

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: )  
 ) CASE NO. 13,132  
APPLICATION OF DEVON ENERGY PRODUCTION )  
COMPANY, L.P., FOR COMPULSORY POOLING, )  
EDDY COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

RECEIVED

BEFORE: DAVID R. CATANACH, Hearing Examiner

DEC 4 2003

November 20th, 2003

Santa Fe, New Mexico

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, November 20th, 2003, 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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November 20th, 2003  
Examiner Hearing  
CASE NO. 13,132

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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   8:20 a.m.:

3           EXAMINER CATANACH: And we'll go a little bit out  
4   of order this morning. The Mewbourne case will be heard  
5   later on this morning.

6           First case we'll hear this morning is Case  
7   13,132, which is the Application of Devon Energy Production  
8   Company, L.P., for compulsory pooling, Eddy County, New  
9   Mexico.

10          Call for appearances in this case.

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

13          EXAMINER CATANACH: Any additional appearances?

14          Okay, will the witnesses please stand to be sworn  
15   in?

16          (Thereupon, the witnesses were sworn.)

17                         KEN GRAY,  
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. BRUCE:

22           Q.    Would you please state your name and city of  
23   residence for the record?

24           A.    My name is Ken Gray, and I live in Oklahoma City,  
25   Oklahoma.

1 Q. Who do you work for and in what capacity?

2 A. I work for Devon Energy Production Company as a  
3 landman.

4 Q. Have you previously testified before the  
5 Division?

6 A. Yes, I have.

7 Q. And were your credentials as an expert landman  
8 accepted as a matter of record?

9 A. They were.

10 Q. And are you familiar with the land matters  
11 involved in this Application?

12 A. Yes, I am.

13 MR. BRUCE: Mr. Examiner, I tender Mr. Gray as an  
14 expert petroleum landman.

15 EXAMINER CATANACH: Mr. Gray is so qualified.

16 Q. (By Mr. Bruce) Mr. Gray, could you identify  
17 Exhibit 1 and describe for the Examiner what acreage you  
18 seek to pool?

19 A. Exhibit 1 is basically just an 8-1/2-by-11 copy  
20 of the Midland Map Company land plat, and the east half of  
21 Section 6, Township 23 South, Range 27 East, is highlighted  
22 as the spacing unit for which we are seeking pooling.

23 Q. What formation do you seek to pool?

24 A. Only the Morrow formation.

25 Q. Okay. And what is the well's proposed location?

1           A.    The proposed location is 1330 feet from the north  
2 line and 1330 feet from the east line of Section 6.

3           Q.    Referring to Exhibit 2, could you describe the  
4 ownership in the Morrow formation?

5           A.    Well, this is a cartoonish depiction of a  
6 wellbore. The top of the wellbore is what we've determined  
7 to be the top of the Morrow formation at 11,366 feet, with  
8 the base being 11,883 feet.

9           Q.    Now, those -- You have a geologist who can  
10 testify about those depths, do you not?

11          A.    Yes, we do.

12          Q.    Okay, go ahead.

13          A.    And as you can see, the ownership from what we  
14 are calling Zone A, represented in the red print, is --  
15 we've set the ownership out on the left side of the  
16 wellbore. That particular zone represents 76.4 percent of  
17 the total Morrow interval as we see it.

18                   In black is the ownership within a five-foot  
19 interval from 11,761 feet to 11,766 feet, and the ownership  
20 there is different from the previous ownership.

21                   And then last but not least, we have the  
22 ownership below 11,766 feet, which is Zone C, representing  
23 22.6 percent of the Morrow interval. And again, the  
24 ownership there is different. Some of the owners are the  
25 same, but hardly ever are the percentages the same.

1           And finally, going down the middle of the  
2 wellbore is a little arrow that indicates that there is an  
3 existing joint operating agreement that covers all depths  
4 down to 11,766 feet, but not below.

