

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. 13,283

APPLICATION OF NEARBURG EXPLORATION)
COMPANY, L.L.C., FOR AN EXCEPTION TO)
DIVISION RULE 104.C.(2).(C), LEA COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

June 24th, 2004

Santa Fe, New Mexico

2004 JUL 8 AM 10 08

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, June 24th, 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

June 24th, 2004
 Examiner Hearing
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APPLICANT'S WITNESS:

DUKE W. ROUSH (Landman)

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E X H I B I T S

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Exhibit 5	6	8
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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

* * *

1 WHEREUPON, the following proceedings were had at
2 8:39 a.m.:

3 EXAMINER CATANACH: At this time I'll call Case
4 13,283, the Application of Nearburg Exploration Company,
5 L.L.C., for an exception to Division Rule 104.C.(2).(c),
6 Lea County, New Mexico.

7 Call for appearances.

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

10 EXAMINER CATANACH: Any additional appearances?
11 Will the witness please stand to be sworn in?
12 (Thereupon, the witness was sworn.)

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

16 DIRECT EXAMINATION

17 BY MR. BRUCE:

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

19 A. Yes, Duke Roush.

20 Q. Where do you reside?

21 A. Midland, Texas.

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

23 A. Nearburg Exploration Company as a senior landman.

24 Q. Have you previously testified before the
25 Division?

1 A. Yes, I have.

2 Q. And were your credentials as an expert witness
3 accepted as a matter of record?

4 A. Yes, they were.

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

7 A. Yes, I am.

8 MR. BRUCE: Mr. Examiner, I'd tender Mr. Roush as
9 an expert petroleum landman.

10 EXAMINER CATANACH: Mr. Roush is so qualified.

11 Q. (By Mr. Bruce) Mr. Roush, could you identify
12 Exhibit 1 and tell the Examiner about the two wells
13 involved in this Application?

14 A. Yes, Exhibit 1 is a Midland Map Company map that
15 shows the north half of Section 14 highlighted with the two
16 wells, the one to the left being the well we are proposing,
17 which would be the Outland South 14 State Number 2, and the
18 Corner Pocket well, which is currently operated by
19 ConocoPhillips.

20 Q. And what is Nearburg seeking in this case?

21 A. We're seeking to have an exception to the Rule
22 104 to allow two operators in the same 320-acre proration
23 unit.

24 Q. Now, this exception would be permanent. In other
25 words, ConocoPhillips, the operator of the first well,

1 would not back in after a payout situation?

2 A. No, there's no reversionary interest.

3 Q. What is Exhibit 2?

4 A. Exhibit 2 is a form filed with the State of New
5 Mexico that shows the coordinates of our location, which is
6 660 from the north, 1650 from the west.

7 Q. Okay, so the well is otherwise orthodox in that
8 it's got an orthodox gas well location and it is in the
9 different quarter section than the first well?

10 A. That's correct.

11 Q. Who -- In the first well, the ConocoPhillips well
12 in the northeast quarter, who are the working interest
13 owners?

14 A. The working interest owners are ConocoPhillips
15 and Southwestern Energy Production Company.

16 Q. And who will be the working interest owner or
17 owners in the second well, the Outland South Well?

18 A. It will be 100 percent Nearburg.

19 Q. Okay, what are Exhibits 3 and 4?

20 A. Exhibits 3 and 4 -- Exhibit 3 is a memorandum of
21 term assignment which was granted to us by ConocoPhillips.
22 Exhibit 4 is a term assignment granted to us by
23 Southwestern Energy.

24 Q. Okay, so they will own, again, no interest
25 whatsoever in -- no working interest in the second well?

1 A. Correct.

2 Q. What is Exhibit 5?

3 A. Exhibit 5 is a letter from ConocoPhillips stating
4 that they have no objection to allowing us to operate this
5 well.

6 Q. Now, Mr. Roush, companies have gotten around the
7 OCD rule by having one company being record operator of the
8 two wells, although two different wells may physically
9 operate it, and they've entered into a side agreement to
10 accomplish this objective. Was that attempted with
11 ConocoPhillips?

