

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 MEWBOURNE OIL COMPANY )  
FOR COMPULSORY POOLING, LEA COUNTY, )  
NEW MEXICO )

CASE NO. 14,030

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Hearing Examiner

November 29th, 2007

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr. Hearing Examiner, on Thursday, November 29th, 2007, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Secretary's Conference Room, 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 29th, 2007  
 Examiner Hearing  
 CASE NO. 14,030

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APPLICANT'S WITNESS:	
<u>STEVEN J. SMITH</u> (Landman)	
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## E X H I B I T S

Applicant's	Identified	Admitted
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\* \* \*

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

FOR THE APPLICANT:

JAMES G. BRUCE  
Attorney at Law  
P.O. Box 1056  
Santa Fe, New Mexico 87504

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 11:45 a.m.:

3           EXAMINER BROOKS: Call Case Number 14,030,  
4 Application of Mewbourne Oil Company for compulsory  
5 pooling, Lea County, New Mexico.

6           Call for appearances.

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

9           EXAMINER BROOKS: And that's the same witness?

10          MR. BRUCE: It is the same witness, if the record  
11 could reflect that he's previously been sworn.

12          EXAMINER BROOKS: Yes, state your name, please,  
13 again.

14          MR. SMITH: Steven Smith.

15          EXAMINER BROOKS: And Mr. Smith, you have  
16 previously been sworn and you are still under oath.

17          You may proceed, Mr. Bruce.

18                         STEVEN J. SMITH,  
19 the witness herein, having been previously duly sworn upon  
20 his oath, was examined and testified as follows:

21                                 DIRECT EXAMINATION

22          BY MR. BRUCE:

23                 Q. Mr. Smith, if you could please identify Exhibit 1  
24 for the Examiner and describe what Mewbourne seeks in this  
25 case.

1           A.    Okay, Exhibit 1 is a Midland Map that highlights  
2 the southeast northwest quarter of Section 27, 19 South, 35  
3 East, Lea County. What we seek to do is pool all depths  
4 from the surface to the base of the Bone Spring in that 40-  
5 acre location less and except the unitized Queen interval.

6           Q.    And what is the name of that unit?

7           A.    The east Pearl-Queen Unit.

8           Q.    And Mewbourne has no ownership interest in that  
9 unit?

10          A.    None whatsoever.

11          Q.    What is the name of the proposed well?

12          A.    It will be the Sparrow 27 State Number 1.

13          Q.    And it will be at an orthodox location?

14          A.    Correct.

15          Q.    What is the working interest ownership of the  
16 well unit?

17          A.    Currently the record ownership is Mewbourne Oil  
18 Company with an 83.333 percent, and the other 16.66 is  
19 owned by one or the other of Enerlex, Inc., or Castle  
20 Royalties.

21          Q.    And you seek to force pool both of those parties?

22          A.    Correct.

23          Q.    Would you describe what the issue is with respect  
24 to that 60 2/3-percent interest?

25          A.    January of this year Enerlex attempted to convey

1 an interest in this acreage to Castle Royalties. The  
2 interest was -- or the assignment was defective, as has  
3 been detailed in the portion of the title opinion that I  
4 sent both parties with my well proposal.

5 In essence, in a nutshell, what happened was, on  
6 the granting language of the assignment, it would be  
7 apparent that they were simply trying to convey overrides,  
8 net profits, et cetera. But when you get to the Exhibit A  
9 that describes this property, at the heading of Exhibit A  
10 it says the tor wells and all of assignor's right, title  
11 and interest into the following leases.

12 That created a situation where we didn't know who  
13 owned what. We put both parties on notice that we would  
14 like to acquire a term assignment or have them join a well,  
15 but the true owner had to stand up and be recognized.

16 I couldn't get Enerlex to respond to my proposal  
17 after -- I originally spoke to Enerlex purely in terms of a  
18 term assignment, the first time I spoke to the president of  
19 the company. After that he would not return phone calls,  
20 therefore I didn't really know what his position was on  
21 this ownership.

22 Castle Royalties takes the position that they  
23 only bought overrides, and because of their corporate  
24 structure and the by-laws, they are precluded from owning  
25 working interest and cannot deal with any working interest.

