

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 CONCHO RESOURCES, INC., )  
FOR COMPULSORY POOLING, LEA COUNTY, )  
NEW MEXICO )

CASE NO. 13,217

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

February 19th, 2004

Santa Fe, New Mexico

**RECEIVED**

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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, February 19th, 2004, 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

February 19th, 2004  
Examiner Hearing  
CASE NO. 13,217

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APPLICANT'S WITNESS:	
<u>GARLAND H. LANG, III</u> (Landman)	
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\* \* \*

## E X H I B I T S

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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

FOR DERREL C. MELTON:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
110 N. Guadalupe, Suite 1  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: WILLIAM F. CARR

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:29 a.m.:

3 EXAMINER CATANACH: At this time I'll Case  
4 13,217, the Application of Concho Resources, Incorporated,  
5 for compulsory pooling, Lea County, New Mexico.

6 Call for appearances in this case.

7 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
8 representing the Applicant. I have one witness.

9 EXAMINER CATANACH: Additional appearances?

10 MR. CARR: May it please the Examiner, my name is  
11 William F. Carr with the Santa Fe office of Holland and  
12 Hart, L.L.P. We represent Derrel C. Melton, who is a  
13 working interest owner in the acreage that is the subject  
14 of this pooling Application. His name is spelled  
15 D-e-r-r-e-l, last name M-e-l-t-o-n.

16 EXAMINER CATANACH: Thank you, Mr. Carr.

17 Any other appearances? Okay, will the witness  
18 please stand to be sworn in?

19 (Thereupon, the witness was sworn.)

20 GARLAND H. LANG, III,  
21 the witness herein, after having been first duly sworn upon  
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CARR:

25 Q. Will you please state your name for the record?

1 A. Garland H. Lang, L-a-n-g, the Third.

2 Q. Where do you reside?

3 A. Midland, Texas.

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

5 A. I work for Chesapeake Permian, L.P., which was  
6 formerly Concho Resources, Inc.

7 Q. Okay, and let's get to that point first. When  
8 this Application was filed, it was still Concho Resources,  
9 Inc.; is that correct?

10 A. Correct.

11 MR. BRUCE: Okay. Mr. Examiner, we would ask  
12 that a pooling order be issued in the name of Chesapeake  
13 Permian.

14 THE WITNESS: L.P.

15 Q. (By Mr. Bruce) Have you previously testified  
16 before the Division?

17 A. I have.

18 Q. And were your qualifications as an expert  
19 petroleum landman accepted as a matter of record?

20 A. Yes.

21 Q. Does your area of responsibility at Chesapeake  
22 include this portion of southeast New Mexico?

23 A. It does.

24 Q. And are you familiar with the land matters  
25 involved in this case?

1 A. I am.

2 MR. BRUCE: Mr. Examiner, I'd tender Mr. Lang as  
3 an expert petroleum landman.

4 EXAMINER CATANACH: He is so qualified.

5 Q. (By Mr. Bruce) Mr. Lang, could you identify  
6 Exhibit 1 and describe briefly what Concho seeks in this  
7 case?

8 A. Exhibit 1 is Section 21, Township 21 South, Range  
9 35 East. The west half is our proposed proration unit.

10 There are three state leases. The northwest  
11 northwest is one that's owned by Concho. The east half of  
12 the northwest is owned by ConocoPhillips, and then the  
13 remainder of the west half is owned by the other parties to  
14 this case.

15 Q. Okay. And you are seeking to pool from the  
16 surface to the base of the Morrow formation, are you not?

17 A. Yes, uh-huh.

18 Q. Do you also seek to pool formations spaced on 160  
19 acres and on 40 acres?

20 A. Correct.

21 Q. What is the well's location?

22 A. It's 1650 from the north and 990 from the west.

23 Q. Okay, so it's in the southwest quarter of the  
24 northwest quarter?

25 A. Yes.

1 Q. Could you identify Exhibit 2 for the Examiner?

2 A. Exhibit 2 is a list of the working interest  
3 owners, three of which are subject to -- or four of which,  
4 Concho, Carolyn Winkler, Derrel -- Frank Douglas, are  
5 subject to a JOA. The rest aren't.

