

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. 12,780  
)  
APPLICATION OF PRESTON EXPLORATION )  
COMPANY, L.P., FOR COMPULSORY POOLING )  
AND APPROVAL OF A NONSTANDARD OIL )  
SPACING AND PRORATION UNIT, LEA COUNTY, )  
NEW MEXICO )  
\_\_\_\_\_ )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

December 6th, 2001

Santa Fe, New Mexico

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This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, December 6th, 2001, 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

December 6th, 2001  
Examiner Hearing  
CASE NO. 12,780

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\* \* \*

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

## FOR THE APPLICANT:

JAMES G. BRUCE, Attorney at Law  
 324 McKenzie  
 Santa Fe, New Mexico 87501  
 P.O. Box 1056  
 Santa Fe, New Mexico 87504

## ALSO PRESENT:

DAVID R. CATANACH  
 Hearing Examiner  
 New Mexico Oil Conservation Division  
 1220 South Saint Francis Drive  
 Santa Fe, NM 87501

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 11:48 a.m.:

3           EXAMINER BROOKS: We'll call now Case Number  
4 12,780, Application of Preston Exploration Company, L.P.,  
5 for compulsory pooling and approval of a nonstandard oil  
6 spacing and proration unit, Lea County, New Mexico.

7           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
8 representing the Applicant. I have -- I'm asking three  
9 people to be sworn in, although I believe I'll present only  
10 two witnesses.

11           EXAMINER BROOKS: Okay, would the witnesses stand  
12 and identify themselves for the record, please?

13           MR. HORN: My name is Steve Horn, I'm a landman.

14           MR. CRUTHES: I'm Wayne Cruthis, I'm a geologist.

15           MR. BLUE: Bob Blue, I'm a company landman.

16           EXAMINER BROOKS: Please swear the witnesses.

17           (Thereupon, the witnesses were sworn.)

18                       STEVEN W. HORN,

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

21                               DIRECT EXAMINATION

22 BY MR. HORN:

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

24           A.    My name is Steven W. Horn.

25           Q.    Where do you reside?

1 A. Midland, Texas.

2 Q. What is your occupation?

3 A. I'm an independent petroleum landman, and I'm  
4 doing some contract work for Preston Exploration.

5 Q. Okay. Have you previously testified before the  
6 Division as a petroleum landman?

7 A. No, I have not.

8 Q. Would you summarize your employment and  
9 educational background for the Examiner?

10 A. I graduated from Sam Houston State University in  
11 1984 with a bachelor of science in sociology, and while I  
12 was in college I got involved in the oil business in 1982,  
13 and I've been a landman since 1982, independent for most of  
14 that time, and the mid-1990s for about six years I was in-  
15 house landman for Paladin Exploration out of Dallas, Texas.

16 Q. Okay, and you were hired by Preston with respect  
17 to this particular project?

18 A. Yes.

19 Q. And have you personally examined title to the  
20 land involved in this Application?

21 A. Yes.

22 Q. And are you familiar with the land matters  
23 involved in this case?

24 A. Yes.

25 MR. BRUCE: Mr. Examiner, I would tender Mr. Horn

1 as an expert petroleum landman.

2 EXAMINER BROOKS: His credentials are accepted.

3 Q. (By Mr. Bruce) Mr. Horn, could you identify  
4 Exhibit 1 and describe what Preston seeks in this case?

5 A. Exhibit 1 is a land plat highlighting Lot 3 of  
6 Section 4, Township 17 South, Range 38 East, Lea County,  
7 New Mexico, and we seek an order pooling Lot 3 from the  
8 surface to the base of the Strawn formation for all pools  
9 or formations spaced on 40 acres.

10 Q. What is the acreage in this well unit?

11 A. It is 38.08 acres, due to the variation in the  
12 government survey. Therefore, we request approval of a  
13 nonstandard oil spacing and proration unit.

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

15 A. The bottomhole location is 909 feet from the  
16 north line and 2310 feet from the west line. This will be  
17 a deviated hole due to the -- there's a circular irrigation  
18 system on the tract.