5           Q.    Okay, so a portion of the Morrow is not subject  
6 to a JOA?

7           A.    That's correct.

8           Q.    What does Devon request in this case?

9           A.    Well, in addition to pooling the interests below  
10 11,766 feet, which we've not made formal agreements with,  
11 we're requesting two other things, that being that the  
12 Commission order the equitable sharing of any production  
13 that we may find within the Morrow interval, based on these  
14 percentages on this wellbore schematic, being Zone A, Zone  
15 B and Zone C.

16                   And secondly, we're asking the Commission to name  
17 Devon as the operator as to the Morrow formation.

18           Q.    Referring to Exhibit 3, how do you propose to  
19 allocate costs and production among the working interest  
20 owners?

21           A.    Well, Exhibit 3 is a spreadsheet based on the  
22 ownership on Exhibit 2, and we would propose that Zone A --  
23 the owners within Zone A would share equitably in any  
24 completion within the Morrow interval based on their  
25 ownership within that Zone A, times the factor of 76.402321

1 percent.

2 Likewise for the 5-foot zone from 11,761, and  
3 then the Zone C below 11,766.

4 Q. Okay.

5 A. And those -- the blended -- or the equitable  
6 numbers are calculated here on the spreadsheet, as well as  
7 for the overriding royalty interest owners.

8 Q. Now, the royalty interests are not listed on  
9 that. There is no depth severance in the Morrow formation  
10 as to royalty owners?

11 A. No.

12 Q. Okay. Now, regarding this proposal, you're just  
13 simply using the thickness of the various Morrow zones.  
14 Why do you use this proposal rather than, say, drilling the  
15 well and looking at where the well is perforated?

16 A. It would seem to me that it would be simpler --  
17 not knowing where we were going to complete in the Morrow,  
18 whether it's going to be below 11,766 or above, it just  
19 seems simpler to calculate the equitable share prior to  
20 drilling the well. Then there's no argument about where  
21 you're completed and who owns what at that interval.

22 MR. BRUCE: Okay. Mr. Examiner, if I can address  
23 that issue too, I'd note that the force-pooling statute,  
24 when it comes to just surface acreage, allocates production  
25 on an acreage basis, regardless of whether or not a

1 particular tract may be productive or contribute as much to  
2 the well as a different tract, and so I would use that as  
3 an analogy also.

4 Q. (By Mr. Bruce) Now, we'll do the notice  
5 affidavit letter, but were all of these interest owners on  
6 your Exhibit 2 or 3 notified of this hearing?

7 A. Yes, they were.

8 Q. Even the parties -- There are some parties who  
9 only own an interest under the JOA depths, are there not?

10 A. Correct.

11 Q. And you did notify them for purposes of the  
12 allocation of production?

13 A. Right.

14 Q. So that they would be subject to the allocation  
15 of production under any order that the Division may issue?

16 A. Right.

17 Q. Before we get to your contacts with the working  
18 interest owners, what is Exhibit 4, Mr. Gray?

19 A. Exhibit 4 is a letter dated April 11th, 2002 --  
20 I'm sorry, that's my letter

21 Q. The second page.

22 A. Second page. March 15th, 2002, is a demand  
23 letter from the mineral owners in -- or at least some of  
24 the mineral owners in the northeast quarter of Section 6.  
25 Basically it's a demand letter to drill a well on their

1 lease or on lands that incorporate their lease, based on  
2 drainage from an offset well in Section 5 that our friends  
3 from Mewbourne had drilled not too long prior to that.

4 At that point in time, we had not elected to  
5 participate in a well. This was -- I think Chaparral had  
6 proposed a well shortly prior to that. They were the  
7 operators, supposedly, at the time, and I assumed that they  
8 owned an interest in the Morrow at that time. We actually  
9 elected to nonconsent that proposal in March of 2002, and I  
10 subsequently responded to the mineral owners in my April  
11 11th letter.

12 Q. Okay, but there is that outstanding demand that  
13 the are requesting someone to drill a well on their  
14 acreage?

