

**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. 12403
ORDER NO. R-11380**

**APPLICATION OF HOME-STAKE OIL & GAS COMPANY FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 4, 2000, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 17th day of May, 2000, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

- (1) Due public notice has been given and the Division has jurisdiction of this case and its subject matter.
- (2) The applicant, Home-Stake Oil & Gas Company ("Home-Stake"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Fusselman formation underlying the NW/4 SE/4 of Section 26, Township 22 South, Range 37 East, NMPM, Lea County, New Mexico, forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools spaced on 40 acres within this vertical extent, including but not limited to the Undesignated East Brunson-McKee Pool, Undesignated South Brunson Drinkard-Abo Pool, and Undesignated South McCormack-Silurian Pool. This unit is to be dedicated to the applicant's proposed Keohane Well No. 1 to be drilled at a standard location within the NW/4 SE/4 of Section 26.
- (3) The applicant has the right to drill and proposes to drill its Keohane Well No. 1 at a standard oil well location within the NW/4 SE/4 of Section 26.
- (4) There are interest owners in the proposed unit that have not agreed to pool their interests.

(5) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within the unit.

(6) Home-Stake should be designated the operator of the subject well and unit.

(7) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

(8) Any non-consenting working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in drilling the well.

(9) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) Following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(11) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,785.00 per month while drilling and \$500.00 per month while producing, provided that this rate should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator should be authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) All proceeds from production from the well that are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) If the operator of the pooled unit fails to commence drilling the well to which the unit is dedicated on or before August 15, 2000, or if all the parties to this forced pooling reach voluntary agreement subsequent to the entry of this order, this order should become of no effect.

(14) The operator of the well and unit should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Home-Stake Oil & Gas Company, all uncommitted mineral interests from the surface to the base of the Fusselman formation underlying the NW/4 SE/4 of Section 26, Township 22 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools spaced on 40 acres within this vertical extent, including but not limited to the Undesignated East Brunson-McKee Pool, Undesignated South Brunson Drinkard-Abo Pool, and Undesignated South McCormack-Silurian Pool. This unit shall be dedicated to the applicant's Keohane Well No. 1 to be drilled at a standard location within the NW/4 SE/4 of Section 26.

(2) The operator of the unit shall commence drilling the proposed well on or before August 15, 2000, and shall thereafter continue drilling the well with due diligence to test the Fusselman formation.

(3) In the event the operator does not commence drilling the well on or before August 15, 2000, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause shown.

(4) Should the well not be drilled to completion or be abandoned within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(5) Home-Stake Oil & Gas Company is hereby designated the operator of the subject well and unit.

(6) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. After the effective date of this order, the operator shall furnish the Division and each known non-consenting working interest owner in the unit an

itemized schedule of estimated well costs.

(7) Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(8) The operator shall furnish the Division and each known non-consenting working interest owner an itemized schedule of actual well costs within 90 days following completion of the well. If no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be the reasonable well costs; provided, however, that if there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(9) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator its share of the amount that estimated well costs exceed reasonable well costs.

(10) The operator is hereby authorized to withhold the following costs and charges from production:

(a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and

(b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

(11) The operator shall distribute the costs and charges withheld from production to the parties who advanced the well costs.

(12) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,785.00 per month while drilling and \$500.00 per month while producing, provided that this rate shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from

production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(13) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order.

(14) Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(15) All proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

(16) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the well and unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(18) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


LORI WROTENBERY
Director

S E A L

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 HOME-STAKE OIL AND)
GAS COMPANY FOR COMPULSORY POOLING,)
LEA COUNTY, NEW MEXICO)

CASE NO. 12,403

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

May 4th, 2000

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, May 4th, 2000, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, 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

May 4th, 2000
Examiner Hearing
CASE NO. 12,403

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* * *

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 3:25 p.m.:

3 EXAMINER CATANACH: At this time I'll call Case
4 12,403, the Application of Home-Stake Oil and Gas Company
5 for compulsory 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 two witnesses in this
9 case.

10 EXAMINER CATANACH: Any additional appearances?
11 Okay, will the witness please stand to be sworn in?

12 (Thereupon, the witnesses were sworn.)

