

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 UNIT PETROLEUM COMPANY )  
FOR COMPULSORY POOLING AND TO ADDRESS )  
THE APPROPRIATE OVERRIDING ROYALTY )  
BURDENS FOR PURPOSES OF THE CHARGE FOR )  
RISK INVOLVED IN DRILLING WELLS ON THE )  
WELL UNIT, LEA COUNTY, NEW MEXICO )

CASE NO. 13,755

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

October 12th, 2006

Santa Fe, New Mexico

2006 OCT 16 PM 3 53

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, October 12th, 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.

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## I N D E X

October 12th, 2006  
 Examiner Hearing  
 CASE NO. 13,755

	PAGE
APPEARANCES	3
APPLICANT'S WITNESS:	
<u>FRED SCHANTZ</u> (Landman)	
Direct Examination by Mr. Bruce	5
Examination by Examiner Ezeanyim	11
REPORTER'S CERTIFICATE	15

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	6	11
Exhibit 2	6	11
Exhibit 3	7	11
Exhibit 4	8	11
Exhibit 5	9	11
Exhibit 6	10	11

\* \* \*

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

## FOR THE DIVISION:

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## FOR THE APPLICANT:

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\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:29 a.m.:

3           EXAMINER EZEANYIM: And let me go to page 2 and  
4   call Case Number 13,755. This case was amended and  
5   readvertised, and continued from October -- I mean  
6   September 28th, 2006, and this is the Application of Unit  
7   Petroleum for compulsory pooling and some issues regarding  
8   overriding royalty interests. This is in Lea County, New  
9   Mexico.

10           Call for appearances.

11           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
12   representing the Applicant. I have one witness.

13           EXAMINER EZEANYIM: Any other appearances?

14           May the witness stand to be sworn, please?

15           (Thereupon, the witness was sworn.)

16           EXAMINER EZEANYIM: Mr. Bruce?

17           MR. BRUCE: Mr. Examiner, before I start  
18   questioning the witness, this case did originally seek --  
19   it seeks pooling and addressing certain overriding royalty  
20   burdens.

21           As I mentioned to you yesterday, I will have the  
22   witness discuss this, but due to some curative action taken  
23   by the overriding royalty owner, that is no longer at issue  
24   in this case. So at this point we are simply seeking  
25   compulsory pooling.



1           A.    Okay.  Exhibit 1 is a land plat highlighting the  
2 east half of Section 23, Township 20 South, Range 35 East,  
3 NMPM.  Unit seeks to pool the east half of Section 23 from  
4 11,920 feet subsurface to the base of the Morrow formation.

5           Q.    What is the proposed well's location?

6           A.    The well will be drilled at a location 1480 feet  
7 from the north line and 1280 feet from the east line.

8           Q.    And this well does have an APD for it, does it  
9 not?

10          A.    Yes.

11          Q.    What is listed on Exhibit B?

12          A.    Exhibit 2?

13          Q.    Yeah, Exhibit 2.

14          A.    Exhibit 2 lists the working interest owners in  
15 the 320-acre well unit.

16          Q.    Those who have not yet consented?

17          A.    Yes.

18          Q.    And who are the interest owners?

19          A.    The two interest owners are Brad Bennett and  
20 Hayes Land Corporation.

21          Q.    And Hayes Land Corporation is a company owned by  
22 Mr. Bennett, is it not?

23          A.    That is correct.

24          Q.    There are other working interest owners in this  
25 well unit who have already consented to the well, have they

1 not?

2 A. That is correct. Yeah, the other working  
3 interest owners are BTA Oil Producers, Inc. -- let's see  
4 here, BWB Partners I, and Hayes Land and Production  
5 Company.

6 Q. Okay. Now let's discuss your efforts to obtain  
7 the voluntary joinder of Brad Bennett and Hayes Land  
8 Corporation. What is Exhibit 3?

9 A. Exhibit 3 is a letter dated June the 19th, 2006,  
10 proposing a well to the -- all the working interest owners  
11 in there, including BTA, BWB, Hayes Land and Production  
12 Company, Brad Bennett, and Hayes Land Corporation.

13 Q. Besides -- it lists BTA Oil Producers, et al.  
14 Actually there's about -- what, about 40 other interest  
15 owners?