12 A. We approached Conoco on that, I believe, but it's
13 just a hassle to have us operate it and have them report.
14 And with them having no interest in the well, we thought it
15 would be easier in this case for us just to operate.

16 Q. And ConocoPhillips has in the past said they
17 wouldn't enter into those agreements, has it not?

18 A. Correct.

19 Q. And ConocoPhillips and Southwestern Energy were
20 notified of this Application, were they not?

21 A. That's correct.

22 Q. Were the -- Have they got the letter of support
23 from ConocoPhillips, have you heard of any objection from
24 Southwestern Energy?

25 A. No, I have not.

1 Q. Is the notice affidavit marked Exhibit 6, Mr.
2 Roush?

3 A. Correct.

4 Q. Now, with respect to the first well, what zone is
5 it producing from?

6 A. They have classified it as an Atoka formation.
7 We would classify it as upper Morrow.

8 Q. Okay. Now, I think these wells are in what, the
9 Wilson-Atoka and Wilson-Morrow gas pools?

10 A. That's correct.

11 Q. And those are gas pools that are spaced on
12 statewide rules, 320-acre spacing and no prorationing?

13 A. That's correct.

14 Q. And the Morrow will be the main objective in this
15 well, in Nearburg's proposed well?

16 A. Yes, it will.

17 Q. And finally, Mr. Roush, will there be separate
18 facilities for each well in the well unit?

19 A. Yes, there will.

20 Q. Okay, so there won't be any commingling of them?

21 A. No, there will be no commingling and we will
22 meter our well separately.

23 Q. Were Exhibits 1 through 6 prepared by you or
24 under your supervision, or compiled from company business
25 records?

1 A. Yes, they were.

2 Q. And in your opinion is the granting of this
3 Application in the interests of conservation and the
4 prevention of waste?

5 A. Yes, it is.

6 MR. BRUCE: Mr. Examiner, I'd move the admission
7 of Nearburg's Exhibits 1 through 6.

8 EXAMINER CATANACH: Exhibits 1 through 6 will be
9 admitted.

10 EXAMINATION

11 BY EXAMINER CATANACH:

12 Q. Mr. Roush, what kind of leases are we talking
13 about in this half section?

14 A. There are two state leases. I'm sorry, there's
15 one state lease.

16 Q. It's a single state lease?

17 A. Bear with me for a second. Yes, it's a state
18 lease originally granted in 1948 to Phillips Petroleum
19 Company. Among other lands it covers the north half of
20 Section 14.

21 Q. Okay, is that Number E-1923?

22 A. Hang on. The lease number I have on this is
23 L 08158.

24 MR. BRUCE: Mr. Examiner, we'll confirm the lease
25 number. That sounds like a company internal lease number,

1 not a state lease number.

2 EXAMINER CATANACH: Okay. On that first page it
3 looks like it shows E-1923, Exhibit Number 1.

4 THE WITNESS: I'll verify that for us.

5 Q. (By Examiner Catanach) Okay. Now, prior to
6 entering into the agreements with ConocoPhillips, what was
7 the interest ownership in the existing well?

8 A. It was 55 percent Southwestern Energy and 45
9 percent ConocoPhillips.

10 Q. I'm sorry, what was their interest?

11 A. Fifty-five percent Southwestern Energy --

12 Q. Uh-huh.

13 A. -- and 45 percent ConocoPhillips.

14 Q. So at that point Nearburg owned no interest in
15 this well, in the existing well?

16 A. That's correct.

17 Q. And Nearburg came in and attempted or was
18 successful in getting a term assignment for the northwest
19 quarter.

20 A. For the north half, from both ConocoPhillips and
21 Southwestern.

22 Q. From the north half. But you don't -- you won't
23 own any interest in the existing well, or you won't get
24 any --

25 A. No, we will not.

1 Q. And ConocoPhillips or Southwest won't have any
2 interest in the new well?

3 A. That's correct. Well, they will have an
4 override, but they will have no working interest.

5 Q. Is there a lot of potential for this kind of
6 situation out there, Mr. Roush?

7 A. I believe there is. I think that more and more,
8 we're finding situations where you have an operator that
9 does not want to participate in a Rule 104 well, either due
10 to lack of potential that they see or budget constraints,
11 whatever the case may be. But yes, I think you're going to
12 see this in the future.