15 A. Yes.

16 Q. Okay. Now, you mentioned Chaparral. Do they own  
17 a working interest in the Morrow formation?

18 A. No, Chaparral, although they're named -- they're  
19 the successor operator under the operating agreement, they  
20 own no interest in any zone, except for the Strawn  
21 formation.

22 Q. Okay.

23 A. They do own a royalty interest, but not working  
24 interest.

25 Q. Could you describe what Exhibit 5 is?

1           A.    Yeah, Exhibit 5 is a series of letters beginning  
2           on October 24th, and these letters are following up to a  
3           number of conversations we've had with Chaparral, not only  
4           on the drilling of the well but concerning operations of  
5           the well since we do have the issue of the existing joint  
6           operating agreement.

7                     But Exhibit 5 is just a series of letters,  
8           beginning on October 24th, where I advised them that --  
9           which they knew already, that we intended to drill the  
10          well. And even though they were the operator, technically,  
11          down to a certain point in the Morrow formation, that they  
12          owned no interest in the Morrow, and that we requested them  
13          just to waive any rights that they would have under the  
14          existing operating agreement as to the Morrow and allow us  
15          to operate.

16                    The November 13th letter from Chaparral kind of  
17          gives you four or five things, conditions under which they  
18          thought they could see their way clear to let us operate.

19                    And then my letter of November 14th responding to  
20          their letter.

21                    And we've had one more conversation with them  
22          since then, as of, I think, a couple of days ago. But  
23          nothing's been resolved as between us.

24                    Q.    Now, Chaparral does not own an interest in the  
25          Morrow, correct?

1 A. Correct.

2 Q. And Devon does own an interest in the lower zone,  
3 which was not subject to a JOA?

4 A. That's right.

5 Q. So you do have the right to drill to the base of  
6 the Morrow?

7 A. And presumably have the right to operate those  
8 lower zones too.

9 Q. Okay. Let's move on to your contacts with the  
10 interest owners who do own an interest in the Morrow, and  
11 we'll go through these quickly, but Exhibits 6 through 9  
12 are various letters. Could you just go briefly through  
13 each one of those with the Examiner and tell Mr. Catanach  
14 the status of those negotiations and -- and a couple of  
15 things, Mr. Gray.

16 For instance, the first letter is to Shell  
17 Offshore. They don't show up in your Exhibit 2. Would you  
18 go into that a little bit?

19 A. Yeah, Shell Offshore Ventures appears to be the  
20 successor to Mabee Petroleum Corporation. Mabee Petroleum  
21 Corporation is the record owner of an interest in some of  
22 these zones. But as a practical matter, they were either  
23 acquired or merged with Shell Onshore [sic] Ventures at  
24 some point, and the address for Mabee Petroleum Corporation  
25 is on file with the Texas Secretary of State at this

1 address with Shell, so we assumed that Shell was the  
2 successor, and that's the reason for this letter.

3 I think subsequent to this letter, Shell has been  
4 in touch with Mr. Bruce and advised him that they didn't  
5 think they owned anything, that they had either sold it to  
6 -- Citation, I think they said. But I'm not sure that they  
7 really know where it went.

8 But this was just kind of a curative matter, this  
9 proposal to them, just in case they did own something.

10 Q. So they own an interest of record, but Citation  
11 or someone else claims the interest?

12 A. They are the successor to Mabee, who owns an  
13 interest of record.

14 Q. Okay. And then the second letter is to Magnum  
15 Hunter.

16 A. Yeah, Exhibit 7 is a series of letters, starting  
17 June 20th, which is our initial proposal letter. Follow-up  
18 letter on July 24th indicating we hadn't received a  
19 response from them to our proposal of June 20th. And then  
20 an October 21st letter to them, basically advised them that  
21 we were going to seek to pool, ask for the allocation  
22 within the Morrow interval and name us as operator.

23 And these are only three letters. We've had  
24 numerous conversations with Magnum Hunter over the last few  
25 months, as late as out in the hall just a minute ago. So

1 we verbally have agreed on a number of things, we just  
2 don't have it in writing yet. So that's the reason for  
3 their naming them here.

