

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 DEVON ENERGY
PRODUCTION COMPANY, L.P. FOR
A NONSTANDARD OIL SPACING AND
PRORATION UNIT AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO. CASE NO. 15634

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

March 2, 2017

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
LEONARD LOWE, TECHNICAL EXAMINER
GABRIEL WADE, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner, Leonard Lowe, Technical Examiner, and Gabriel Wade, Legal Examiner, on Thursday, March 2, 2017, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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APPEARANCES

FOR APPLICANT DEVON ENERGY PRODUCTION COMPANY, L.P.:

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1 (9:12 a.m.)

2 MR. BRUCE: Before we take the Devon Energy
3 case, first Mr. Padilla is entering an appearance in
4 that but not presenting a witness.

5 EXAMINER WADE: Will you be conducting
6 cross-examination?

7 MR. PADILLA: No.

8 EXAMINER McMILLAN: Give me a second then.
9 With that in mind, I'd like to call Case
10 Number 15634, application of Devon Energy Production
11 Company, L.P. for a nonstandard oil spacing and
12 proration unit and compulsory pooling, Eddy County, New
13 Mexico.

14 Call for appearances.

15 MR. BRUCE: Mr. Examiner, Jim Bruce of
16 Santa Fe representing the Applicant. I have two
17 witnesses.

18 EXAMINER McMILLAN: Any other appearances?

19 MR. PADILLA: Yes, Mr. Examiner. I'm
20 Ernest L. Padilla for Linn Operating, Inc. and Linn
21 Energy Holdings, LLC. We filed an entry of appearance
22 yesterday. We have no witnesses, and Linn has agreed to
23 participate in the well.

24 EXAMINER McMILLAN: Please proceed.

25 MR. BRUCE: L-I-N-N.

1 Do the witnesses need to be sworn?

2 EXAMINER McMILLAN: Yes. Let's swear them
3 in.

4 (Mr. Cloer and Mr. Cain sworn.)

5 RYAN CLOER,

6 after having been first duly sworn under oath, was
7 questioned and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BRUCE:

10 Q. Would you please state your name and city of
11 residence?

12 A. Ryan Cloer, Oklahoma City, Oklahoma.

13 Q. And who do you work for and in what capacity?

14 A. I work for Devon Energy Corporation as a senior
15 landman.

16 Q. Have you previously testified before the
17 Division?

18 A. No, sir.

19 Q. Can you please discuss your educational and
20 employment background for the Examiner?

21 A. Yes. I obtained my bachelor's in business
22 administration from the University of Oklahoma in 2008.
23 I've been employed at Devon Energy Corporation as a
24 petroleum landman for eight years. During my tenure at
25 Devon, I have worked in numerous asset development areas

1 where I've been responsible for all matters related to
2 the petroleum land management profession.

3 **Q. And does your area of responsibility at Devon**
4 **include this portion of southeast New Mexico?**

5 A. Yes.

6 **Q. And are you familiar with the land matters**
7 **involved in this application?**

8 A. Yes.

9 MR. BRUCE: Mr. Examiner, I tender
10 Mr. Cloer as an expert petroleum landman.

11 EXAMINER McMILLAN: So qualified.

12 **Q. (BY MR. BRUCE) Mr. Cloer, could you identify**
13 **Exhibit 1 for the Examiner?**

14 A. Yes. Exhibit 1 is a two-page exhibit. The
15 first page is a Midland Map Company plat highlighting
16 the proposed well unit, which is the west half-west half
17 of Section 1 and the west half-west half of Section 12,
18 Township 23 South, Range 31 East, Eddy County.

19 The second page is our Form C-102
20 highlighting the well unit for the Tomb Raider 112 Fed
21 Well #61H. The API number for this well is
22 30-015-43592.

23 **Q. And you are seeking to pool the Bone Spring**
24 **Formation?**

25 A. Yes.

1 **Q. And what are the wells' surface and bottom-hole**
2 **locations?**

3 A. The surface-hole location is 200 feet from the
4 north line and 1,310 feet from the west line of Section
5 1, and the bottom-hole location is 330 feet from the
6 south line and 660 feet from the west line of Section
7 12.

