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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. 10944
APPLICATION OF MEWBOURNE OIL COMPANY

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: Jim Morrow, Hearing Examiner
March 17, 1994
Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Division on March 17, 1994, at Morgan Hall, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Diana S. Abeyta, RPR, Certified Court Reporter No. 168, for the State of New Mexico.

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FOR THE DIVISION: ROBERT G. STOVALL, ESQ.
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 Oil Conservation Commission
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FOR THE APPLICANT: CAMPBELL, CARR, BERGE,
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 Post Office Box 2208
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 BY: WILLIAM F. CARR, ESQ.

FOR ARCO OIL & GAS: KELLAHIN AND KELLAHIN
 117 N. Guadalupe
 Santa Fe, New Mexico 87501
 BY: W. THOMAS KELLAHIN, ESQ.

1 EXAMINER MORROW: Call Case 10944.

2 MR. STOVALL: Application of Mewbourne Oil
3 Company for compulsory pooling in Eddy County, New Mexico.

4 EXAMINER MORROW: Call for appearances.

5 MR. CARR: May it please the examiner, my name is
6 William F. Carr, with the Santa Fe law firm, Campbell, Carr,
7 Berge, & Sheridan. I represent Mewbourne Oil Company in
8 this case, and I have two witnesses.

9 EXAMINER MORROW: Are there other appearances?

10 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
11 the Santa Fe law firm of Kellahin and Kellahin. I'm
12 appearing today on behalf of Arco Oil & Gas, Inc., and Arco
13 Permian, a unit of Atlantic Richfield Company.

14 MR. CARR: May it please the examiner, I would
15 request that the record reflect that my witnesses, Paul
16 Haden, landman, and David Shatzer, the geologist, have been
17 previously sworn, remain under oath, and their
18 qualifications as a landman and geologist have been accepted
19 and made a matter of record by this division.

20 EXAMINER MORROW: All right. And they are
21 familiar with this case too, I assume?

22 MR. CARR: They are familiar with the case. At
23 this time we call Paul Haden.

24 PAUL HADEN,
25 the witness herein, after having been first duly sworn

1 upon his oath, was examined and testified as follows:

2 EXAMINATION

3 BY MR. CARR:

4 Q. State your name for the record, please.

5 A. My name is Paul Haden.

6 Q. Mr. Haden, would you briefly state what Mewbourne
7 seeks with this application.

8 A. We are seeking to pool all mineral interests from
9 the base of the San Andres formation to the base of the
10 Morrow formation underlying the north half of the Section 20
11 of Township 18 South, Range 28 East. This is for the north
12 half, 320-acre unit, and the northwest quarter, for 160-acre
13 unit.

14 Q. And to what well will these units or either of
15 them be dedicated?

16 A. This will be dedicated to Mewbourne Oil Company's
17 Illinois Camp "20" State No. 1, which will be drilled at a
18 standard location, 660 from the north line, and 1,980 feet
19 from the west line of this Section 20.

20 Q. Are you familiar with the status of the lands
21 surrounding the proposed well?

22 A. Yes, I am.

23 Q. Are you familiar with the efforts made by
24 Mewbourne to obtain voluntary participation of all interests
25 to the well?

1 A. Yes.

2 Q. Have you prepared exhibits for presentation here
3 today?

4 A. Yes, I have.

5 Q. Would you refer to what has been marked Mewbourne
6 Exhibit No. 1, identify this exhibit and review it for Mr.
7 Morrow.

8 A. Exhibit No. 1 is a land map which indicates our
9 proposed spacing unit, 320 acres, being the north half of
10 Section 20. This is shaded in yellow. It also indicates
11 our proposed location. This is indicated with a red dot.

12 Q. What is the primary objective in the proposed
13 well?

14 A. This is the Morrow formation, and approximately
15 10,600 feet beneath the surface.

16 Q. Could you review the ownership, working ownership
17 breakdown in the north half of Section 20?

18 A. Yes, I can. Mewbourne Oil Company owns 100
19 percent of the interests in the north half or the northwest
20 quarter. Mewbourne Oil Company also owns 100 percent of the
21 interests in the east half of the northeast quarter. Arco
22 owns -- In the south half of the northwest of quarter, and
23 also, the northwest of the northeast quarter, Arco owns 50
24 percent. Yates Petroleum owns 18.06 percent, Marathon Oil
25 Company owns 15.97 percent, and Louis Dreyfus Natural Gas

1 Corporation owns 15.97 percent.

2 In the southwest of the northeast quarter, the
3 Nichols Estate, being the Estate of Leonard Nichols,
4 Deceased, owns 50 percent of that interest, and Mewbourne
5 Oil Company owns 50 percent of that interest by virtue of
6 acquiring an assignment from Mrs. Margaret Nichols, being
7 the widow of Leonard Nichols.