4 Q. Okay. Exhibit 8, Citation. Citation owns an  
5 interest only in the JOA acreage, do they not?

6 A. That's correct.

7 Q. So you would not seek to force pool their  
8 interest, but you would seek to make them subject to any  
9 cost and production allocation under the Order?

10 A. That's right. And again, these are a series of  
11 letters that -- starting in June and up through late  
12 October. Again, we've had numerous conversations with  
13 Citation as to what their decision is going to be, whether  
14 to be nonconsent or farm out. So we're to that point with  
15 them as well. They will not participate.

16 Q. And then finally, Wainoco Oil and Gas. What is  
17 the status with them?

18 A. Wainoco, I've had one -- Other than this letter,  
19 I've had one telephone conversation with Wainoco. Wainoco  
20 advised me at that point that they had sold to another  
21 party who in turn had sold to Magnum Hunter, and they were  
22 claiming no interest but they still are a record owner. So  
23 I presume our friends at Magnum Hunter will end up with  
24 this interest. But we named them just for -- just because  
25 they are a record owner.

1 Q. Okay. And when you were -- Just as an aside,  
2 these are only the letters to the parties who you have not  
3 yet received an agreement from?

4 A. Right.

5 Q. There were numerous other letters from various  
6 other parties listed on Exhibits 2 and 3?

7 A. Correct.

8 Q. Okay. Including the overriding royalty owners;  
9 is that correct?

10 A. That's correct.

11 Q. Okay. In your opinion, has Devon made a good-  
12 faith effort to obtain the voluntary joinder of the parties  
13 in this well and in this particular cost and allocation  
14 proposal?

15 A. Yes, we have.

16 Q. Would you identify Exhibit 10 and discuss the  
17 well cost for the Examiner?

18 A. 10 is an authorization for expenditure dated June  
19 23rd, 2003, prepared by our engineering staff. It  
20 indicates a dryhole cost of \$863,000 with a completed well  
21 cost of \$1,457,490.

22 Q. And is this cost in line with the cost of other  
23 wells drilled to this depth in this area of Eddy County?

24 A. We believe it is.

25 Q. And again, Devon does request that it be

1 designated operator of the well?

2 A. That's correct.

3 Q. Do you have a recommendation for the amounts  
4 which Devon should be paid for supervision and  
5 administrative expenses?

6 A. We would recommend drilling well rates of \$6000  
7 with -- I'm sorry -- yeah, \$6000. And \$600 a month for a  
8 producing well.

9 Q. And are these amounts equivalent to those  
10 normally charged by Devon and other operators in this area?

11 A. We believe they are.

12 Q. And do you request that these rates be adjusted  
13 periodically as provided by the COPAS accounting procedure  
14 as to the nonconsenting parties?

15 A. Yes.

16 Q. And does Devon request the maximum cost-plus-200-  
17 percent risk charge?

18 A. Yes, we do.

19 Q. Finally, were all interest owners notified of  
20 this hearing?

21 A. All interest owners with whom we hadn't already  
22 made a deal, yes.

23 Q. Okay.

24 A. Which brings us to dismissals.

25 Q. Okay. Now, Mr. Gray, if you look at Exhibit 11,

1 which is the notice affidavit, attached as Exhibit A to the  
2 notice letter are a number of names. Which parties who  
3 were notified on this list do you not seek any relief  
4 against?

5 A. We would seek to dismiss AYCO Energy, L.L.C.;  
6 Bright Hawk/Burkard Venture; Exxon Mobil; Richard D. Steed;  
7 and Wallace H. Scott, Jr.

8 Q. And were Exhibits 1 through 11 prepared by you or  
9 under your supervision, or compiled from company business  
10 records?

11 A. Yes.

12 Q. And in your opinion is the granting of Devon's  
13 Application in the interests of conservation and the  
14 prevention of waste?