8 **Q. Okay. And you've already said it's Bone**
9 **Spring. What zone in the Bone Spring is being tested?**

10 A. The well is a 2nd Bone Spring test.

11 **Q. Could you identify Exhibit 2 and identify who**
12 **you seek to pool?**

13 A. Yes, sir. Exhibit 2 is a copy of our proposal
14 letter for the well dated November 17th, 2016. We seek
15 to pool ExxonMobil, Linn Energy, Berry Petroleum and
16 Wells Fargo Bank.

17 **Q. Does Wells Fargo own a mineral interest?**

18 A. No, sir. They are the mortgagee for Linn.

19 **Q. Okay.**

20 MR. BRUCE: They're a mortgage owner.

21 **Q. (BY MR. BRUCE) And have you had contacts with**
22 **the interest owners other than this letter?**

23 A. Yes. I've had numerous phone calls and emails
24 exchanged with the parties.

25 **Q. And with respect to Linn Energy, have they**

1 signed the AFE for the well?

2 A. Yes, sir.

3 Q. And are you in the process of providing them
4 with a JOA?

5 A. Yes.

6 Q. And will you continue to negotiate with Linn
7 Energy?

8 A. Yes.

9 Q. And if you come to agreement, will you notify
10 the Division so that Linn Energy is not subject to a
11 pooling order?

12 A. Yes.

13 Q. In your opinion, has Devon made a good-faith
14 effort to obtain the voluntary joinder of the interest
15 owners in the well?

16 A. Yes.

17 Q. Would you identify Exhibit 3 and discuss the
18 cost of the proposed well? I mean -- excuse me --
19 Exhibit 4.

20 A. Okay.

21 Q. I'll skip over that for a minute.

22 A. Exhibit 4 is our AFE for the well, the features
23 [sic].

24 Q. And what is the approximate completed well
25 cost?

1 A. Yes. The approximate completed well cost is
2 7.6 million. Our drilling costs are 2.84 million.

3 **Q. And are these costs in line with the cost of**
4 **similar horizontal wells drilled to this depth in this**
5 **area of New Mexico?**

6 A. Yes.

7 **Q. I did skip over Exhibit 3. What is Exhibit 3**
8 **briefly?**

9 A. Exhibit 3 is an internal document. It
10 represents the well and interest ownership of the well.

11 **Q. Okay. Now, I notice it only lists Devon and**
12 **Linn. With respect to Berry Petroleum, is Berry**
13 **Petroleum owned by Linn Energy?**

14 A. Yes.

15 **Q. And regarding ExxonMobil, what is the status**
16 **between Linn and ExxonMobil?**

17 A. Devon and XTO, a subsidiary of ExxonMobil,
18 agreed to a trade involving this acreage in 2016.
19 During the due diligence period of this trade, it was
20 determined that the 40-acre tract being pooled today was
21 owned by Linn. XTO claimed this tract was supposed to
22 have been transferred to XTO by Linn in the previous
23 agreement. However, Linn has disputed that claim. With
24 the matter of that title dispute outstanding, we are
25 going to pool Exxon.

1 Q. But Devon has this well on its drilling
2 schedule, correct?

3 A. Yes, for the beginning of April.

4 Q. So you need to move forward with this matter?

5 A. Yes, sir.

6 Q. And were the parties notified -- parties being
7 pooled notified of this hearing?

8 A. Yes.

9 Q. And is that shown by my Affidavit of Notice
10 marked as Exhibit 5? Is that shown on --

11 A. Yes. Yes.

12 MR. BRUCE: Mr. Examiner, the last page of
13 Exhibit 5 -- ExxonMobil was notified and the postal
14 service showed that they received the notice two weeks
15 ago, but I haven't received a green card back. So I'm
16 going to have to continue the case for two weeks until I
17 get that green card back.

18 EXAMINER McMILLAN: It appears that XTO --
19 if I look at the last page of your Exhibit 5, it appears
20 to me that XTO/Exxon received it because it says -- it
21 said that it's delivered.

22 MR. BRUCE: Well, Mr. Examiner, other
23 Hearing Examiners said if I don't have the green card,
24 I've got to continue it.

25 EXAMINER McMILLAN: Okay.

1 EXAMINER WADE: Let's be consistent then.

2 MR. BRUCE: There is a supplemental reason,
3 too.

4 Q. (BY MR. BRUCE) Mr. Cloer, does Exhibit 6
5 reflect all of the offset operators or working interest
6 owners to the proposed well?