16 A. That is correct, yes.

17 Q. And they have all joined in the well?

18 A. Yeah. Well, actually BTA elected to go  
19 nonconsent, but they have made their election under the  
20 JOA.

21 Q. Okay, they are committed to the JOA?

22 A. That's right, uh-huh.

23 Q. With respect to Hayes Land Corporation and Brad  
24 Bennett, have you had follow-up contacts with them?

25 A. Yes, I have.

1 Q. Numerous contacts?

2 A. Yes, we have had many telephone conversations and  
3 e-mails and so forth.

4 Q. And has Mr. Bennett indicated that he and his  
5 land corporation may join in the well?

6 A. There's a possibility. We are working diligently  
7 toward his -- the possibility of him ratifying the joint  
8 operating agreement, but he is -- there are some issues  
9 that we're still working through, and -- but we're moving  
10 in a positive direction, I would say.

11 Q. In your opinion, has Unit made a good faith  
12 effort to obtain the voluntary joinder of the interest  
13 owners in this well?

14 A. Yes.

15 Q. What is Exhibit 4?

16 A. Exhibit 4 is our AFE for the well. It is a  
17 13,600-foot Morrow test with a dryhole cost of \$2,249,500  
18 and a completed well cost of \$3,239,000.

19 Q. And are these costs in line with the costs of  
20 other wells drilled to this depth in this area of New  
21 Mexico?

22 A. Yes, they are.

23 Q. Do you request that Unit Petroleum be named  
24 operator of the well?

25 A. Yes, sir.

1 Q. And what overhead rates do you propose?

2 A. We request drilling rates of \$6500 per month and  
3 producing rates of \$600 per month.

4 Q. And are these rates equivalent to those charged  
5 by Unit and other operators in this area for wells of this  
6 depth?

7 A. Yes.

8 Q. And were the parties being pooled notified of  
9 this hearing?

10 A. Yes, they were.

11 Q. And is Exhibit 5 my affidavit of notice?

12 A. Yes.

13 Q. Now, Mr. Schantz, the Application also requested  
14 a determination of overriding royalty burdens on the -- in  
15 this well unit. What was this originally about?

16 A. Well, the proposed well is an infill well in the  
17 well unit. Unit Petroleum also force pooled the first case  
18 in Case Number 13,124. While the case was pending, Brad  
19 Bennett created an overriding royalty out of his working  
20 interest, which we did not know about until the first  
21 pooling hearing -- until after the first pooling hearing.

22 There are several problems with overriding  
23 royalty. First of all, the override was assigned to a  
24 company, Magnolia, L.L.C., which is owned or controlled by  
25 Mr. Bennett.

1           Second, the override assignment is confusing as  
2 to the amount created. It could be construed as creating a  
3 50-percent override.

4           And thirdly, we think that the operator shouldn't  
5 be subject to overrides created during pooling.

6           Q.   And did you discuss these issues with Mr.  
7 Bennett?

8           A.   Yes, I did, and as a result Magnolia reconveyed  
9 the interest back to Mr. Bennett. A copy of that  
10 assignment is marked as Exhibit 6.

11          Q.   No, w, did Mr. Bennett inform you that the purpose  
12 of Exhibit 6 was to extinguish the override that was  
13 created a few years ago?

14          A.   Yes, it was Mr. Bennett's intention for that  
15 interest to merge back into the working interest.

16          Q.   Okay. So that because of this assignment and Mr.  
17 Bennett's stated intent, you no longer need the Commission  
18 to address the overriding royalty burden on this well?

19          A.   That is correct.

20          Q.   Were Exhibits 1 through 6 prepared by you or  
21 under your supervision or compiled from company business  
22 records?

23          A.   Yes, they were.

24          Q.   And in your opinion, is the granting of this  
25 Application in the interest of conservation and the

1 prevention of waste?