19 Q. So the surface is irrigated, and Preston is  
20 working with the surface owner to avoid surface  
21 disturbance?

22 A. Yes.

23 Q. Okay. What is the ownership of the well unit?  
24 And I refer you to your Exhibit 2.

25 A. Exhibit 2, Preston Exploration has currently

1 under lease 83.3542 percent, and we have one mineral owner  
2 that agreed to participate, and they own .962 percent.

3 Q. She is unleased; is that correct?

4 A. She's unleased but has signed an AFE.

5 Q. Okay.

6 A. And the remaining people on the list are unleased  
7 mineral owners in the area that we request a force-pooling  
8 order on.

9 Q. Okay. Have you reached a tentative agreement  
10 with any of these parties?

11 A. Yes, there's -- On Exhibit 2 I have highlighted  
12 the owners that we've actually have agreed to lease, that  
13 we've sent oil and gas leases to; we've just not received  
14 the executed lease back in our possession yet.

15 Q. When you do receive those leases, will Preston  
16 notify the Division that those people are not subject to  
17 the pooling order?

18 A. Yes, those are good and valid leases, and we will  
19 honor them.

20 Q. Okay, let's discuss the efforts made to obtain  
21 the joinder of the people in this well. Without going  
22 through Exhibit 3, since it's pretty lengthy, could you  
23 just first identify what Exhibit 3 is?

24 A. Exhibit 3 is the correspondence that we sent to  
25 all mineral owners in the area.

1 Q. Okay.

2 A. And we first sent a letter -- after we checked  
3 the records, we sent a letter dated March 14th, 2001, to  
4 all mineral owners in the area. And then the way I do it  
5 is, once everybody has a letter in hand I follow up with a  
6 phone call, so when they hear from me they're familiar with  
7 what we're trying to discuss.

8 Q. Okay, so you sent out the letter in March and  
9 then you followed this up with phone calls to all these  
10 people?

11 A. Yes.

12 Q. And so you worked with them what, basically five  
13 or six months, trying to obtain leases from them?

14 A. Yes.

15 Q. And you were successful from Exhibit 2 in leasing  
16 up almost -- oh, over 83 percent of the mineral estate?

17 A. That's correct.

18 Q. When you could not reach leases or achieve the  
19 leasing of the interests, of the remaining interests, what  
20 did you then do?

21 A. We sent everybody a certified letter dated  
22 October 15th, 2001, offering to lease their acreage in the  
23 area at the best rate we had given anybody, and we attached  
24 an AFE to it to give them the option to participate in the  
25 well is they so chose.

1 Q. Okay, and did you follow that up with another  
2 letter?

3 A. Followed it up a week later with a second letter,  
4 certified mail also, with an AFE.

5 Q. Okay. And Exhibit 3, without going through it,  
6 contains letters to all of the people that you were able to  
7 locate; is that correct?

8 A. That's correct.

9 Q. What about -- Looking at Exhibit 2, were there  
10 any interest owners whom you were unable to locate?

11 A. Yes, there was Fernand Renencourt, I was unable  
12 to locate him. He was located in Ontario, Canada, in 1933  
13 and does not appear in the Lea County records anywhere else  
14 after that date. And I could not locate him or find a  
15 phone number on him.

16 Paul Bilbaud was located in Paris, France, 1933,  
17 and I checked the records to see if he had signed any other  
18 deeds or conveyances or oil and gas leases that might give  
19 me more current address, but he bought in 1933 and  
20 disappeared.

21 Q. Okay. Now, when you run into unlocatable people  
22 like this, what is your normal practice in trying to  
23 track --

24 A. The normal practice is, if I have any clue about  
25 a county or state, I usually -- I have a CD set up on my

1 computer that has phone numbers and addresses for people  
2 all over the United States. I usually try that first,  
3 would call information to see if those people are listed in  
4 that area. But the main way you do that is, you go back to  
5 the courthouse and you check the records and you run the  
6 general indexes and you run the miscellaneous files to try  
7 to pick up any hint of those people on any other tracts,  
8 any deeds of trust, search the district court records to  
9 see if they may have died. And also when I'm leasing the  
10 area I usually ask people if they know of these people, if  
11 they have a common chain of title. Sometimes they're  
12 familiar with them and they can give you a little family  
13 history.