1 So they couldn't give me a term assignment if I wanted one.

2 Enerlex does claim it, but they've got to work  
3 out their differences.

4 So that's why we've named both parties and named  
5 both in our well proposal to them.

6 Q. And does Exhibit 3 contain copies of your  
7 proposal letter and other correspondence with the parties?

8 A. It does, it does. It contains not only the well  
9 proposal, but again Mr. Snead at Enerlex agreed to terms  
10 under a term assignment that we would gladly live with, if  
11 he could resolve his title problem, and I -- because I told  
12 him, we would -- we will gladly move forward upon him  
13 providing the curative stated in the title opinion to which  
14 I gave him a copy.

15 Q. And a portion of the Stubbeman McRae title  
16 opinion detailing this title defect is attached to the  
17 letter?

18 A. That's correct.

19 Q. And then the top of Exhibit 3 is a subsequent  
20 letter to Enerlex regarding a term assignment?

21 A. It reflects the fact that we will gladly  
22 recognize the terms we've agreed to upon him resolving his  
23 title problem, but we can't do anything until they resolve  
24 their issue.

25 Q. In your opinion, has Mewbourne made a good faith

1 effort to obtain the voluntary joinder of the interest  
2 owners in the well?

3 A. I do.

4 Q. Would you identify Exhibit 4 and discuss the cost  
5 of this proposed well?

6 A. Exhibit 4 is our AFE for the well. It's for a  
7 10,850-foot Bone Spring test, dryhole cost of \$1,225,900  
8 and completed well cost of \$1,945,600.

9 Q. And is this cost in line with the cost of other  
10 wells drilled to this depth in this area of Lea County?

11 A. It is.

12 Q. Do you request that Mewbourne be appointed the  
13 operator of the well?

14 A. We do.

15 Q. Do you have a recommendation for the amounts  
16 which Mewbourne should be paid for supervision and  
17 administrative expenses?

18 A. We do, \$6000 drilling and \$600 a month producing  
19 rates.

20 Q. And are these costs in line with the rates  
21 normally charged by Mewbourne and other operators for wells  
22 of this depth in this area of New Mexico?

23 A. They are.

24 Q. Do you request that the overhead rates be  
25 periodically adjusted, as provided by the COPAS accounting

1 procedure?

2 A. I do.

3 Q. Does Mewbourne request the maximum cost-plus-200-  
4 percent risk charge if an interest owner nonconsents the  
5 well?

6 A. Yes, I do.

7 Q. And if you do come to terms with Enerlex or  
8 whomever owns the interest, will you subsequently notify  
9 the Division?

10 A. Absolutely, we'll dismiss the case.

11 Q. Were the parties being pooled notified of the  
12 hearing?

13 A. Yes, they were.

14 Q. And is that reflected in the affidavit of notice  
15 submitted as Exhibit 5?

16 A. It was.

17 Q. Were Exhibits 1 through 5 prepared by you or  
18 under your supervision, or compiled from company business  
19 records?

20 A. Yes.

21 Q. And in your opinion is the granting of this  
22 Application in the interests of conservation and the  
23 prevention of waste?

24 A. I do.

25 MR. BRUCE: Mr. Examiner, I'd move the admission

1 of Mewbourne's Exhibits 1 through 5.

2 EXAMINER BROOKS: 1 through 5 are admitted.

3 MR. BRUCE: I have no further questions of the  
4 witness.

5 EXAMINATION

6 BY EXAMINER BROOKS:

7 Q. Are the well name and the footages correctly  
8 reflected on Exhibit 4?

9 A. They are. That is the approved location, and we  
10 have an APD for that well.

11 Q. Now this is a 40-acre unit?

12 A. It is.

13 Q. Standard?

14 A. Yes.

15 Q. And you said all depths except the Queen?

16 A. Correct. The unitized Queen interval is owned  
17 by, I believe, SDX.

18 Q. And you are drilling to the Bone -- your  
19 objective --

20 A. Correct.

21 Q. -- is the Bone Springs --

22 A. Correct.

23 Q. -- so we would be unitizing from surface to the  
24 base of the Bone Springs?

25 A. Less the Queen, correct.

1 Q. Except for the Queen?

2 A. Correct.

3 EXAMINER BROOKS: I think that is all the  
4 information I need.

5 If there's nothing further, Case Number 14,030  
6 will be taken under advisement.

7 (Thereupon, these proceedings were concluded at  
8 11:54 a.m.)

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the final hearing of Case No. 14030  
heard by me on 11-29-07  
*David K. Brooks*, 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 February 27th, 2008.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2010