

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. 12,959
)
APPLICATION OF CHI ENERGY, INC., FOR)
COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)
_____)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

November 14th, 2002
Santa Fe, New Mexico

02 NOV 26 PM 2:07
STEVEN T. BRENNER, CCR

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, November 14th, 2002, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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I N D E X

November 14th, 2002
 Examiner Hearing
 CASE NO. 12,959

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APPLICANT'S WITNESS:	
<u>GARY GREEN</u> (Landman)	
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A P P E A R A N C E S

FOR THE DIVISION:

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

FOR THE APPLICANT:

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

* * *

ALSO PRESENT:

WILLIAM V. JONES, JR.
Petroleum Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 8:49 a.m.:

3 EXAMINER CATANACH: Okay, at this time we'll call
4 Case 12,959, the Application of Chi Energy, Incorporated,
5 for compulsory pooling, Eddy 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 CATANACH: Any additional appearances?
10 Okay, will you please swear the witness?

11 (Thereupon, the witness was sworn.)

12 GARY GREEN,

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

15 DIRECT EXAMINATION

16 BY MR. BRUCE:

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

19 A. My name is Gary Green, I live in Midland, Texas.

20 Q. And what is your occupation?

21 A. I'm a landman, independent landman.

22 Q. And what's your relationship to Chi Energy in
23 this case?

24 A. Contract landman.

25 Q. Have you previously testified before the

1 Division?

2 A. Yes, I have.

3 Q. And were your credentials as an expert accepted
4 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 tender Mr. Green as
10 an expert petroleum landman.

11 EXAMINER CATANACH: Mr. Green is so qualified.

12 Q. (By Mr. Bruce) Mr. Green, what does Chi Energy
13 seek in this case?

14 A. We seek to pool the west half of Section 30,
15 Township 18 South, Range 31 East, in Eddy County, from the
16 top of the Wolfcamp formation to the base of the Morrow,
17 for all formations spaced on 320 acres.

18 Q. What is Exhibit 1?

19 A. Exhibit 1 is the C-102 outlining the well unit.
20 The well's location is marked on the plat. This well has
21 already been drilled and completed in the Morrow.

22 Q. In this pooling, are you only seeking to pool
23 overriding royalty owners?

24 A. That's correct.

25 Q. And you are pooling them simply because they have

1 failed to sign a communitization agreement?

2 A. That is also correct.

3 Q. Okay. What is the overriding royalty ownership
4 in the well? And I refer you to Exhibit 2?

5 A. The overriding royalty is approximately 12 1/2
6 percent. There are 63 overriding royalty owners.

7 Q. And they listed on --

8 A. They're listed on --

9 Q. -- starting on page 2 of --

10 A. -- page 2, Exhibit B.

11 Q. And are the ones highlighted in yellow the ones
12 you seek to force pool?

13 A. Yes.

14 Q. All of the others have signed or ratified the
15 communitization agreement?

16 A. That's correct.

17 Q. Okay. And at this point all of the working
18 interests owners have signed the communitization agreement
19 too, have they not?

20 A. Yes, they have.

21 Q. Let's discuss your efforts to obtain the
22 voluntary joinder of these interest owners. What is
23 Exhibit 3?

24 A. Exhibit 3 is copies of the certified letters and
25 return receipts that were sent to these seven overriding

1 royalty owners.

2 We originally sent out our request, not certified
3 because it's five bucks apiece and we have 63 of them, so I
4 didn't bring copies of those letters. But we usually do
5 that twice, and then we send the certified letters out on
6 the ones that we haven't gotten back.

7 This is copies of the letters, the last letters
8 that we sent out.

9 Q. Okay, so there were prior letters to this?

10 A. Yes, there were prior letters, and there's also
11 been phone calls to all of the people we've tried to pool,
12 except for Donald Iverson.

13 Q. And they simply haven't responded?

14 A. They have not.

15 Q. Okay. In your opinion, has Chi Energy made a
16 good-faith effort to obtain the voluntary joinder of the
17 overriding royalty owners in the well?