14 Q. Okay. So as far as with these two people, it was  
15 complicated by the fact that their last known addresses  
16 were in foreign countries?

17 A. Foreign countries with no really address, just  
18 Paris, France.

19 Q. Okay. In your opinion, has Preston made a good-  
20 faith effort to obtain the voluntary joinder of all of the  
21 mineral interest owners in the well?

22 A. Yes.

23 Q. Would you identify Exhibit 4 and discuss the cost  
24 of the proposed well?

25 A. Let's see, Exhibit 4 is a copy of the AFE for the

1 well. The well's proposed depth is 12,000 feet, and it is  
2 estimated the dryhole cost will be \$1,104,500 and a  
3 completed well cost of \$1,535,900.

4 Q. And is this cost in line with the cost of other  
5 wells drilled to this depth in this part of the state?

6 A. Yes.

7 Q. Who should be designated operator of the well?

8 A. We request Preston Exploration, L.L.C., our  
9 operating arm, be designated operator of the well.

10 Q. Okay. And do you have a recommendation for the  
11 amounts which should be paid for supervision and  
12 administrative expenses?

13 A. Yes, we're requesting \$6833 a month be allowed  
14 for a drilling well and \$671 a month be allowed for a  
15 producing well.

16 Q. And are these amounts equivalent to those  
17 normally charged by operators in this area for wells of  
18 this depth?

19 A. Yes, based on average wells of this depth in Lea  
20 County, New Mexico, as stated in the annual Ernst and Young  
21 fixed rate overhead survey, that's the numbers that we came  
22 up with.

23 Q. Okay. And do you request that this rate be  
24 adjusted periodically as provided by the COPAS accounting  
25 procedure?

1 A. Yes, we do.

2 Q. And were the interest owners who you were able to  
3 locate notified of this hearing?

4 A. Yes.

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

6 A. Yes, it is.

7 Q. Were Exhibits 1 through 5 prepared by you or  
8 under your supervision or compiled from company business  
9 records?

10 A. Yes, sir, they were.

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

14 A. Yes, sir.

15 MR. BRUCE: Mr. Examiner, I'd move the admission  
16 of Preston's Exhibits 1 through 5.

17 EXAMINER BROOKS: 1 through 5 are admitted.

18 MR. BRUCE: And I pass the witness.

19 EXAMINATION

20 BY EXAMINER BROOKS:

21 Q. You went a little fast for me, so as you know I  
22 sometimes make mistakes. Let me see if I can get this  
23 straight here.

24 This is Lot 3, Section 9 --

25 A. Section 4.

1 Q. Section 4.

2 A. Yes, sir.

3 Q. I need more powerful glasses. I can see the 3  
4 over to the right of it. Section 4, Township --

5 A. -- 17 South, Range --

6 Q. -- 17 South, Range --

7 A. -- 38 East.

8 Q. -- 38 East. And you are requesting to pool from  
9 the surface to the base of the Strawn?

10 A. Yes, sir.

11 Q. Forty acres only?

12 A. Yes, sir.

13 Q. Oil?

14 A. Yes, sir.

15 Q. Have to be for 40 acres.

16 Okay, the bottomhole location is where?

17 A. The bottomhole location is located 909 feet from  
18 the north line and 2310 feet from the west line.

19 Q. And the surface location?

20 A. The surface location is in -- surface location is  
21 Lot 3 of Section 4. Do we have a --

22 Q. You don't have footages on the surface location,  
23 but it will be different from the --

24 A. -- from the bottom, yes, sir.

25 Q. But it's in the same lot, though, because Lot 3

1 is the lot you're pooling?

2 A. Yes, sir.

3 Q. Now, you said you requested Preston Exploration,  
4 L.L.C., to be named as the operator. What is the correct  
5 corporate name of the Applicant?

6 A. Preston Exploration Company, L.P.

7 Q. Preston Exploration Company, L.P.?

8 A. Yes, sir.

9 Q. And is the title to the working interest that  
10 Preston owns in Preston Exploration Company --

11 A. Yes, sir.

12 Q. -- L.P.?

13 A. Yes, sir, it's in my name and Preston's. We  
14 haven't had all the leases filed of record -- I mean  
15 assigned of record yet.

