

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 CHESAPEAKE OPERATING, )  
INC., FOR COMPULSORY POOLING, LEA )  
COUNTY, NEW MEXICO )

CASE NO. 13,821

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

November 30th, 2006

Santa Fe, New Mexico

2006 DEC 13 PM 3 11

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, November 30th, 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

November 30th, 2006  
 Examiner Hearing  
 CASE NO. 13,821

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<u>WILLIAM A. CHALFANT</u> (Landman)	
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\* \* \*

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

## FOR THE DIVISION:

DAVID K. BROOKS, JR.  
Assistant General Counsel  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

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P.O. Box 2265  
Santa Fe, New Mexico 87504-2265  
By: W. THOMAS KELLAHIN

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 9:20 a.m.:

3           EXAMINER EZEANYIM: Call Case Number 13,821.  
4 This is the Application of Chesapeake Operating, Inc., for  
5 compulsory pooling, Lea County, New Mexico.

6           Call for appearances.

7           MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of  
8 the Santa Fe law firm of Kellahin and Kellahin, appearing  
9 on behalf of the Applicant, and I have one witness to be  
10 sworn.

11           EXAMINER EZEANYIM: Any other appearances?  
12 May the witness stand up to be sworn, please?  
13 (Thereupon, the witness was sworn.)

14           EXAMINER EZEANYIM: Mr. Kellahin?

15           MR. KELLAHIN: Yes, sir. Thank you, Mr.  
16 Examiner.

17                       WILLIAM A. CHALFANT,  
18 the witness herein, after having been first duly sworn upon  
19 his oath, was examined and testified as follows:

20                               DIRECT EXAMINATION

21 BY MR. KELLAHIN:

22           Q. Mr. Chalfant, would you please state your name  
23 and occupation?

24           A. Bill Chalfant, I'm a petroleum landman.

25           Q. Where do you reside, sir?

1 A. Midland, Texas.

2 Q. As a petroleum landman, have you been retained by  
3 Chesapeake Operating to perform certain land duties for  
4 them?

5 A. Yes, I have.

6 Q. With regards to this case, what were you asked to  
7 do?

8 A. To acquire the leases on the open mineral  
9 interests or term assignments or farmouts on the leasehold  
10 interests for this unit.

11 Q. As part of your responsibilities have you  
12 tabulated, to the best of your knowledge, the interest  
13 owners within the spacing unit?

14 A. Yes, I have.

15 Q. And you have been primarily responsible for  
16 negotiating additional participation in leases for the  
17 operations of this wellbore?

18 A. Yes, I have.

19 Q. How long have you been a petroleum landman?

20 A. Thirty-one years.

21 Q. Is Chesapeake Operating one of your clients that  
22 you perform duties for in southeast New Mexico?

23 A. Yes, they are.

24 MR. KELLAHIN: We tender Mr. Chalfant as an  
25 expert petroleum landman.

1 EXAMINER EZEANYIM: Mr. Chalfant is so qualified.

2 Q. (By Mr. Kellahin) Let me direct your attention  
3 to what is marked as Exhibit Number 1. Let's take a moment  
4 and outline for the Examiner what you're proposing to  
5 accomplish with this consolidation.

6 A. Okay.

7 Q. Identify for us the spacing unit associated with  
8 this well.

9 A. The south half of the southeast quarter of  
10 Section 29, Township 16 South, Range 37 East, Lea County,  
11 New Mexico.

12 MR. KELLAHIN: Mr. Examiner, if I may approach  
13 the front, I have a copy of the pool rules associated with  
14 this pool and a pool boundary map.

15 EXAMINER EZEANYIM: Yes.

16 Q. (By Mr. Kellahin) Mr. Chalfant, to your  
17 knowledge are we dealing with a well to be located and  
18 subject to the rules for the Northeast Lovington-Upper Penn  
19 Pool?

20 A. That is my understanding.

21 Q. When we look at the rules for that pool, what is  
22 your understanding of the acreage dedication to a well in  
23 that pool?