8 Q. Of the interest owners you've just identified,
9 how many of them have voluntarily agreed to participate in
10 this well?

11 A. All of them have voluntarily agreed, except for
12 Arco and the Estate of Nichols.

13 Q. And just, generally, what is the status of the
14 negotiations with Arco?

15 A. Arco has submitted us a farm out agreement. This
16 occurred yesterday, of which we have not had the chance to
17 review thoroughly, thus it has not been executed by us.

18 Q. Do you believe you'll reach a voluntarily
19 agreement with Arco?

20 A. Yes, we will reach an agreement with them.

21 Q. You do want to leave them in the pooling hearing,
22 though, at this time?

23 A. Yes, I would like to leave them in the pooling
24 hearing at this time until that agreement is executed by all
25 parties.

1 Q. What percentage of the working interest in the
2 north half of this section is voluntarily committed to the
3 well?

4 A. Seventy-five percent.

5 Q. What percentage of the interest in a northwest
6 quarter spacing unit is voluntarily committed?

7 A. Eighty-seven-and-a-half percent.

8 Q. Could you identify for Mr. Morrow what has been
9 marked as Mewbourne Exhibit No. 2.

10 A. Exhibit No. 2 is Mewbourne Oil Company's AFE^{JHM} for
11 this well. It's an estimate of the well cost for this
12 10,600 foot well.

13 Q. What are the total costs, and also the dryhole
14 costs?

15 A. Okay, the dryhole costs are \$479,598. The total
16 well cost is \$832,582.

17 Q. Now, Mr. Haden, has Mewbourne drilled other
18 Morrow wells within the immediate area within the last year?

19 A. Yes, we have, two of which were in Section 17,
20 immediately to the north. One of these wells was located in
21 the northwest quarter, the other being located in the
22 southeast quarter, both of which were Morrow wells.

23 Q. Are the costs set out on the AFE, which has been
24 marked Exhibit 2, in line with the costs that have been
25 previously charged by Mewbourne and other operators for

1 similar wells in this area?

2 A. Yes, they are.

3 Q. Could you refer to what has been marked Exhibit
4 3, and, Mr. Morrow, this is a fairly large exhibit. It
5 contains a summary sheet and a number of attachments.

6 Could you identify this, and then by referring to
7 this exhibit, review Mewbourne's efforts to obtain
8 voluntarily joinder from the other working interest owners
9 in these tracts.

10 A. The legal-size paper is a summation of the
11 correspondence and phone calls made with Arco and the
12 Nichols' interests since we first proposed this well. As
13 you will see, I have Arco as having a 18.75 percent
14 interest. And it says Mrs. Margaret Nichols, 12 1/2 percent
15 interest. Actually, this is incorrect. As I said
16 previously, we had made a deal with Margaret Nichols so
17 she's out of the picture now. It's simply the Nichols
18 Estate being a 6.25 percent interest.

19 We have, since October 22nd of '93, we have been
20 negotiating a deal with both Arco, and the same goes for the
21 Nichols' Estate.

22 Q. And the Nichols' Estate, at this time, is not in
23 probate; is that correct?

24 A. That is correct. This is simply a curative
25 matter to get this well drilled in a timely fashion. The

1 estate, as Mr. Carr has said, is not probated yet, so the
2 title is not cured for drilling purposes.

3 Mrs. Nichols plans to get this estate probated in
4 near future; however, we plan to drill our well prior,
5 probably, to the time in which the estate is probated in
6 New Mexico.

7 Q. In your opinion, has Mewbourne made a good faith
8 effort to locate all the interest owners in this property
9 and obtain their voluntary participation in the well?

10 A. Yes, we have.

11 Q. Is Exhibit No. 4 an affidavit with attached
12 letters showing that notice of this hearing has been
13 provided to Arco and the Nichols' Estate, as required by OCD
14 rules?

15 A. Right; that is correct.

16 Q. Mr. Haden, have you made an estimate of the
17 overhead and administrative costs to be incurred while
18 drilling the well and also while producing the well if in
19 fact it is successful?