15 A. Yes, it is.

16 Q. One final question. Has it been -- This demand  
17 letter was what, a year, a year and a half ago?

18 A. Uh-huh.

19 Q. Has it been difficult getting an agreement among  
20 everyone, apparently over the years, to get a well drilled?

21 A. Well, you can ask our friends at Mewbourne and  
22 some other companies that have tried to put this thing  
23 together before, and for obvious reasons there's not ever  
24 been a -- or not lately, anyway, been a well drilled in the  
25 -- to the Morrow in the north half of this section. So



1 with them, or the Commission has to order it that way.  
2 Chaparral has tried to put this thing together themselves  
3 with no luck, Mewbourne has tried to do it with no luck.

4 You know, I guess it's conceivable that if we  
5 can't agree on who's going to operate, a well doesn't get  
6 drilled. And then we have these mineral owners who, you  
7 know, aren't protected.

8 I don't know if it's necessary. I think it needs  
9 to be done. I mean, you know, in my mind the joint  
10 operating agreement is exactly what it says, and that would  
11 be that everybody shares and is affected by the joint  
12 operations and shares the costs, the revenues and all the  
13 benefits. And in this case that's not going to happen if  
14 they are the operator. They have no economic or financial  
15 interest in the well. And I can't imagine why they would  
16 want to operate.

17 And I don't know that they want to. We just  
18 haven't agreed otherwise. So I don't think the operating  
19 agreement was entered into, I don't think it was  
20 contemplated by the interest owners that anybody would ever  
21 operate that didn't own an interest, an economic interest,  
22 in the well. And I know that occurs all the time nowadays.  
23 I don't know that anybody would intentionally enter into an  
24 agreement that way.

25 And those are legal issues that you and I

1 probably aren't going to settle, but that's kind of the way  
2 we see it, just as a practical matter.

3 Q. So at this point, do you believe that you're  
4 going to reach an agreement with Chaparral?

5 A. Yeah, probably. But as of today we have not.

6 Q. Okay.

7 A. I mean, you can see some of their criteria for  
8 what -- under which they would agree to let us operate, and  
9 some of those just -- we're not going to do some of those  
10 things.

11 Q. Okay. So the interests that you're pooling below  
12 a depth of 11,766 are at this point -- Magnum Hunter; is  
13 that right?

14 A. I think Wainoco.

15 Q. Just those two?

16 A. Yeah, and as I said -- as I testified before, the  
17 people claim they sold it to AYCO and Burkard who are named  
18 on here, and since dismissed, and those two entities have  
19 since sold all their interests to Magnum Hunter.

20 So our friends at Magnum Hunter, when they join  
21 in this well, will have some cleanup work to do with their  
22 title.

23 Q. And you anticipate Magnum Hunter joining them?

24 A. I anticipate they will.

25 Q. But insofar as the interests that you're trying

1 to pool, these are the interest owners of record that you  
2 found, right?

3 A. Right.

4 Q. So any transactions that have occurred that have  
5 not been recorded, that's --

6 A. Yeah.

7 Q. Okay. With regards to the other interest owners  
8 above the pooled interval --

9 A. Above 11,766?

10 Q. Yeah.

11 A. Uh-huh.

12 Q. -- now, you've discussed your proposal with some  
13 of those interest owners?

14 A. Absolutely, we've proposed the well to everyone  
15 in the Morrow formation, and we have -- But those people  
16 aren't subject to -- are not necessarily subject to the  
17 pooling --

18 Q. Right, they're --

19 A. -- they're subject to the operating agreement.  
20 And whatever their election is under that operating  
21 agreement will be, you know, covered by that operating  
22 agreement, in terms of nonconsent.

23 Q. My question, where I'm heading, is, have any of  
24 these interest owners expressed any concern over the way  
25 that you intend to allocate costs or production from the

1 well?