6 Q. Okay. Before we go down this list in detail,  
7 what is Exhibit 3, Mr. Lang?

8 A. That's the proposal that we sent to all the  
9 working interest owners, proposing the well.

10 Q. Okay, and let's go down this list on Exhibit 2.  
11 What is the status of ConocoPhillips at this point?

12 A. They've agreed to farm out to us, but we don't  
13 have an executed agreement in hand.

14 Q. Okay, so you would still seek to pool them at  
15 this time?

16 A. Uh-huh.

17 Q. Rio Petroleum?

18 A. We've sent them a proposal. They haven't agreed  
19 yet.

20 Q. Okay. And then you still -- Frank Douglas is  
21 subject to a JOA; is that correct?

22 A. That's correct.

23 Q. What about Mitchell Minerals corporation?

24 A. Mitchell Minerals is also.

25 Q. Subject to a JOA?

1 A. Yes, it is.

2 Q. Okay, so you --

3 A. Excuse me, I made a mistake earlier.

4 Q. Champlin Exploration, do you seek to pool them?

5 A. Yes, sir.

6 Q. Again, have they responded to your proposal?

7 A. No, they haven't.

8 Q. And finally Mr. Melton, do you seek to pool Mr.  
9 Melton at this point?

10 A. Yes, sir.

11 Q. Have you been in discussions -- besides  
12 ConocoPhillips, have you been in discussions with these  
13 other parties about getting them to join or perhaps farming  
14 in their interests?

15 A. I have.

16 Q. In particular with Mr. Melton, have you met  
17 personally with Mr. Melton?

18 A. Not personally.

19 Q. You have talked with him on the phone?

20 A. Uh-huh, talked with him.

21 Q. Okay. And do you intend to continue negotiating  
22 with these parties after this pooling hearing?

23 A. I do.

24 Q. In your opinion, has Concho made a good-faith  
25 effort to obtain the voluntary joinder of the interest



1 owners in the well?

2 A. Yes, they have.

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

5 A. Exhibit 4 is the authority for expenditure for  
6 the San Simon 21 State Number 2. Dryhole cost is estimated  
7 to be \$1,085,300, completed cost \$439,000, for a total cost  
8 of \$1,524,300.

9 Q. And what's the approximate depth of this well?

10 A. 12,700 foot.

11 Q. Is this cost in line with the cost of other wells  
12 drilled to this depth in this area of Lea County?

13 A. Yes, sir.

14 Q. And does Concho request that it be -- or --  
15 Concho, excuse me -- Chesapeake request that it be  
16 designated operator of the well?

17 A. It does.

18 Q. Do you have a recommendation for the amounts  
19 which should be paid for supervision and administrative  
20 expenses?

21 A. \$7000 for the drilling rate and \$700 a month for  
22 the monthly overhead.

23 Q. And are these amounts equivalent to those  
24 normally charged by Chesapeake and other operators in this  
25 area?

1 A. They are.

2 Q. Do you request that the overhead rates be  
3 adjusted periodically as provided in the COPAS accounting  
4 procedure?

5 A. We do.

6 Q. And do you request that the maximum cost-plus-  
7 200-percent risk charge be assessed against nonconsenting  
8 interest owners?

9 A. Yes, sir.

10 Q. And finally, were all of the parties notified of  
11 this pooling Application?

12 A. They were.

13 Q. The four parties you seek to pool, I should have  
14 said?

15 A. That's true.

16 Q. And is that submitted as Exhibit 5?

17 A. Uh-huh, yes.

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

21 A. They were.

22 Q. And in your opinion is the granting of  
23 Chesapeake's Application in the interests of conservation  
24 and the prevention of waste?

25 A. Yes.

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

3 EXAMINER CATANACH: Any objection?

4 MR. CARR: No objection.

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

7 Mr. Carr?

8 EXAMINATION

9 BY MR. CARR:

10 Q. Mr. Lang, if we look at the west half of Section  
11 21, the subject acreage, Mr. Melton is a working interest  
12 owner in that acreage, is he not?