24 A. It's 80 acres.

25 Q. And a standard well location would be required to

1 be where, sir?

2 A. 150 feet from the center.

3 Q. Of either of the 40s?

4 A. Of either of the 40s.

5 Q. And would this well satisfy those requirements?

6 A. Yes.

7 Q. Let's turn to Exhibit Number 2, and for the  
8 record would you identify what we're looking at when we see  
9 the package of documents associated with Exhibit Number 2?

10 A. That is the plat work done by Gary Eidson for the  
11 location of this well.

12 EXAMINER EZEANYIM: What did you say?

13 THE WITNESS: The survey work done by Gary Eidson  
14 for the location of this well.

15 Q. (By Mr. Kellahin) How long have you been working  
16 on trying to consolidate the interest owners in this area?

17 A. Oh, on and off for probably five years.

18 Q. Let me have you direct your attention now to what  
19 is marked as Exhibit Number 3. What is that, sir?

20 A. That is a list of the parties who -- when we  
21 started making our final push on this effort, who had not  
22 agreed to lease or farm out to us, and just the status for  
23 each party.

24 Q. When you run through the tabulation, does the  
25 information on this display reflect the current status of

1 commitment to participation in the spacing unit?

2 A. Yes, it does.

3 Q. When you look at the bottom tabulation, we're  
4 just short of 100 percent. Have you been able to reconcile  
5 why the second page at the bottom shows 99.59?

6 A. Because it does not take into account all of the  
7 interest that Chesapeake has. The number at the very top  
8 of the first page -- I've got it in my file, it should be  
9 14.7 -- I'd have to dig it out of my file, but that -- they  
10 failed to include all the interest that they had.

11 Q. So when the Examiner is examining the parties on  
12 this spreadsheet, these are all the interest owners in the  
13 well?

14 A. That hadn't committed to Chesapeake --

15 Q. Yeah.

16 A. -- at the time we made our final push.

17 Q. And if there's a difference in the total, it's  
18 only that the sum for Chesapeake should be larger than  
19 represented here?

20 A. Correct.

21 Q. Do you have an example of Chesapeake's final well  
22 proposal letter to the remaining uncommitted interest  
23 owners that included an AFE?

24 A. Yes, we do. I believe it's Exhibit 4.

25 Q. What's the date of that letter?

1 A. It is August 23rd, 2006.

2 Q. Is this a sample of the letter that was sent to  
3 all the uncommitted interest owners on that date?

4 A. Yes, it is.

5 Q. So every owner got an identical letter like this?

6 A. Yes, they did.

7 Q. Associated with this well proposal letter, was  
8 there a corresponding AFE that was submitted?

9 A. It was attached to the letter, yes, it was.

10 Q. Can you identify Exhibit Number 5?

11 A. That's Exhibit Number 5, that is the AFE that was  
12 attached to every one of these letters.

13 Q. Subsequent to this letter, have you been  
14 responsible for additional contacts with all these  
15 individuals?

16 A. Yes, I have.

17 Q. And have you been doing that?

18 A. Yes, I have, and we've got some of them to give  
19 us term assignments, some of them have ended up leasing, so  
20 I'm continuing to follow up with all the owners to try to  
21 get everybody to come to some kind of agreement.

22 Q. And at this point in time, I guess as of November  
23 28th, on the spreadsheet, Exhibit Number 3, this is the  
24 current status?

25 A. That is the current status.

1 Q. As part of the pooling order, the Examiner will  
2 award the Applicant costs associated with the producing  
3 well and the drilling well rates associated with the  
4 pooling order. Are you familiar with that concept?

5 A. I am familiar with the concept, yes.

6 Q. Within this general area, is there an operating  
7 agreement that Chesapeake has committed to from another  
8 operator that shows overhead rates associated with wells  
9 like this at this depth?