2 A. No.

3 Q. Has anyone, including any of the pooled interest  
4 owners, expressed any concern about that?

5 A. No.

6 Q. And you believe it's a fair and equitable way to  
7 allocate costs and production?

8 A. Well, you know, you can play with the numbers as  
9 far as the top of the Morrow and the bottom of the Morrow,  
10 but our geological witness will explain how he came up with  
11 that and the fact that he has discussed it with the Artesia  
12 OCD, and they generally agree. I mean, it could be, you  
13 know, any set of numbers, but I think the percentages would  
14 still probably work out the same.

15 No, nobody's argued with the allocation, and I  
16 think the one and only reason is that they realize without  
17 this allocation the well won't get drilled, it can't be  
18 drilled. And we've had a number of people actually sign  
19 the agreement. That's why we dismissed some of these  
20 people.

21 MR. BRUCE: Mr. Examiner, I don't think he  
22 testified about it, but they do have a written agreement  
23 that Mr. Gray proposed as far as the costs and production  
24 allocation, which a number of people have signed.

25 EXAMINER CATANACH: Oh, there is a separate

1 document --

2 MR. BRUCE: For the ones who have agreed to it  
3 voluntarily.

4 THE WITNESS: Everyone has been supplied with  
5 this allocation agreement, and I'll be glad to submit it  
6 with all this other paperwork or incorporate the language  
7 into the Order, whatever, but -- yeah, yeah --

8 EXAMINER CATANACH: If you could submit copies of  
9 those executed agreements, that would probably help.

10 Q. (By Examiner Catanach) Okay. Now, with regards  
11 to the Citation, you don't have them shown as being an  
12 owner of record, right?

13 A. No, I do. Not below -- Well, yeah.

14 Q. In the pooled interval you show them with zero  
15 percent.

16 A. Oh, below 11,766?

17 Q. Right.

18 A. Right, they don't own anything below that.

19 Q. Okay.

20 A. And I might clarify that. We're not pooling  
21 Citation for the purposes of pooling the deeper Morrow  
22 interval, we're naming them strictly for the allocation  
23 part.

24 Q. Okay. So at this point it's just, again, Magnum  
25 Hunter and Wainoco?

1 A. Right.

2 Q. Who may have sold their interest to Magnum  
3 Hunter?

4 A. Right.

5 EXAMINER CATANACH: Okay, I think that's all I  
6 have of this witness, Mr. Bruce.

7 MR. BRUCE: We just have some brief geologic  
8 testimony, Mr. Examiner.

9 CURT D. MCKINNEY,  
10 the witness herein, after having been first duly sworn upon  
11 his oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BRUCE:

14 Q. Will you please state your name and city of  
15 residence?

16 A. My name is Curt McKinney, and I live in Edmond,  
17 Oklahoma.

18 Q. Who do you work for?

19 A. Devon Energy Corporation.

20 Q. And what is your job with Devon?

21 A. I'm a petroleum geologist.

22 Q. Have you previously testified before the  
23 Division?

24 A. I have.

25 Q. And were your credentials as an expert geologist

1 accepted as a matter of record?

2 A. Yes, they were.

3 Q. And are you familiar with the geology involved in  
4 this particular Application?

5 A. Yes, I am.

6 MR. BRUCE: Mr. Examiner, I'd tender Mr. McKinney  
7 as an expert petroleum geologist.

8 EXAMINER CATANACH: Mr. McKinney is so qualified.

9 Q. (By Mr. Bruce) Mr. McKinney, could you refer to  
10 your Exhibit 12, the cross-section, and describe how you  
11 came up with the tops and bottoms that were on Mr. Gray's  
12 Exhibit 2?

13 A. This is a five-well cross-section, the fifth well  
14 being our proposed location, in the middle of the exhibit.  
15 It runs from west to east across Section 6 and into the  
16 west half of Section 5.

17 What I've labeled on here -- These are all the --  
18 generally the available porosity logs from these  
19 representative wells, with the scales shown generally at  
20 the base of the log to identify the type of log. They're  
21 either density neutron logs or sonic logs.