7 A. Yes.

8 MR. BRUCE: And, Mr. Examiner, I notified
9 them, but I got one or two of them back. So I had to
10 re-notify for the 16th. So I will submit the Affidavit
11 of Notice at that time.

12 EXAMINER McMILLAN: Okay. Well, then --
13 okay.

14 Q. (BY MR. BRUCE) Now, Mr. Cloer, this is a
15 two-mile lateral. Is the primary purpose for that
16 technical -- for technical reasons?

17 A. Yes.

18 Q. It's not really land related.

19 Does Devon own a lot of properties
20 surrounding this well?

21 A. Yes, sir.

22 Q. So it's really not a land-based issue. It's
23 more the technical aspects of it?

24 A. Yes.

25 Q. Do you have a recommendation for the amounts

1 **which Devon should be paid for the supervision and the**
2 **administrative expenses?**

3 A. Yes. We request that 7,500 per month be
4 allowed for a drilling well and 750 be allowed for a
5 producing well.

6 Q. And are these amounts equivalent to those
7 normally charged by Devon and other operators involved
8 of this type and in this area?

9 A. Yes.

10 Q. Do you request that the rate be periodically
11 adjusted as provided by the COPAS accounting procedure?

12 A. Yes.

13 Q. And does Devon request the maximum cost plus
14 200 percent risk charge if an interest owner goes
15 nonconsent in the well?

16 A. Yes.

17 Q. And were Exhibits 1 through 6 either prepared
18 by you or under your supervision?

19 A. Yes.

20 Q. And in your opinion, is the granting of this
21 application in the interest of conservation and the
22 prevention of waste?

23 A. Yes.

24 MR. BRUCE: Mr. Examiner, I move the
25 admission of Exhibits 1 through 6.

1 EXAMINER WADE: Did I miss something? Were
2 you going to talk about 6?

3 MR. BRUCE: 6 is just the offset, yes.
4 Yes. We did discuss it briefly.

5 EXAMINER WADE: We did and we had
6 testimony. Okay.

7 EXAMINER McMILLAN: Exhibits 1 through 6
8 may now be accepted as part of the record.

9 (Devon Energy Production Company, L.P.
10 Exhibit Numbers 1 through 6 are offered and
11 admitted into evidence.)

12 MR. BRUCE: I have no further questions of
13 the witness.

14 CROSS-EXAMINATION

15 BY EXAMINER McMILLAN:

16 Q. Unlocatable interests?

17 A. No, sir.

18 Q. Okay. So you're compulsory pooling Wells
19 Fargo. So would they assist -- I mean, are they
20 assessed a penalty?

21 MR. BRUCE: No. They're not -- they're a
22 mortgagee. They're not assessed a penalty, but we want
23 to make sure that they have been notified of this
24 hearing so that in the event Linn doesn't sign a JOA,
25 Wells Fargo is also subject to the pooling order.

1 Otherwise, it could say I'm not subject to it and
2 foreclose on Linn's interest and, you know, come in
3 declaring it's not been notified of the pooling
4 application.

5 EXAMINER McMILLAN: Okay.

6 Q. (BY EXAMINER McMILLAN) Are there any depth
7 severances within the Bone Spring?

8 A. Oh. No.

9 Q. This is for my own purposes. Is the project
10 area 320 acres?

11 A. Yes, sir.

12 Q. Exactly 320? I saw a line in there.

13 MR. BRUCE: Yes, Mr. Examiner. But if you
14 do look at Exhibit 1, the first page, although there are
15 four lots, those lots are all 40 acres.

16 EXAMINER McMILLAN: Okay. That threw me --
17 threw me for a loop.

18 MR. BRUCE: And, Mr. Examiner, also if you
19 look at Exhibit 1, it is all federal land in this well.

20 EXAMINER McMILLAN: So I'm just trying to
21 understand the whole process. If there is a title
22 dispute between Linn and XTO, Linn would still have to
23 be compulsory pooled if there is a question about the
24 title, right?

25 MR. BRUCE: Correct. If they do sign a

1 JOA, whatever interest they have will be subject to the
2 JOA, but, you know, they have to force pool XTO -- or
3 ExxonMobil, actually, just to be safe.