13 BARBARA COURTNEY LONG,

14 the witness herein, after having been first duly sworn upon
15 her oath, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BRUCE:

18 Q. Will you please state your name and city of
19 residence for the record?

20 A. My name is Barbara Courtney Long, I live in
21 Tulsa, Oklahoma.

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

23 A. I work for Home-Stake Oil and Gas Company, I'm a
24 vice president of the land department.

25 Q. Have you previously testified before the

1 Division?

2 A. Yes, I have.

3 Q. And were your credentials as an expert petroleum
4 landman accepted as a matter of record?

5 A. Yes, they were.

6 Q. And are you familiar with the land matters
7 involved in this Application?

8 A. Yes, I am.

9 MR. BRUCE: Mr. Examiner, I'd tender Ms. Long as
10 an expert petroleum landman.

11 EXAMINER CATANACH: She is so qualified.

12 Q. (By Mr. Bruce) What does Home-Stake seek in this
13 case?

14 A. An order pooling the northwest quarter of the
15 southeast quarter of Section 26, 22 South, 37 East, from
16 the surface to the base of the Fusselman formation.

17 Q. And I believe this well is within a mile of the
18 South McCormack-Silurian Pool?

19 A. Yes, it is.

20 Q. What is Exhibit 1?

21 A. Exhibit 1 is a land plat which outlines -- It
22 actually has all of the wells we have completed in this
23 area, as well as our proposed location here called the
24 Keohane Number 1-26, and it shows the ownership that we
25 have in Section 26.

1 Q. Okay. The proposed well will be at an orthodox
2 location within that 40 acres?

3 A. Yes, it will.

4 Q. What is the ownership of the well unit -- or I
5 should say the non- -- What parties do you seek to pool,
6 and what interests do they own? And I'd refer you to
7 Exhibit 2.

8 A. Ms. Alline B. Johnson Jones has a 1/24th or 1.66
9 net acres.

10 Ms. Wilma Voigt, I believe it's pronounced, has a
11 1/216th or .1851 acres.

12 Lee Voigt has the same interest, that was 1/216th
13 or .1851.

14 Mr. Norman Baker has a 1/216th or .1851 net
15 acres.

16 Ms. Olive Johnson has a 1/216th or .1851 acres.

17 Ms. Zollene Knott has 1/216th or .1851 net acres.

18 Ms. Amber Knott has 1/216th or .1851 net acres.

19 Mr. Joe Pierce has 1/216th or .1851 acres.

20 Ms. Pam Voigt has 1/216th or .1851 acres.

21 And Ms. Patricia Towery has 1/216 or .1851.

22 That's a total of 3.32 net acres or 8.33 percent
23 of the unit.

24 Q. These are all unleased mineral interest owners,
25 are they not?

1 A. Yes, they are.

2 Q. Home-Stake has the rest under lease?

3 A. Home-Stake and our partners.

4 Q. Okay. And so these people on Exhibit 2 are the
5 people that you seek to pool in this hearing?

6 A. Yes.

7 Q. Okay. Let's discuss your efforts to obtain the
8 voluntary joinder of these people in the well. What is
9 Exhibit 3?

10 A. Exhibit 3 is my well proposal letter dated
11 February the 11th, 2000.

12 Q. And it contained an AFE and requested them to
13 join in the well?

14 A. Yes, it did.

15 Q. What other contact did you have with these
16 persons?

17 A. I've had two telephone conversations with Mr. Lee
18 Voigt, who is the husband of Wilma Voigt, the son-in-law of
19 Alline B. Johnson Jones and either the father or the
20 grandfather of Zollene Knott, Amber Knott, Joe Pierce, Pam
21 Voigt and Patricia Towery. He's advised me that he speaks
22 for all of them, and he requested that I pool him. He did
23 not choose to lease or participate.

24 Q. Okay. What about Mr. Norman Baker? Have you had
25 any contact with him?

1 A. I have had two conversations with Mr. Baker, and
2 on April 28th he agreed to lease. I express-mailed it to
3 him. But Mr. Baker doesn't have a phone, so I haven't been
4 able to talk to him since he got this. He's called me
5 twice, though.

6 Q. If you subsequently receive a lease from him,
7 will you notify, or shall we notify, the Division so that
8 he is not subject to a pooling order?

9 A. Yes, and I probably should go ahead at this
10 time -- I have not talked to Ms. Olive Johnson, and we have
11 a lease from her that doesn't expire until July 2nd, and we
12 believe now that we'll be able to spud by then. So we
13 should probably dismiss her.