16 Q. Yeah, but there is a working interest of record  
17 in the name of Preston --

18 A. Yes, sir.

19 Q. -- Exploration?

20 A. Yes, sir.

21 Q. Okay. Preston Exploration Company, L.P.

22 A. Yes, sir.

23 Q. Okay. See if there's anything else I need here.  
24 This lot is exactly 40 acres?

25 A. No, sir, it's a lot, and it's a variation on the

1 government survey. It's 38.08 acres.

2 Q. 38.08 acres. Is this in an existing pool?

3 A. No, sir, not to my knowledge.

4 MR. BRUCE: Mr. Examiner, I looked and I believe  
5 it's a wildcat well.

6 Q. (By Examiner Brooks) And the well name is --

7 A. E.S. Schaap Well Number 1.

8 Q. Yeah, I see it on the AFE. E.S. Schaap,  
9 S-c-h-a-a-p, Number 1. Okay. And the objective is the  
10 Strawn?

11 A. Yes, sir.

12 EXAMINER BROOKS: I guess that covers everything.  
13 Mr. Catanach?

14 EXAMINATION

15 BY EXAMINER CATANACH:

16 Q. Just one, Mr. Horn. On your Exhibit Number 2,  
17 you have some people outlined in pink.

18 A. Yes, sir.

19 Q. Those are the people that you think are going to  
20 lease?

21 A. Well, I've made deals with them, they have leases  
22 in hand, I've just not received the signed copies back in  
23 my office.

24 Q. Okay, and the other ones, you don't anticipate  
25 making an agreement with them?

1           A.    I've been negotiating with them, but they have  
2 not agreed to lease.  They don't have leases in hand.

3                   EXAMINER CATANACH:  Okay, that's all I have.

4                   EXAMINER BROOKS:  Very good, you may call your  
5 next witness.  You may proceed.

6                                   WAYNE L. CRUTHIS,

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

9                                   DIRECT EXAMINATION

10 BY MR. BRUCE:

11           Q.    Please state your full name for the record.

12           A.    Wayne L. Cruthis.

13           Q.    How do you spell that?

14           A.    C-r-u-t-h-i-s.

15           Q.    Where do you reside?

16           A.    I live in Conroe, Texas.

17           Q.    What is your occupation?

18           A.    I'm a geologist.

19           Q.    And what is your relationship to Preston  
20 Exploration Company?

21           A.    I am a consulting geologist for Preston.

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

24           A.    No, I have not.

25           Q.    Would you summarize your educational and

1 employment background?

2 A. I have a BS degree from the University of Texas  
3 at Dallas in 1977. I've worked as an employee and/or a  
4 consultant for Fina, Medallion Petroleum, Clayton Williams,  
5 Amax Oil and Gas, Pioneer, to name some of the companies.

6 Q. And your degree was in geology?

7 A. Yes, it was.

8 Q. Did you, in fact, develop this prospect?

9 A. Yes, I did.

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

12 A. Yes, sir.

13 MR. BRUCE: Mr. Examiner, I tender Mr. --

14 THE WITNESS: -- Cruthis.

15 MR. BRUCE: -- Cruthis -- I've never come across  
16 this name before -- as an expert petroleum geologist.

17 EXAMINER BROOKS: His credentials are accepted.

18 Q. (By Mr. Bruce) Again, what is the primary zone  
19 of interest in the well?

20 A. Strawn.

21 Q. Would you identify Exhibit 7 for the Examiner and  
22 discuss its contents?

23 A. This is a structure map on top of the Strawn.  
24 The scale of the map is one inch to 4000 feet, and I'm  
25 showing the wells with the triangles around them as wells

1 that did penetrate the Strawn. Some of these wells were a  
2 Siluro-Devonian test.