4 EXAMINER WADE: So the Affidavit of Notice
5 we get in a couple weeks will be for Exhibit 6 and the
6 offset operators as well as --

7 MR. BRUCE: Yeah. I'll submit it as
8 Exhibit 7.

9 EXAMINER WADE: I get it. And the green
10 card for Exxon?

11 MR. BRUCE: I sure hope so.

12 EXAMINER WADE: Well, you know, in a past
13 hearing, I have recommended that one of these not be
14 accepted, but I think it was because it didn't have a
15 line item saying "delivered." There was some other
16 issue with it.

17 MR. BRUCE: Yeah. Okay. Okay. I'm just
18 being safe.

19 EXAMINER WADE: No more questions.

20 EXAMINER McMILLAN: Leonard?

21 EXAMINER LOWE: Do you have information of
22 the first perf and last perf?

23 MR. BRUCE: The next witness will discuss
24 that.

25 EXAMINER LOWE: That's fine.

1 EXAMINER McMILLAN: Thank you very much.

2 MR. BRUCE: Mr. Examiner, Mr. Padilla would
3 like to submit one exhibit, to which I have no
4 objection.

5 EXAMINER McMILLAN: So just call it Linn
6 Exhibit 1.

7 MR. PADILLA: 1. It's marked. It's a
8 signed AFE, Mr. Examiner.

9 MR. BRUCE: I have no objection to that.

10 EXAMINER McMILLAN: So Linn Operating,
11 Incorporated Exhibit 1 may now be accepted as part of
12 the record.

13 (Linn Operating, Inc. Exhibit Number 1 is
14 offered and admitted into evidence.)

15 EXAMINER McMILLAN: Thank you.

16 JAMES CAIN,

17 after having been previously sworn under oath, was
18 questioned and testified as follows:

19 EXAMINER McMILLAN: Please proceed.

20 DIRECT EXAMINATION

21 BY MR. BRUCE:

22 **Q. Will you please state your name and city of**
23 **residence for the record?**

24 A. James Cain, Oklahoma City, Oklahoma.

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

1 A. Devon Energy as a reservoir engineer.

2 **Q. Have you previously testified before the**
3 **Division?**

4 A. No, I have not.

5 **Q. Would you summarize your educational and**
6 **employment background for the Examiner?**

7 A. Yes. I graduated from the University of
8 Oklahoma in 2008 with a bachelor's in petroleum
9 engineering. I've worked for XTO Energy, Continental
10 Resources in unconventional and conventional plays down
11 in Texas, Oklahoma, Kansas, Colorado, Wyoming, North
12 Dakota, Montana, and most recently for Devon in
13 southeast New Mexico.

14 **Q. Does your area of responsibility for Devon**
15 **include this portion of southeast New Mexico?**

16 A. Yes.

17 **Q. And are you -- are you familiar with the**
18 **technical matters related to this application?**

19 A. Yes, sir.

20 MR. BRUCE: Mr. Examiner, I tender Mr. Cain
21 as an expert reservoir engineer.

22 EXAMINER McMILLAN: Yeah. The only problem
23 I've got is I've got some kinfolk you probably went to
24 school with, and they're pretty savory characters, but I
25 guess I'm forced to accept your qualifications.

1 (Laughter.)

2 THE WITNESS: I appreciate that.

3 Q. (BY MR. BRUCE) Now, Mr. Cain, we're going to
4 discuss the geology to some extent, but were Exhibits 8
5 through 10 prepared by you or under your supervision?

6 A. Yes, they were.

7 Q. And do you, at Devon, through the engineers and
8 the geologists, work as a team?

9 A. Yes, we do.

10 Q. Could you identify Exhibit 8 for the Examiner?

11 A. Yes. Exhibit 8 is a structural map on the top
12 of the 2nd Bone Spring Sand. This shows a gradual
13 downward dip to the east. Our proposed 2nd Bone Spring
14 lateral, the Tomb Raider 61H, is indicated by the red
15 stick. As you can see, we will be drilling on strike
16 and expect no major structural issues.

17 Q. And there isn't any faulting in this area that
18 would impair the drilling of the wells?

19 A. No, sir.

20 Q. What is Exhibit 9?

21 A. Exhibit 9 is a cross section of the area in
22 question. It shows the 2nd Bone Spring interval. The
23 structure map on the previous exhibit, Exhibit A, is
24 indicated by the red arrow, and the interval shown on
25 the following exhibit, Exhibit 10, is indicated by the

1 bracket below the red arrow, which is the 2nd Bone
2 Spring Sand.