13 A. Yes, in the north -- or the southwest of the  
14 northwest and the southwest.

15 Q. And as such, he received the letter that was sent  
16 by you dated November the 26th; is that correct?

17 A. True, yes.

18 Q. If we look at that letter, in the center of the  
19 first paragraph it states, "This proposal is made pursuant  
20 to that certain Operating Agreement dated July 18th, 2000  
21 between Manzano Oil Corporation, as Operator and Bear  
22 Energy, et al, Non-Operators." Do you see that language?

23 A. Uh-huh, uh-huh.

24 Q. Did not Mr. Melton write you and advise you that  
25 he was not under that joint operating agreement?

1 A. He did after that letter.

2 Q. And when we get to the lower paragraph it says,  
3 "...you will be required to farmout your interest..." if  
4 you don't join.

5 That springs from that operating agreement --

6 A. Correct.

7 Q. -- does it not?

8 A. Uh-huh, which he wasn't a party to.

9 Q. Did Mr. Melton request that this hearing be  
10 continued so that he could continue to negotiate with  
11 Concho?

12 A. He did mention that to me.

13 Q. And Concho -- Chesapeake -- I'm going to use  
14 either one -- was not interested in continuing beyond]  
15 today --

16 A. True.

17 Q. -- is that correct?

18 Are there are any lease expirations in the west  
19 half of Section 21 that --

20 A. No, there are not.

21 Q. When do you actually plan to drill the well that  
22 you show in that section?

23 A. We're looking at around the first part of April.

24 Q. Are you aware that Samson is proposing to drill a  
25 well immediately offsetting the spacing unit in Section 28?

1           A.    I know that they have a location.  I don't know  
2 when they're planning on drilling it.

3           Q.    Does the proposal of Samson in 28 to drill a well  
4 have any bearing on when Concho-Chesapeake plans to go  
5 forward with this --

6           A.    No, it doesn't.

7           Q.    -- well?

8                   If there was a dry hole down there, might it  
9 affect your plans to go forward with this proposal?

10          A.    I don't believe so.

11          Q.    Now, if the pooling order is entered following  
12 this hearing, Mr. Melton will have 30 days to elect whether  
13 or not he's going to pay his share; is that your  
14 understanding?

15          A.    That's my understanding.

16          Q.    And if Samson comes in with a well, say 45 days  
17 after the election is made by Mr. Melton, you would be able  
18 to re-evaluate your proposal based on the new additional  
19 information from the Samson well, would you not?

20          A.    I guess we could.

21          Q.    If you -- Would you have any objection that if  
22 the base information affecting this prospect changes --  
23 that is, if Samson drills and completes a well prior to  
24 your spudding -- would you object to Mr. Melton being given  
25 an additional chance to elect, based on -- so he'd have the

1 same information that you would have?

2 A. I guess if we decide not to drill it, we wouldn't  
3 make him drill it, but --

4 Q. Well no, but I mean if you decide -- if he  
5 decides not to participate, and then there's a very good  
6 well that would change the geology, would you oppose to his  
7 having a new election based on the new data?

8 A. I don't think so.

9 Q. You're planning -- Do you understand that a  
10 pooling order generally has an effective life of 90 days  
11 unless extended?

12 A. Okay.

13 Q. If you request extensions of that order, would  
14 you object providing notice of your request for an  
15 extension to Mr. Melton?

16 A. Providing a notice to him?

17 Q. Yes, yes.

18 A. Sure.

19 Q. Okay. In terms of the negotiations here, you  
20 wrote Mr. Melton on the 26th, and then it was after that  
21 sometime -- let's see, December 29th, he advised you that  
22 he wasn't under the JOA. Does that square with your  
23 recollection?

24 A. Yes, I guess so. I don't have the letter.

25 Q. You didn't bring your correspondence files?

1           A.    Well, let's see.  Is that the letter -- date of  
2 the letter you have?

3           Q.    I have a copy of a letter to Gary Lang dated  
4 December 29th, 2003.  It says, "Please be advised I am not  
5 a signatory party to the operating agreement."  Do you  
6 recall getting that?