22 The top of the Morrow, for the purpose of the  
23 allocation formula, is identified on this cross-section  
24 labeled "top of Morrow clastics". It's this red line near  
25 the top of the cross-section, and it's generally

1 immediately beneath this unit that has a low gamma-ray  
2 reading and a generally low porosity reading. It's a  
3 carbonate in the Morrow formation. And beneath that is  
4 when you start to get into the sandstone-bearing portion of  
5 the Morrow. That's where your gas pays are.

6 And I discussed this pick as the top of the  
7 Morrow clastics with Bryan Arrant, with the OCD in Artesia,  
8 and discussed these very wells with him. And he found that  
9 reasonably acceptable as the top of the Morrow clastics.

10 Q. Okay. So that established the footages or the  
11 depths used in the allocation of production.

12 Now the second issue is, do both the middle  
13 Morrow, which is subject to the JOA, and the lower Morrow,  
14 appear to be potentially productive in the area of the  
15 proposed well?

16 A. Yes, they do.

17 Q. And could you identify your Exhibit 13 and  
18 discuss that issue for the Examiner?

19 A. Exhibit 13 is a map of the area, again centered  
20 around Section 6 where we want to drill in the east half.

21 MR. BRUCE: That's Exhibit 12, that's probably a  
22 duplicate copy, Mr. Examiner.

23 THE WITNESS: That's it, right there.

24 All right, this is a nine-section plat  
25 surrounding Section 6 where in the Joell Number 2, the

1 location under question, is prominently labeled in the  
2 middle. We're in 23 South, 27 East. It's a 1-to-2000  
3 scale, and you can readily see each section is labeled, so  
4 there's your sort of eyeball estimate of scale and  
5 distances, et cetera.

6 The Morrow wells are identified by the red dots.  
7 These are bubble symbols to indicate relatively production  
8 from the Morrow. Each producing well is labeled as to the  
9 cumulative production in BCF, is the bold kind of a purple  
10 color, usually a single digit with one number after the  
11 decimal point.

12 For instance -- oh, let's just use an example.  
13 Let's look at Section 5. In the northwest quarter there's  
14 a well. Above the well symbol is labeled "Ryan". That's  
15 the well name. The well number is to the right of the  
16 symbol. That's the Ryan Number 1. The TD of the well is  
17 11,915 feet. That's labeled immediately above the well  
18 symbol.

19 To the lower right of the well symbol there's a  
20 number 2.2 in green. That represents the cumulative  
21 production of oil from that well. And then below that  
22 there's a number in kind of a purplish, darker color,  
23 slightly larger font. It says 3.6. That's the cumulative  
24 production from the Morrow in BCF. And then beneath that  
25 is a bold, black number. It says minus 8552. That's the

1 top of the lower Morrow in that wellbore. So that's  
2 generally how all the wells are labeled.

3 Then you also see, superimposed on that red  
4 bubble there's a -- half the symbol is colored in blue and  
5 half is colored in green. The blue refers -- Looking at  
6 the legend, the blue would indicate that that well was  
7 productive from the middle Morrow. The green would  
8 indicate that it's also productive from the lower Morrow.  
9 And that scheme follows across the plat.

10 Other things to notice, there are light gray  
11 contours that generally strike northeast-southwest. Those  
12 are contours that represent the subsea structure on the top  
13 of the lower Morrow. It's a good time-stratigraphic marker  
14 and a good representation of what the actual structure is  
15 in this area, so you can get a relative feel for updip and  
16 downdip from one well to the next.

17 To address your question, you can see that  
18 there's more or less an arc of production to the southeast  
19 and to the northeast of our proposed location where the  
20 lower Morrow is productive, represented by those green half  
21 circles. In addition, you'll notice that surrounding the  
22 location are the blue half circles from many of the wells,  
23 indicating that the middle Morrow produces in virtually  
24 every direction from our proposed location.

25 Q. (By Mr. Bruce) So as a geologist, you would also

1 want to test the lower Morrow because it appears to be  
2 potentially productive?