20 A. Yes, we're requesting \$6,167 per month as a
21 monthly drilling rate. And \$626.50 for a producing well
22 rate per month.

23 Q. Are these costs the costs which have been
24 accepted by Yates, Dreyfus and Marathon by executing an
25 operating agreement for the property?

1 A. That's correct.

2 Q. Are these also the same costs that were adopted
3 by the Oil Conservation Division in Case No. 10689 in their
4 Order R-9868, entered April the 7th, 1993?

5 A. That's also correct.

6 Q. Did Mewbourne request that these figures be
7 incorporated into the order that results from today's
8 hearing?

9 A. Yes, we do.

10 Q. Did the figures, as adopted by Order R-9868, did
11 that order provide for adjustment or escalation of these
12 figures?

13 A. Yes. In the order in Paragraph No. 11, which is
14 on page 6 of this order --

15 MR. CARR: Mr. Morrow, I will give you a copy of
16 that order, order, Paragraph 11.

17 THE WITNESS: -- it refers to these escalated
18 well costs. It could be adjusted the first day of April of
19 each year.

20 Q. (BY MR. CARR) And these can be adjusted both up
21 and down?

22 A. Right, both up and down.

23 Q. You request a similar provision be incorporated
24 into the order which results from today's hearing?

25 A. Yes, we do.

1 Q. Does Mewbourne seek to be designated operator of
2 the proposed well?

3 A. Yes, sir; that's right.

4 Q. Will we also call a geological witness to review
5 the risks associated with the development of this tract?

6 A. Yes, sir, we will.

7 Q. Were Exhibits 1 through 4 either prepared by you
8 or compiled at your direction?

9 A. Yes, they were.

10 MR. CARR: At this time, Mr. Examiner, we move
11 for the admission of Mewbourne Exhibits 1 through 4.

12 EXAMINER MORROW: Exhibits 1 through 4 are
13 admitted.

14 MR. CARR: This concludes my direct examination
15 of Mr. Haden.

16 EXAMINATION

17 BY EXAMINER MORROW:

18 Q. Are the proposed overhead rates based on '92 or
19 '93 surveys?

20 A. This was based on the '93 surveys, I'm sure. And
21 since it's not April yet, they have not yet been adjusted.

22 MR. CARR, ^{JHM} I had not seen this before. Had you
23 seen this before, Bob, this adjusted thing? Is it something
24 we're doing in another order?

25 MR. STOVALL: Yes. We have done it where

1 requested. It's not uncommon. It isn't in a lot of orders
2 because people haven't asked for it.

3 THE WITNESS: These adjusted rates are set forth
4 in ~~explicit counting~~ ^{capex accounting JHM} procedures which are attachments to
5 operating agreements.

6 MR. STOVALL: Just for your information, Mr.
7 Examiner, I've actually seen how they have worked over the
8 years, and there have actually been a couple of years where
9 the rates have gone down, under those adjustment procedures.
10 And it's commonly used in the industry, I think.

11 Q. (BY EXAMINER MORROW) Okay. The Nichols' Estate,
12 you said, I guess -- What did you say about it, 6.25
13 percent?

14 A. Yes, sir.

15 Q. Part of it is Ms. Nichols' now and part of it is
16 the Estate's?

17 A. Right. The 6.25 percent is a unit interest.

18 Q. Well, does she have the 6.25? Is she committing
19 that or is all of it still in limbo?

20 A. The Nichols' family owns the southwest of the
21 northeast quarter of which have we obtained an assignment
22 from Mrs. Nichols, covering her community property interest,
23 which would be one-half of that 40 acres. The other
24 interest has not been probated, the title is not clear for
25 drilling purposes.

1 Q. I was going to say in your letters to the Nichols
2 and Arco -- I see you did in Arco, you set out what they
3 own. Did you do the same thing for Mrs. Nichols, so that we
4 can follow that and get down all the material that you
5 testified to about who owned what where?

6 A. Again, the Nichols' interest is derivative from
7 the southwest northeast quarter, of which they owned 100
8 percent of that 40 acres, and we have obtained a voluntary
9 agreement with Mrs. Nichols covering her --

10 Q. What part is hers, the north what?

11 A. Southwest of the northeast quarter. We have got
12 an agreement, in other words, covering her interest. But we
13 do not have agreement covering the Nichols' Estate.