10 A. Yes, there is. I believe that's Exhibit Number  
11 6.

12 Q. If you'll turn to Exhibit Number 6 and turn to  
13 the second page of Exhibit 6, Unit Petroleum Company was  
14 charging its working interest owners, including Chesapeake,  
15 what overhead rates?

16 A. \$7000 for a drilling well and \$700 for a  
17 producing well.

18 Q. In your opinion, are these rates that are  
19 associated with the Unit Petroleum well reasonable?

20 A. They are reasonable, fairly standard for the  
21 area.

22 Q. Do you recommend that the Examiner adopt these  
23 rates in issuing a pooling order in this case?

24 A. Yes, I do.

25 Q. Are we at the point in time, Mr. Chalfant, where

1 you believe it's necessary to have a pooling order in order  
2 to consolidate the remaining interest owners?

3 A. Yes, I do, I've talked to everyone numerous  
4 times, and I believe that's the only way this is ever going  
5 to get done.

6 MR. KELLAHIN: Mr. Examiner, Exhibit Number 7 is  
7 a -- I think you're holding the original of the affidavit  
8 of publication in the newspaper, and it should show the  
9 appropriate notarized stamp and the signature of the  
10 newspaper people, showing notice of hearing for those  
11 people that we couldn't actually locate.

12 And then finally Exhibit Number 8, Mr. Examiner,  
13 is my certificate of notification using the Division notice  
14 procedures. We sent the notification on October 26th,  
15 along with a copy of the entire Application, to all the  
16 parties shown, and we have the corresponding green cards.

17 And with your permission at this time, Mr.  
18 Examiner, we would ask you to admit Exhibits 1 through 8.

19 EXAMINER EZEANYIM: At this point Exhibits 1  
20 through 8 will be admitted into evidence.

21 Do you have any?

22 EXAMINATION

23 BY MR. BROOKS:

24 Q. Yeah, I was looking at Exhibit 3 and I was trying  
25 to understand what is shown here. The first category, the

1 37.5 percent, is shown as being total participating non-  
2 operators. That total seems to include Chesapeake's 14  
3 percent. All those people are parties to -- Does that  
4 indicate that all those people are parties to an existing  
5 operating agreement, including Chesapeake?

6 A. Correct, those are the leasehold owners that have  
7 agreed to participate in the well.

8 Q. Okay, that's what you've got committed to the  
9 well by agreement, okay.

10 The 14.351 percent is listed as total assigned or  
11 leased. What does that represent?

12 A. Those are people that have either executed a term  
13 assignment to Chesapeake or an oil and gas lease to  
14 Chesapeake.

15 Q. Okay. Then you've got a total unowned of 3.67  
16 percent, and what does that represent?

17 A. Well, when we originally ran the title, there was  
18 a stipulation of interest that was misconstrued, and so we  
19 originally had these parties as owning an interest, and it  
20 turns out they didn't. Now their interests are all -- This  
21 gets a little complicated. These interests are owned by  
22 other parties on this list, but the parties listed as  
23 unowned actually do not own an interest, but we originally  
24 thought that they did.

25 Q. So these parties do not own any interest in this

1 unit; is that right?

2 A. Well, with -- Hawkins Oil and Gas is the record  
3 title interest owner. There's never a conveyance out of  
4 them in the Lea County records. However, Frisco Energy, on  
5 page 1, are telling us that they own that interest. So we  
6 have left both of them on there just because there's no  
7 record -- there's nothing out of Hawkins into Frisco, but  
8 when I sent the letter to Hawkins I got a phone call from  
9 Frisco saying, Hey, we bought everything Hawkins had.  
10 However, there's nothing in the records to show that.

11 Q. Okay, did your --

12 A. Besides that, all the rest of these folks do not  
13 own an interest.

14 Q. Now were they -- were they on your -- are they on  
15 your affidavit of notice? Were these people notified, or  
16 -- if they don't own an interest they don't have to be, but  
17 I just want to follow through --

18 A. Well, let me -- I'm not sure exactly when we  
19 caught that. I think we caught it before it went out, but  
20 let me double-check to make sure. With the exception of  
21 Hawkins, the rest of those people were not notified.