7           A.    Okay.  Yes, I recall getting that.

8           Q.    And he also indicated he'd be interested in  
9 receiving an offer to farm out his interest at that time?

10          A.    Correct.

11          Q.    When did you provide any kind of assignment or  
12 farmout agreement to Mr. Melton, or any proposal in  
13 response to that letter?

14          A.    I think that letter was last week.

15          Q.    Friday the 13th?

16          A.    13th, Friday the 13th.

17          Q.    And at that time you proposed a term assignment  
18 to Mr. Melton?

19          A.    I did.

20          Q.    Did he request a copy of the form assignment from  
21 you?

22          A.    He did, and I sent that to him.

23          Q.    And you sent that to him on Monday?

24          A.    I believe that's correct.

25          Q.    Another assignment was sent to him late on

1 Tuesday night; is that correct?

2 A. That's correct.

3 Q. Why was there a different assignment sent?

4 A. Well, the first one was -- he wanted to see kind  
5 of a form, and it didn't comply with the offer that I'd  
6 made him, so I sent another one that had the terms that  
7 were in the letter.

8 Q. And the assignment that was provided as of night  
9 before last is the assignment -- that's the proposal, the  
10 offer of Concho-Chesapeake?

11 A. That's -- As it stands. It's subject to change.

12 Q. You understand that Mr. Melton has partners he  
13 has to review these agreements with?

14 A. True.

15 Q. And he has had the actual assignment, the  
16 language, for one day at this time?

17 A. Uh-huh.

18 Q. You have agreed, I believe in response to Mr.  
19 Bruce's questions, to continue to negotiate with Mr.  
20 Melton?

21 A. Correct.

22 Q. And is there any time limits on those  
23 negotiations? We don't have a cutoff that the offer comes  
24 the table at any particular time, do we?

25 A. I mean, we could withdraw it. We're going to try



1 to make a deal with him.

2 Q. If in fact -- Are you willing to commit today  
3 that you will continue to negotiate with Mr. Melton on this  
4 agreement, not just remove it from the table after the  
5 hearing?

6 A. We're not going to remove it after the hearing.  
7 I'd say -- I'd give him another week.

8 MR. CARR: That's all I have.

9 MR. BRUCE: I have no further questions, Mr.  
10 Examiner.

11 EXAMINER CATANACH: Mr. Carr, let me ask you, are  
12 you requesting that we put some additional language in this  
13 pooling order that would give them an additional election  
14 period?

15 MR. CARR: Mr. Catanach, there are three things  
16 that I actually -- we'll be asking for. One is that we've  
17 received notice of any request to extend the order beyond  
18 90 days. The reason for that is that if the Samson well is  
19 drilled and becomes a very successful well, it could impact  
20 our interest in participating, and we simply would like to  
21 have the same data available to us when we're called on to  
22 make our election that's available to Concho-Chesapeake.

23 The other thing that we would ask is that, if we  
24 get to a situation where this is continued until the second  
25 or third quarter, whenever Samson actually does drill that

1 well, that -- we think that if we have to elect within 30  
2 days of this order and the data upon which these  
3 determinations are made changes, we should be given another  
4 election.

5 We also would point out that any real negotiation  
6 for combining these interests commenced Friday the 13th,  
7 six days ago, that the agreement that we're being asked to  
8 sign, or that is being proposed, has only been in our  
9 possession about 36 hours, and that we are going to ask  
10 that the case be continued for two weeks so that we can  
11 have that two-week period of time to try and wrap this  
12 agreement up.

13 In fact, we believe we will. But it has come so  
14 late -- We don't want to stop this. We don't want to try  
15 and prevent Concho-Chesapeake from going forward, but until  
16 we were looking down the throat of a hearing we didn't have  
17 any real serious efforts to get this resolved, and we  
18 believe a two-week continuance would, in all probability,  
19 enable us to come back and simply advise you that we are  
20 in, and withdraw all these requests.