14 MR. STOVALL: So it's not in the 160 acre-unit if
15 you end up with a 160-acre well?

16 THE WITNESS: No, it is not in the 160-acre unit.

17 MR. STOVALL: And you served the estate. Did you
18 serve basically by mailing to her?

19 THE WITNESS: Right.

20 MR. STOVALL: Has she given you any indication
21 who is the -- Do you know if there is a will?

22 THE WITNESS: Yes, we have seen the will for
23 Leonard Nichols. She is the sole devisee.

24 MR. STOVALL: Is she also the executor of the
25 estate or named execu -- named but unappointed, I guess is

1 the way to say it?

2 A. Right, unappointed. Yes, she's not officially the
3 executor yet.

4 Q. (BY EXAMINER MORROW) How about the usual time
5 limits we put in there, would that give the estate time to
6 elect to participate or not to participate, do you think, or
7 should we extend those some?

8 A. We are going to make a deal with this estate;
9 there's no question about that. We would like to have as
10 much time as we could in which to commence the well.
11 However, if we have drilling commitments that we have to do,
12 we will probably go ahead and drill the well, but I
13 guarantee you that we will have a voluntary agreement with
14 the estate. We will not force pool them. Unless she --

15 Q. You will have their agreement before you
16 commence; is that what you're saying?

17 A. I don't know if that's true or not.

18 Q. Well, their decision at least?

19 A. Right.

20 Q. They either participate or not participate before
21 you commence; is that what you said or not?

22 A. Well, if they will not participate, we are going
23 to obtain a farm out of that interest, but it has to -- the
24 title has to be clear for us to do that, to get the
25 agreement executed.

1 MR. STOVALL: Let me follow up on that, because I
2 think I understand your concern, Mr. Examiner.

3 Assuming that you are unable to or that they are
4 unable to do the legal work required to clear it up and you
5 begin drilling, I would assume that you would still make
6 provision for them to farm out and not have to carry the
7 interest and --

8 THE WITNESS: That's right.

9 MR. STOVALL: In other words, they are not going
10 to be -- you're anticipating that they would not be subject
11 to a penalty, but rather would be subject to the agreement
12 such as Mrs. Nichols has already entered into?

13 THE WITNESS: That's correct. When it's all said
14 and done, she would not be -- the estate will not be force
15 pooled. It's just a precautionary measurement for us in
16 which we can go ahead and drill the well.

17 MR. STOVALL: I guess the question that would
18 come up in my mind is, when you're complying with the order,
19 an order to go through with the drilling, you're going to
20 have to send her the AFE, and they're supposedly going to
21 have 30 days to pay you in advance. Are you prepared to
22 alter that in terms of what you offer them --

23 THE WITNESS: Yes.

24 MR. STOVALL: -- such that they don't have -- an
25 estate which may not have the ability to join can have a way

1 of being carried pending the agreement, I guess is my
2 thinking.

3 THE WITNESS: Right. Yes, we can certainly do
4 that.

5 Q. (BY EXAMINER MORROW) Yeah, we might even extend
6 that time --

7 A. Right.

8 Q. -- for them to make the election in the order --

9 A. Exactly.

10 Q. So you don't any objection to that?

11 A. Right, exactly. We would be more than happy to
12 do that.

13 MR. STOVALL: I don't think it's our intent to
14 hold up your drilling plans, but recognize all their --

15 THE WITNESS: Right.

16 MR. STOVALL: Because if she can get an executor
17 appointed, or she can get appointed in this state, then she
18 can act for the estate.

19 A. Right. She first has to be appointed is her
20 problem. She is about 85 years old. She is kind of slow
21 about getting all of these things done is one of her
22 problems.

23 (Thereupon, a discussion was held
24 off the record.)

25 EXAMINER MORROW: Thank you, Mr. Haden.

1 MR. CARR: Mr. Examiner, at this time we call
2 David Shatzer.

3 DAVID SHATZER
4 the witness herein, after having been first duly sworn
5 upon his oath, was examined and testified as follows:

6 EXAMINATION

7 BY MR. CARR:

8 Q. State your name for the record, please.

9 A. My name is David Shatzer.

10 Q. Mr. Shatzer, have you made a geologic study of
11 the area surrounding the north half of Section 20?

12 A. Yes, I have.

13 Q. Have you prepared certain exhibits for
14 presentation in this case?

15 A. Yes, I have.

16 Q. Would you refer to what has been marked Mewbourne
17 Exhibit No. 5, the structure map, and review this for Mr.
18 Morrow.

