and -- but since OXY had the other cases on the docket, we  
12 also concluded that would be the way to do this. It's just  
13 to be certain that every interest is committed.

14 You'll see also there's one later in the day that  
15 again involves just royalty interest owners. But we have  
16 to combine all interests under the statute, and if we don't  
17 have right to commit their interest we have to come here.

18 EXAMINER CATANACH: Can you find me an example of  
19 one that we've done?

20 MR. CARR: I'm sure I can, yeah, I will do that.  
21 We'll --

22 EXAMINER CATANACH: I just -- I know we've done  
23 them before, I just don't recall --

24 MR. CARR: Yeah, I have done them before, and  
25 I'll submit to you a proposed order, if that would be

1 helpful.

2 EXAMINER CATANACH: That would be fine.

3 Q. (By Examiner Catanach) And you're only pooling  
4 the interest in the Morrow, Atoka and Strawn formations; is  
5 that correct?

6 A. Yes, sir.

7 Q. And the well's already been drilled?

8 A. Yes, sir.

9 Q. Is it producing?

10 A. Not yet.

11 Q. Has it been completed, as far as you --

12 A. Yes, sir, it has.

13 Q. Do you know what it's completed in?

14 A. The Morrow.

15 Q. Right at this point it's just a Morrow well?

16 A. Yes, sir.

17 Q. Now, the parties that you're pooling, they just  
18 have not -- they just haven't responded to any of your  
19 letters?

20 A. They just haven't responded to the calls or the  
21 letters.

22 Q. But you do have good addresses on them, as far as  
23 you know, and they have received your correspondence?

24 A. As far as we know. They've signed green cards.

25 And my understanding from other companies is, this is

1 routine, they don't respond a lot.

2 EXAMINER CATANACH: Okay. Okay, I don't have  
3 anything else.

4 MR. CARR: That concludes our presentation in  
5 this case.

6 EXAMINER CATANACH: Okay, there being nothing  
7 further, Case 13,789 will be taken under advisement.

8 (Thereupon, these proceedings were concluded at  
9 8:35 a.m.)

10 \* \* \*

11  
12  
13 I do hereby certify that the foregoing is  
14 a correct record of the proceedings in  
15 the above hearing of Case No. 13789  
16 heard by me on September 28, 2006  
17 David R. Catnach, Examiner  
18 Oil Conservation Division  
19  
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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 September 28th, 2006.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006