21 MR. BRUCE: Mr. Examiner, as far as the  
22 continuance request I don't have a problem. I would like  
23 to get an order out, because if they do commence drilling  
24 in early April we would just like to have enough time to  
25 send out the election notices to everyone so that the well

1 is drilling by the time the election notices go out.

2 But I have no objection to a continuance.

3 MR. CARR: And that's the reason we weren't  
4 trying to push this, because -- We're not here to square  
5 off, because we're really in favor of the drilling of the  
6 well. And with all going on in the Concho-Chesapeake thing  
7 -- we understand what's going on there -- we just would  
8 really like to get this wrapped up, and we think a two-week  
9 continuance would put a time-frame on us that would push  
10 that to a conclusion.

11 MR. BRUCE: And as to the other two requests, Mr.  
12 Lang said they were acceptable to Chesapeake.

13 EXAMINER CATANACH: I think what we'll do is  
14 continue this for two weeks at the request of Mr. Carr.  
15 And if there's not an agreement reached within two weeks,  
16 would Concho be opposed to granting all of the  
17 nonconsenting interest owners the same additional election  
18 period that they're granting Mr. Melton?

19 THE WITNESS: I believe so. Two weeks?

20 EXAMINER CATANACH: Well, the additional period  
21 that they're asking for.

22 THE WITNESS: Oh, if we don't reach an  
23 agreement --

24 MR. CARR: For the ninety-day --

25 MR. BRUCE: If the well is not commenced --

1 MR. CARR: Right.

2 MR. BRUCE: -- within 90 days.

3 EXAMINER CATANACH: Yeah, so that would be all  
4 right?

5 THE WITNESS: That would be all right.

6 EXAMINER CATANACH: Okay, we'll go ahead and do  
7 that. And if you don't reach an agreement I guess you'll  
8 be back in two weeks and we'll talk to you guys then, but I  
9 probably would need some language for an order, if you want  
10 to proceed that way.

11 MR. CARR: I'm convinced we can do that, and  
12 certainly Mr. Lang -- we wouldn't require that he come  
13 back. We're not quarreling with what's been done, we just  
14 want to get this wrapped up and --

15 EXAMINER CATANACH: And just for my understanding  
16 -- Now, do you have the stuff that you sent them, the  
17 documents you sent them --

18 THE WITNESS: Yes.

19 EXAMINER CATANACH: -- Friday? Is that included  
20 in here?

21 THE WITNESS: No, it's not.

22 EXAMINER CATANACH: Okay.

23 MR. BRUCE: We can submit a copy to you, Mr.  
24 Examiner.

25 EXAMINER CATANACH: Okay, just so we have that

1 for the record.

2 And then there was the one letter. Is that all  
3 you've sent them, or is --

4 THE WITNESS: I've sent a letter to three owners,  
5 and then I sent a letter to ConocoPhillips on a farmout  
6 request. So there's four letters total.

7 EXAMINER CATANACH: Okay, if we can get that into  
8 the record, Mr. Bruce. And I think that's all I have, if  
9 we go ahead and continue the case till -- When is it?  
10 March --

11 MR. BRUCE: -- 4th.

12 EXAMINER CATANACH: -- 4th.

13 MR. BRUCE: March 4th.

14 EXAMINER CATANACH: Okay.

15 THE WITNESS: Thank you.

16 THE WITNESS: Thank you.

17 (Thereupon, these proceedings were concluded at  
18 8:46 a.m.)

19 \* \* \*

20  
21 I do hereby certify that the foregoing is  
22 a complete record of the proceedings in  
23 the Examiner hearing of Case No. 13217,  
24 heard by me on February 19 2004.  
25 David R. Catnach, Examiner  
Oil Conservation Division

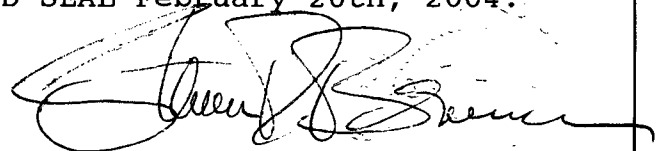
## CERTIFICATE OF REPORTER

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 February 20th, 2004.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006