19 A. Okay. Exhibit No. 5 is a structure map on the
20 top of the lower Morrow. All these geologic maps are on a
21 scale of 1 inch to 2,000 feet. And the only Morrow
22 penetrations are shown in the large circles. The structure
23 is contoured on a 50-foot contour interval, and the
24 structure dips to the southeast at a relatively uniform rate
25 with the exception of a few places.

1 And our proposed location is located in the
2 northwest quarter of Section 20, on that, just inside of the
3 6,700 countour.

4 Q. How important is structure in actually making a
5 commercial well in this formation?

6 A. In this immediate area, we have not found any
7 gas-water contacts, so that, as far as we know, at this
8 time, the structure isn't that important to this immediate
9 area.

10 Q. And this exhibit also shows the trace for the
11 subsequent cross section?

12 A. Yes.

13 Q. All right. Let's go on now to Mewbourne Exhibit
14 No. 6. Identify that and review that, please.

15 A. Exhibit No. 6 is a production study of the Morrow
16 penetration wells in this area, again, on a 1 to 2,000
17 scale. The color coding is pink for a deeper Morrow well
18 that was recompleted in the Queen. Brown is for a deeper
19 Morrow well recompleted in the Bone Spring. And all the
20 rest of the producers are Morrow producers colored in
21 orange. The cumulative production, both gas and oil, are
22 the first two numbers, and then the last two numbers are
23 daily rate of produced gas and oil.

24 And just in general, the best wells are in
25 Section 7, 17 has some good wells, and also Section 9, and

1 the east half of Section 16. The west half of Section 16,
2 the Southland Royalty Midstream 16 in the west half of 16
3 was a poor Morrow producer, only producing 34 million, and
4 also, the well in Section 28 that has the Hondo Sinclair
5 State, produced 42 million, another poor Morrow producer, as
6 well as several other wells that did not make Morrow
7 completions, dry holes in Section 10 and 30, and also, a
8 poor Bone Spring producer in Section 6 -- 15.

9 Q. Let's go now to the cross section, Exhibit No. 7.
10 Will you review the information on that for Mr. Morrow.

11 A. The Morrow cross section R to R' runs northwest
12 to southeast. The two wells in Section 17 in the northwest
13 portion, or on the left-hand side as you view the cross
14 section, are Mewbourne Oil Illinois Camp 17 State No. 1 and
15 17 State No. 2 in the southeast quarter of 17. And then the
16 next location is the proposed location in 20. And then
17 Section 28 has the poor Morrow completion in the middle
18 Morrow that I alluded to earlier.

19 The Morrow generally occurs in northwest
20 southeast trending, channel sands for the most part, and we
21 are attempting to step out from an area of known Morrow
22 producers in a direction where there are very few -- in a
23 direction where there are very few Morrow producers. In
24 fact, the well in the west half of Section 16 was a poor
25 Morrow well and was offset to the west by our Illinois Camp

1 wells that are much better Morrow completions.

2 Q. Is the well in the west half of 16 an economic
3 failure?

4 A. Yes, it was.

5 Q. What about the well in Section 28?

6 A. It was also a poor and noncommercial Morrow
7 completion.

8 Q. Are you prepared to make a recommendation to the
9 examiner as to the risk penalty that should be assessed
10 against any nonconsenting interest owner?

11 A. Yes, I am.

12 Q. What is that?

13 A. That would be well costs plus 200 percent
14 penalty.

15 Q. Can you just briefly summarize the reason for
16 that recommendation?

17 A. Yes. The Morrow does have risk, and we are
18 moving from -- in an area to a relatively unknown and poor
19 data control for the Morrow. And we feel that this is
20 consistent with what's been seen by our company's experience
21 in drilling Morrow wells, that there is a fair amount of
22 risk involved in drilling for this formation.

23 Q. Based on your experience drilling Morrow wells in
24 the area, you believe there is a chance the well at the
25 proposed location could not be an economic success?

1 possibility.

2 EXAMINER MORROW: Thank you, sir.

3 MR. CARR: Mr. Morrow, that concludes our
4 presentation of this case.

5 EXAMINER MORROW: Mr. Kellahin, do you have
6 anything to add?

7 MR. KELLAHIN: No, sir.

8 EXAMINER MORROW: Case 10944 will be taken under
9 advisement.

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