14 Q. Okay. So Ms. Johnson is out, and hopefully Mr.
15 Baker will be out of this pooling?

16 A. Right. He told me -- He agreed to lease. I sent
17 him a check and an oil and gas lease.

18 Q. In your opinion, has Home-Stake made a good faith
19 effort to obtain the voluntary joinder of the interest
20 owners in the well?

21 A. Yes, we have.

22 Q. Would you identify Exhibit 4 for the Examiner and
23 discuss the cost for the proposed well?

24 A. Exhibit 4 is an authorization for expenditure to
25 drill a 7500-foot Brunson test. Our dryhole costs are

1 estimated at \$353,600, with completed well costs of
2 \$590,000.

3 Q. Is this cost in line with the cost of other wells
4 drilled to this depth in this area of New Mexico?

5 A. At this time, yes. It's gone up a little bit, as
6 you might guess.

7 Q. And you've drilled several other wells in this
8 area for roughly the same cost?

9 A. Right, we completed five wells in the area.

10 Q. Okay. Does Home-Stake request that it be
11 designated operator of the well?

12 A. Yes, we do.

13 Q. Do you have a recommendation for the amounts
14 which Home-Stake should be paid for supervision and
15 administrative expenses?

16 A. Yes, I do, \$4785 per month for the drilling well
17 rate and \$500 a month for a producing well rate.

18 Q. And are these amounts equivalent to those
19 normally charged by Home-Stake and other operators in this
20 area for wells of this depth?

21 A. Yes, that's what we're charging for the other
22 Fusselman wells we operate.

23 Q. Okay. Were the nonconsenting interest owners
24 notified of this hearing?

25 A. Yes, they were.

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

2 A. Yes, it is.

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

5 A. Yes, they were.

6 Q. And in your opinion is the granting of Home-
7 Stake's Application in the interests of conservation and
8 the prevention of waste?

9 A. Yes, sir, it is.

10 MR. BRUCE: Mr. Examiner, I'd move the admission
11 of Home-Stake Exhibits 1 through 5.

12 EXAMINER CATANACH: Exhibits 1 through 5 will be
13 admitted as evidence.

14 I have no questions.

15 MR. BRUCE: Call our geologist to the stand.

16 MICHAEL C. EVANS,

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

19 DIRECT EXAMINATION

20 BY MR. BRUCE:

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

22 A. Michael C. Evans.

23 Q. Where do you reside?

24 A. I reside in Tulsa, Oklahoma.

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

1 A. I'm the chief geologist for Home-Stake Oil and
2 Gas Company.

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

5 A. No, I have not.

6 Q. Would you summarize your educational and
7 employment background for the Examiner?

8 A. I graduated from the University of Tulsa in 1983
9 with a bachelor of science in geology. I was employed by
10 KWB Oil Properties Management as a geotech from 1980 to
11 1983, then as a junior geologist from 1983 to 1984. In
12 1984 I went to work for Home-Stake Oil and Gas as a junior
13 geologist. In 1985 I was promoted to senior geologist. In
14 1988 I was made chief geologist.

15 Q. Does your area of responsibility at Home-Stake
16 include the Permian Basin?

17 A. Yes, it does.

18 Q. And are you familiar with the geologic matters
19 involved in this case?

20 A. Yes, sir, I am.

21 MR. BRUCE: Mr. Examiner, I tender Mr. Evans as
22 an expert petroleum geologist.

23 EXAMINER CATANACH: He is so qualified.

24 Q. (By Mr. Bruce) Mr. Evans, would you identify
25 your Exhibit 6 for the Examiner and discuss the Fusselman

1 geology and the issues regarding drilling wells in this
2 area?

3 A. Sure. The exhibit that you have before you is a
4 structure map on a basal unconformity, and it should be
5 noted that the basal unconformity is on top of the
6 Fusselman, whereas the Abo formation rests on top of the
7 Fusselman, and the only place you can make a structural map
8 on the Fusselman is at that point.

9 This structure was taken from a seismic shoot
10 that we did in the last year, in the area, and represents
11 the correct structure and the placement of the faults as
12 indicated by the 3-D seismic.

13 There is only one producing Fusselman well on
14 that plat, and it's the little star indicated as the Home-
15 Stake Shirley Boyd in the northwest-northwest, and that
16 well was just recently completed for around 30 barrels a
17 day of oil and 40 barrels of water out of the Fusselman
18 formation.