3 Q. Does this map have all the wells, or only the  
4 wells that penetrate the Strawn?

5 A. This map shows all of the wells that were drilled  
6 in this area.

7 Q. Okay, so in Section 4, there have been no wells  
8 drilled previously?

9 A. That's correct.

10 Q. Now, is structure important in this well?

11 A. Structure plays a hand in the trap of the Strawn,  
12 but this is primarily a stratigraphic trap.

13 Q. Why don't you move on to your Exhibit 8 and  
14 identify that for the Examiner?

15 A. This is a gross isopach map of the Strawn  
16 limestone interval.

17 Q. And I notice that you've written some production  
18 data on the well?

19 A. There are some cumulative production numbers. On  
20 the east side of the map is a cumulative production for a  
21 Siluro-Devonian field. This is the Knowles field. And to  
22 the west in Section 5 and 6, this is another Siluro-  
23 Devonian field, the West Garrett field. The other  
24 production numbers are delegated to Strawn producers only.  
25 There are four Strawn-producing wells shown on the map.

1 Q. Are any of these Strawn producers, or any of  
2 them, economic?

3 A. Yes, they were. I would -- Three of the four  
4 wells should be considered as economic wells.

5 Q. What would be the closest economic Strawn well to  
6 your proposed test?

7 A. On the cross-section A-A', which is Figure 9,  
8 Exhibit 9, the Nearburg Producing Company Wright Number 2  
9 is approximately the closest well.

10 Q. It looks to be about three miles away?

11 A. Approximately, yes, sir.

12 Q. Okay. Now, in looking at Exhibits 8 and 9, can  
13 you tell the Examiner what you hope to hit with your  
14 proposed well?

15 A. Our primary objective, again, is the Strawn algal  
16 mounds, and we're looking for an accumulation similar to  
17 what the Nearburg well encountered. This well found  
18 approximately 50 feet of porosity in the Strawn and  
19 initially produced at the rate of 465 barrels a day and  
20 555,000 cubic feet of gas. It has cum'd 355,000 barrels of  
21 oil and .7 BCF of gas.

22 Q. What about the well on the right-hand side of the  
23 cross-section? Was that productive in the Strawn?

24 A. This was a wildcat drilled by The Texas Company.  
25 This was a Siluro-Devonian test drilled in 1950. It did

1 not encounter porosity within the Strawn formation, and it  
2 did not encounter pay in the Siluro-Devonian. This was  
3 completed as a dry hole.

4 Q. Okay. In looking at the geology overall, in your  
5 opinion what penalty should be assessed against any  
6 interest owner who goes nonconsent in this well?

7 A. Two hundred percent.

8 Q. The maximum under the statute?

9 A. Yes, sir.

10 Q. Were Exhibits 7 through 9 prepared by you or  
11 under your supervision?

12 A. They were prepared by me.

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

16 A. Yes.

17 MR. BRUCE: Mr. Examiner, I move the admission of  
18 Preston Exhibits 7 through 9. I would note that there is  
19 no Exhibit 6.

20 EXAMINER BROOKS: Seven through 9 are admitted.

21 MR. BRUCE: Pass the witness.

22 EXAMINER BROOKS: I don't believe I have any  
23 questions of this witness. We were just discussing with  
24 Mr. Kellahin the prevalence of 200-percent penalties. I  
25 see no reason to suppose we'll make an exception in this

1 case.

2 MR. BRUCE: That's all I have, Mr. Examiner.

3 EXAMINER BROOKS: Very well, we're adjourned, are  
4 we not?

5 EXAMINER CATANACH: Well, I have one more case to  
6 call.

7 (Off the record)

8 EXAMINER BROOKS: I believe I neglected to say  
9 Case 12,780 is taken under advisement.

10 (Thereupon, these proceedings were concluded at  
11 12:11 p.m.)

12 \* \* \*

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David K. Butts

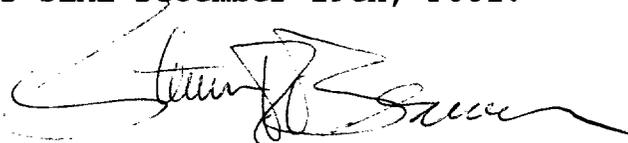
## CERTIFICATE OF REPORTER

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 19th, 2001.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 2002