2 A. Yes.

3 MR. BRUCE: Mr. Examiner, I'd move the admission  
4 of Exhibits 1 through 6.

5 EXAMINER EZEANYIM: Exhibits 1 through 6 will be  
6 admitted into evidence.

7 Do you have any questions?

8 MS. O'CONNOR: (Shakes head)

9 EXAMINATION

10 BY EXAMINER EZEANYIM:

11 Q. Before I go on, let me stay with this -- I know  
12 you wanted that override dismissed.

13 What is the relationship between Magnolia and Mr.  
14 Brad Bennett?

15 A. They're --

16 Q. I just wanted to know, it's just for my  
17 information because -- it's moot at this point, because you  
18 wanted me to dismiss that portion of the case, but I wanted  
19 to find out because before I learned that you were going to  
20 do that, I've done some research to -- prompting me to ask  
21 you this question. What is the relationship between the  
22 two --

23 A. Mag- --

24 Q. -- Magnolia and Brad Bennett?

25 A. Yeah, Magnolia was controlled or owned and

1 controlled by Mr. Bennett, so it was -- he conveyed an  
2 interest from himself to a company owned and controlled by  
3 him.

4 Q. Okay. Yeah, that's kind of what I wanted to  
5 know, because --

6 A. Uh-huh.

7 Q. -- you never know, something like this might come  
8 up again --

9 A. Uh-huh.

10 Q. -- so I wanted to make that point clear. Of  
11 course, I'm going to dismiss that case, because -- we just  
12 sign it over to Brad Bennett, so --

13 A. Uh-huh.

14 Q. -- to -- that portion of the lease. Okay. Could  
15 you repeat the location of this well? I think you said  
16 1480 from the --

17 A. I'm --

18 Q. -- the location of the well --

19 A. Uh-huh.

20 Q. -- the location of that well? What is the  
21 location of the -- physical location of the well?

22 A. It is 1480 feet from the north line and 1280 feet  
23 from the east line.

24 Q. Okay. And how do you say that -- APD for this --  
25 location? Do you also have API Number? Do you have API

1 Number? --

2 A. I --

3 Q. -- or can I get --

4 MR. BRUCE: I will e-mail that to you later  
5 today, Mr. Examiner.

6 Q. (By Examiner Ezeanyim) So you were able to  
7 contact every working interest, therefore there is no need  
8 for you to do any -- publication here?

9 MR. BRUCE: That's correct, Mr. Examiner.

10 THE WITNESS: Right, right, we've --

11 MR. BRUCE: All of these parties are locatable,  
12 and there is no unknown interest owner, unlocatable.

13 Q. (By Examiner Ezeanyim) Okay. And you are  
14 interested in pooling from the 11,900 subsurface to the  
15 base of the Morrow?

16 A. Right, 11,920 feet subsurface.

17 Q. To the base of the Morrow?

18 A. That's right, uh-huh.

19 Q. So it appears that you don't have any interest  
20 above the 11,000 feet?

21 A. Above it?

22 Q. Yeah.

23 A. No, we do not.

24 EXAMINER EZEANYIM: Anything further?

25 MR. BRUCE: Just one thing.

## FURTHER EXAMINATION

1  
2 BY MR. BRUCE:

3 Q. Mr. Schantz, would you request an expedited order  
4 in this matter?

5 A. Yes, sir, we have a drilling rig coming on  
6 location I think late this month, and we need to -- we need  
7 to get an expedited order.

8 EXAMINER EZEANYIM: End of October?

9 THE WITNESS: Yes.

10 EXAMINER EZEANYIM: Anything further, Mr. Bruce?

11 MR. BRUCE: Nothing further.

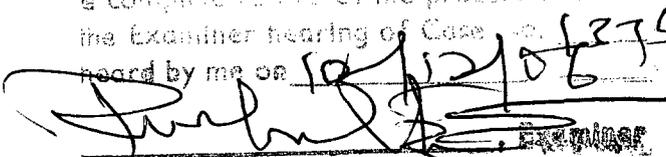
12 EXAMINER EZEANYIM: At this point Case Number  
13 13,755 will be taken under advisement. That concludes that  
14 case.

15 MR. SCHANTZ: Thank you.

16 (Thereupon, these proceedings were concluded at  
17 8:43 a.m.)

18 \* \* \*

19  
20 I do hereby certify that the foregoing is  
21 a complete and true record of the proceedings in  
the Examiner hearing of Case No. 13755  
heard by me on 10/21/06

22   
23 Oil Conservation Division  
24  
25

## 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 October 13th, 2006.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006