13 Q. And you've obviously evaluated it and determined
14 that there's probably commercial hydrocarbons to be
15 recovered?

16 A. That's correct.

17 Q. As far as the pools, the existing well -- is it
18 completed in both the Wilson-Atoka and Wilson-Morrow Pool?

19 A. Again, we would classify this -- it was
20 originally completed at a deeper depth than it's producing.
21 They've recompleted it in what we would consider to still
22 be in the Morrow Pool, but it has been classified as the
23 Atoka, is my understanding.

24 Q. As far as the Division's concern, do they have
25 that at two separate pools, or do you know?

1 MR. BRUCE: I looked at the well file, Mr.
2 Examiner, and the only completion report I saw was in the
3 Wilson-Morrow Gas Pool, a completion report dated August
4 3rd, 2000. But I believe I did see in the Division's files
5 two C-102's, one for the Atoka and one for the Morrow.

6 Q. (By Examiner Catanach) So the proposed well will
7 be a Morrow completion and an Atoka?

8 A. We would see it as a Morrow completion.
9 Generally, we complete from the bottom up, so we take the
10 deepest potential sands in the Morrow and complete that
11 first, and then as it depletes we would complete uphole.

12 Q. So conceivably, according to Division
13 nomenclature, it may be in two separate pools ultimately,
14 it may be in the Wilson-Atoka and Wilson-Morrow?

15 A. I believe that's correct.

16 Q. Okay. Mr. Roush, have you by any chance talked
17 to the Commissioner of Public Lands about this kind of
18 situation?

19 A. Personally, I have not.

20 Q. I don't know what their position is on two
21 operators in a spacing unit, whether or not they have any
22 problem with it, or whether Taxation and Revenue has any
23 problem with it.

24 MR. BRUCE: Mr. Examiner, in connection with a
25 prior matter involving Devon Energy, we have contacted --

1 I've written to the Taxation and Revenue Department. I've
 2 written and called Jeff Albers at the State Land Office.
 3 Now, I've been -- Mr. Albers, I think, has been out a
 4 couple of days and I haven't spoken to him, but I expect to
 5 hear from him shortly.

6 EXAMINER CATANACH: That was a little bit of a
 7 different situation. Are you going to send a letter in
 8 this case to those parties?

9 MR. BRUCE: I was intending to, yes.

10 Mr. Examiner, here are copies of the completion
 11 report and the C-102 in the Morrow formation where the
 12 ConocoPhillips well -- the C-102 for the Atoka formation is
 13 attached to the Application filed in this case.

14 EXAMINER CATANACH: Can you provide me with
 15 copies of the letters that you've sent, Mr. Bruce --

16 MR. BRUCE: Yes, sir.

17 EXAMINER CATANACH: -- to the various agencies?

18 I would appreciate that. And I think that's all I have.

19 MR. BRUCE: I have nothing further in this
 20 matter.

21 EXAMINER CATANACH: There being nothing further,
 22 Case 13,283 will be taken under advisement.

23 (Thereupon, these proceedings were concluded at
 24 8:52 a.m.)

25 I do hereby certify that the foregoing is
 a complete record of the proceedings in
 the Examiner hearing of Case No. 13283.
 * * * heard by me on June 21, 2001.

STEVEN T. BRENNER, CCR, Examiner
 (505) 989-9317
 Conservation Division

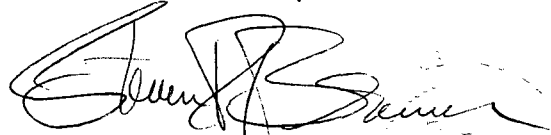
CERTIFICATE OF REPORTER

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 June 29th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006