18 A. Yes, we have.

19 Q. And does Chi Energy request that Chi Operating,
20 Inc., be designated operator of the well?

21 A. Yes.

22 Q. Now, since these are overrides, Chi Energy isn't
23 here seeking any risk penalty or well cost; is that
24 correct?

25 A. That is correct. The well has already been

1 drilled and is producing.

2 Q. Okay, and the various unsigned interest owners
3 were given notice, were they not?

4 A. Yes, they were.

5 Q. And that's shown on Exhibit 4?

6 A. That's correct.

7 Q. A couple of these people since then have -- on
8 Exhibit 4, the second page, there's -- I forget how many,
9 10 or 12 people, several of these have since signed the --
10 or ratified the final agreement, have they not?

11 A. Yes, they have.

12 Q. Okay. And so the ones that you actually seek to
13 pool are the ones highlighted in yellow on Exhibit 2?

14 A. That's correct.

15 Q. Okay. And just what is Exhibit 5, then?

16 A. Exhibit 5 is the communitization agreement, a
17 copy of the communitization agreement, with the signature
18 pages of the working interest owners and the royalty owners
19 that have signed.

20 Q. Were Exhibits 1 through 5 prepared by you or
21 under your supervision or compiled from company business
22 records?

23 A. Yes, they were.

24 Q. And in your opinion is the granting of Chi
25 Energy's Application in the interests of conservation and

1 the prevention of waste?

2 A. Yes, it is.

3 MR. BRUCE: Mr. Examiner, I'd move the admission
4 of Exhibits 1 through 5.

5 EXAMINER CATANACH: Exhibits 1 through 5 will be
6 admitted.

7 EXAMINATION

8 BY EXAMINER CATANACH:

9 Q. Mr. Green, you say -- Have you been in phone
10 contact with these parties?

11 A. Yes.

12 Q. With all seven of these parties?

13 A. No, I have not been in contact with Donald
14 Iverson, be on page 3 of Exhibit B.

15 Q. Have you attempted to call him or --

16 A. Yes, I have not been able to get a return. I get
17 an answering machine. I have an address for him in Austin.
18 I've talked to his relatives. There are several Iversons
19 on here, you'll see. I've talked to his relatives, and
20 they basically told me he doesn't sign anything -- he's not
21 going to sign anything, so... I don't even have return
22 receipts on him.

23 Q. Okay, so all of the other correspondents and
24 phone contact -- Well, you have been able to locate all
25 these people?

1 A. Yes, sir.

2 Q. And you've talked to six out of seven?

3 A. Yes, sir. Do you know why those six haven't
4 signed?

5 A. These people that I've talked to in Pennsylvania,
6 they don't understand what they're signing. I guess
7 they're afraid to sign anything. I've tried to explain it
8 to them over the phone and explain what we're doing, and
9 it's just something, they're not familiar with it. It's
10 something that they inherited, and they just won't sign
11 anything.

12 I've talked to the Higgins Trust, Mr. Frederick,
13 twice. He says he's signing his and putting it in the
14 mail, but that's been going on for -- I'm sure it'll show
15 up someday, but it hasn't so far.

16 Q. So the net effect is, these people will still be
17 given their share of the revenue from this --

18 A. That is correct. As a matter of fact, some of
19 them have already signed Division orders, but they won't
20 sign the communitization agreement.

21 Q. Okay, so there will be no holdup in providing
22 them with their revenue interest?

23 A. No.

24 EXAMINER CATANACH: Okay, I have nothing further.
25 Anything in this matter, Mr. Bruce?

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MR. BROOKS: Nothing further.

EXAMINER CATANACH: There being nothing further,
Case 12,959 will be taken under advisement.

(Thereupon, these proceedings were concluded at
8:57 a.m.)

* * *

I certify that the foregoing
is a complete and correct transcript of the proceedings in
the Examiner hearing of Case No. 12959
heard by me on November 14, 2002
David P. Catanach, 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 20th, 2002.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006