3 A. Yes.

4 Q. You would not just want to drill to the JOA depth  
5 and stop right there?

6 A. No, I -- that -- no, I do -- that's correct.

7 Q. Were Exhibits 12 and 13 prepared by you?

8 A. Yes.

9 Q. And in your opinion is the granting of Devon's  
10 Application in the interests of conservation and the  
11 prevention of waste?

12 A. Yes.

13 MR. BRUCE: Mr. Examiner, I'd move the admission  
14 of Devon Exhibits 12 and 13.

15 EXAMINER CATANACH: Exhibits 12 and 13 will be  
16 admitted.

17 EXAMINATION

18 BY EXAMINER CATANACH:

19 Q. Mr. McKinney, is it possible that the lower  
20 Morrow will not be productive in the Joell?

21 A. Certainly, yes.

22 Q. In that instance, though, pursuant to your  
23 agreement, production will still be shared, even if the  
24 well doesn't produce from that lower interval?

25 A. That's correct.

1 Q. That's your understanding?

2 Like you said, it looks like everything to the  
3 southeast there is kind of potentially productive in the  
4 lower interval, and as you go north and west it -- are  
5 those wells not productive in the middle Morrow?

6 A. That's correct, that's correct.

7 Q. So is your well kind of on the edge of potential  
8 production there?

9 A. That's -- Yes, that's possible. It's possible  
10 that the reservoir quality will just diminish there and we  
11 won't be able to make a well in the lower Morrow. There  
12 are several sands within the lower Morrow sequence,  
13 individual sands, that may or may not be productive, so  
14 that's part of the risk of drilling a well, and that's what  
15 we're prepared -- that's a risk we're prepared to take, is  
16 to enter into this allocation formula and see what we can  
17 find.

18 Q. From the data that you've looked at, are the  
19 sands in the lower Morrow comparable productionwise to the  
20 sands in the middle Morrow?

21 A. Yes.

22 Q. The well in the cross-section just to the left of  
23 your proposed well, that well wasn't drilled deep enough to  
24 penetrate that lower interval?

25 A. Can you locate that again for me?

1 Q. On your cross-section you've got your proposed  
2 Joell Number 2 in the middle, and --

3 A. Oh, yes, yeah.

4 Q. -- just to the left of that?

5 A. Yes, that's correct. Actually, that's sort of  
6 the culprit, that well that ended up putting this depth of  
7 766 feet [sic] onto that JOA, because they just drilled it  
8 into the middle Morrow and stopped, so -- I think if they'd  
9 drilled all the way down, we probably wouldn't be here  
10 right now.

11 Q. I see. So is the -- This would be the second  
12 well on this unit; is that correct?

13 A. For the Morrow?

14 Q. Yeah.

15 A. Yes, yes.

16 Q. So the well in the southeast quarter is producing  
17 at this time?

18 A. No, it's plugged.

19 Q. Oh, it's plugged, okay.

20 A. Yes.

21 Q. That is the Morris Antweil?

22 A. Yes, and Missouri NM land, that well is plugged.

23 EXAMINER CATANACH: Okay, P-and-A'd.

24 Okay, I think that's all I have, Mr. Bruce.

25 Anything further?

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MR. BRUCE: Do you want anything further in this case?

EXAMINER CATANACH: Yeah, I want a draft order, I want you to take a shot at that.

MR. BRUCE: Do I have to? I will get you one.

EXAMINER CATANACH: Okay. There being nothing further in this case, Case 13,132 will be taken under advisement.

(Thereupon, these proceedings were concluded at 8:56 a.m.)

\* \* \*

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 13132 heard by me on November 20 2003  
David R. Catant, Examiner  
Oil Conservation Division

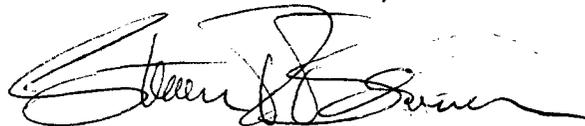
CERTIFICATE OF REPORTER

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 November 24th, 2003.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006