22 Q. But Hawkins was?

23 A. Hawkins was, because they were the record title  
24 owner, I believe.

25 Q. Okay, since they're not -- since that 3.67

1 percent is non- -- those people don't own it, they're not  
2 included in the total?

3 A. That is correct.

4 Q. Okay, and then you have --

5 A. I take it back. Apparently Hawkins was not  
6 notified, we just notified Frisco.

7 Q. Okay. Then you have total return -- and  
8 Hawkins -- you're saying Hawkins conveyed to Frisco, and  
9 that's not of record?

10 A. I'm saying that Frisco has told me that they  
11 bought everything that Hawkins has, but I cannot find it of  
12 record.

13 Q. And you haven't seen the assignment?

14 A. I have not seen the assignment. They're supposed  
15 to furnish it to me.

16 Q. Okay. The total returned unclaimed, .13, is that  
17 the only one that you're serving by publication?

18 A. Yes.

19 Q. Okay, and then this no-response total -- This  
20 adds to 53 percent.

21 A. Right, these are parties that we've -- I've  
22 talked to every single one of these parties and just have  
23 not got a response from them one way or another.

24 Q. And all of these -- all these parties are in your  
25 affidavit of notice?

1 A. Yes, they are.

2 Q. Now you were talking about the totals adding up  
3 to less than 100 percent --

4 A. Well --

5 Q. -- looks to me like they add up to more than --

6 A. -- yeah --

7 Q. -- 100 percent.

8 A. -- I didn't prepare this, so let me apologize. I  
9 wouldn't have done it quite this way, but this was prepared  
10 by Chesapeake, and somehow this is how they like to keep  
11 track of it.

12 Q. Yeah, you've got 51.8 percent on the first page,  
13 and then 53-point-something on the second page. Why  
14 couldn't they add up to more than 100 percent?

15 A. Well, I can't answer that question. This is  
16 internally just how Chesapeake likes to track this. I  
17 think if you take out that 3.6 percent unowned --

18 Q. Is that --

19 A. -- and then it's going to add up.

20 Q. Is that included in the total no-response, the  
21 53.08 percent?

22 A. Oh, I apologize, I didn't double-check that. I  
23 know that it's not included in the grand total.

24 Q. I know it couldn't be, because the grand total is  
25 less than 100 percent --

1 A. Right.

2 Q. -- but if you add the total no-response and the  
3 total -- if you add the totals on the first page and the  
4 total no-response, you get more than 100 percent. It looks  
5 like probably it's about the same as that 3-point --

6 A. I believe it is, and I believe it comes out of  
7 that 53 percent, now that I'm just kind of doing this real  
8 quickly in my head.

9 Q. Yeah, that would seem to be somewhere close.

10 A. Yeah, it appears that it does.

11 MR. BROOKS: Okay, I think that's all the  
12 questions I have.

13 EXAMINER EZEANYIM: Okay, thank you.

14 EXAMINATION

15 BY EXAMINER EZEANYIM:

16 Q. What is the depth of this well?

17 A. Between 11,060 feet and 12,500 feet.

18 Q. Twelve thousand --

19 A. -- five hundred.

20 Q. Do you have any API number or APD for this well?

21 A. It has not been filed yet.

22 EXAMINER EZEANYIM: It's not filed.

23 You may be excused.

24 THE WITNESS: Thank you.

25 MR. KELLAHIN: That concludes our presentation,

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Mr. Examiner.

EXAMINER EZEANYIM: Thank you, Mr. Kellahin.

At this point Case Number 13,821 will be taken under advisement.

(Thereupon, these proceedings were concluded at 9:43 a.m.)

\* \* \*

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 13821 signed by me on \_\_\_\_\_, 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 December 3rd, 2006.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2010