19 Notice that it encountered the Fusselman right
20 around -- The contour interval here is 20 feet. It
21 encountered the top of the Fusselman at around 3760, and at
22 that point in the reservoir, it almost becomes questionable
23 whether or not to complete the well. It's going to make a
24 commercial well, but just barely, because of the water
25 encroachment.

1 Q. Based on your geology out here, there is
2 substantial risk involved in drilling this well, is there
3 not?

4 A. Yes, if you're too far downstructure, you have
5 too much water to produce. And if you get too close to
6 where the terminus of the formation is, that is the area
7 where the formation becomes nonexistent and has eroded off.
8 The porosity quickly becomes tight, the interval thins, and
9 then it is gone. So you're playing too close and you're
10 playing too far away. There's a very careful point that
11 you have to be at, to have a commercial well.

12 Q. Okay, I notice on this map that a lot of these
13 wells are relatively old -- really, there wasn't much
14 drilling activity recently until Home-Stoke started
15 drilling; is that correct?

16 A. That's correct. The last well that I know of
17 that was drilled was 1974. It was a Drinkard test in the
18 southeast quarter of 26.

19 Q. In your opinion, what penalty should be assessed
20 against any nonconsenting interest owner in this well?

21 A. Cost plus 200 percent.

22 Q. The maximum?

23 A. Correct.

24 Q. Was Exhibit 6 prepared by you or under your
25 direction?

1 A. It was prepared by me.

2 Q. In your opinion, is the granting of Home-Stake's
3 Application in the interests of conservation and the
4 prevention of waste?

5 A. Yes.

6 MR. BRUCE: Mr. Examiner, I move the admission of
7 Home-Stake's Exhibit Number 6.

8 EXAMINER CATANACH: Exhibit Number 6 will be
9 admitted as evidence.

10 EXAMINATION

11 BY EXAMINER CATANACH:

12 Q. Mr. Evans, the well that you've identified is
13 the Shirley Boyd. Is that the only Fusselman penetration
14 in this area?

15 A. In this area, no. In this section, yes. There
16 are a series of Fusselman wells, the newest being our
17 wells, immediately off to the northwest of this section,
18 Section 22. Then on the northwest of that in Section 16,
19 there are a series of wells drilled in the 1980s, early
20 1980s -- late 1970s to early 1980s. Then north of that
21 there are a series of wells drilled in the 1960s.

22 Within six miles there are probably at least a
23 dozen wells, although a good third of them were
24 misidentified as to what they were producing from. It was
25 not easily identifiable in this area, I suppose because of

1 the unconformity. As these operators went in to drill
2 deeper on this huge structural feature that was a major
3 unconformity at the base of the Permian, they just weren't
4 aware of what they were completing from when they hit it.

5 The first well that was readily identifiable as a
6 Silurian was a well called the Gulf McCormack. And of
7 course, now the whole field south of that well has been
8 named the McCormack-Silurian field. That was in 1945.

9 Q. So your proposed well is moving away from the
10 area where these wells have been drilled previously; is
11 that correct?

12 A. Correct. After the Shirley Boyd, it's a half a
13 mile further to the southeast, and the Shirley Boyd is a
14 full mile from the 1980s production. The Shirley Boyd was
15 a stepout from a well that we drilled in Section 22. It's
16 a 40-acre offset, and now we're taking a step a half mile
17 further south.

18 Q. You've got no well control to the southeast here?

19 A. No, sir, all we have is 3-D.

20 Q. Have you used your 3-D to identify where that
21 formation terminates there?

22 A. Yes, that's the only method we had in determining
23 precisely, we hope, where the terminus is. Actually, in
24 Section 22 we thought we had accurately predicted it on a
25 3-D and we missed it by a few hundred feet. We drilled on

1 the wrong side of the terminus and ended up making a
2 Drinkard completion.

3 The problem is, the Fusselman, as it comes up
4 against the basal part of the unconformity, it becomes so
5 thin that it's not exactly clear on the seismic where the
6 end of the formation is within a few hundred feet.

7 And it's not a straight line terminus; it wraps
8 back and forth. And you're happy when you're not cut off,
9 and you're unhappy when you are.

10 EXAMINER CATANACH: Okay, I have nothing further
11 of this witness.

12 MR. BRUCE: I have nothing in this matter, Mr.
13 Examiner.

14 EXAMINER CATANACH: Okay, there being nothing
15 further, Case 12,403 will be taken under advisement.

16 (Thereupon, these proceedings were concluded at
17 3:42 p.m.)

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