3 Q. And the 2nd Bone Spring is continuous across
4 the well unit, in your opinion?

5 A. Yes, sir, it is.

6 Q. Is there any particular part of the 2nd Bone
7 Spring that Devon will be targeting? Is it middle or
8 lower or --

9 A. Upper. We'll be targeting the Upper 2nd Bone
10 Spring with this lateral.

11 Q. Okay. And what is Exhibit 10?

12 A. Exhibit 10 is an isopach map showing the 2nd
13 Bone Spring Sand, which is our target. It's shown by
14 that bracket on the previous exhibit. Once again, our
15 proposed 61H lateral is shown with the red line, and as
16 you can see, we have uniform thickness across the entire
17 planned wellbore.

18 Q. And would you expect each quarter-quarter
19 section in the proposed well unit to be productive in
20 the 2nd Bone Spring?

21 A. Yes.

22 Q. And would you expect each quarter-quarter
23 section to contribute more or less equally to
24 production?

25 A. Yes, sir.

1 **Q. And what is the basic reason for the two-mile**
2 **lateral rather than a normal, quote, unquote, "one-mile**
3 **lateral"?**

4 A. Devon is moving to longer laterals based on
5 economics in this particular area. This is part of the
6 potash area, so we're drilling from drill islands. So
7 to improve economics and reduce surface impact, we're
8 drilling a two-mile lateral here.

9 **Q. And finally, what is Exhibit 11?**

10 A. Exhibit 11 is a directional plan for the well.
11 Devon typically uses 40 to 50 completion stages in these
12 wells, and the sand and water volumes will be
13 approximately 15 to 20 million pounds of proppant and
14 300- to 400,000 barrels of fluid.

15 **Q. Now, the surface location is unorthodox. But**
16 **the well will be drilled and the first take point will**
17 **be at an unorthodox location; is that correct?**

18 A. Yes, sir. It will be within the 330.

19 **Q. Was Exhibit 11 prepared from company business**
20 **records?**

21 A. Yes, it was.

22 **Q. In your opinion, is the granting of this**
23 **application in the interest of conservation and the**
24 **prevention of waste?**

25 A. Yes, sir.

1 MR. BRUCE: And with that, Mr. Examiner, I
2 move the admission of Exhibits 8 through 11.

3 EXAMINER McMILLAN: Exhibits 8 through 11
4 may now be accepted as part of the record.

5 (Devon Energy Production Co., L.P. Exhibit
6 Numbers 8 through 11 are offered and
7 admitted into evidence.)

8 CROSS-EXAMINATION

9 BY EXAMINER McMILLAN:

10 Q. The questions I essentially have -- the first
11 question I got, I guess, would be -- excuse me --
12 Exhibits 8 and 9, what are these -- what are the wells
13 producing from on here?

14 A. The wells that are producing on the cross?

15 Q. Yeah. I'm sorry. I stated it wrong. Where
16 are the -- yeah. Where are these wells producing from?

17 A. They're producing from deeper horizons. These
18 wells all penetrated the 2nd Bone Spring into deeper
19 formations. And you can see the well locations on the
20 small insert map on Exhibit 9. It's left to right.
21 We're moving north to south. I apologize for not having
22 that on there, but the small map, there is north to
23 south, cutting across the proposed lateral.

24 Q. Were these all Wolfcamp wells?

25 A. Wolfcamp or Atoka gas wells, some Morrow.

1 **Q. Oh, okay.**

2 **And do you guys have any ideas about the**
3 **1st and 3rd Bone Spring?**

4 A. 1st and 3rd? Yes. We have -- we have 3rd Bone
5 Spring producing in this area. The 1st Bone Spring, we
6 have not tested yet.

7 **Q. Okay. So it's conceivable you could have**
8 **another Bone Spring well in the project area?**

9 A. Yes.

10 EXAMINER WADE: I have no questions.

11 EXAMINER McMILLAN: Leonard? Go ahead.

12 CROSS-EXAMINATION

13 BY EXAMINER LOWE:

14 **Q. So what's your first perf location?**

15 A. Our first perf will be at 330 from the south
16 line of Section 12.

17 **Q. And the last perf as well, too?**

18 A. Yes. It will be 330. The reason for the
19 unorthodox surface location is it's a two-well pad
20 shared with the -- on the well to the outside.

21 RE-CROSS EXAMINATION

22 BY EXAMINER McMILLAN:

23 **Q. Okay. That brings us -- are you -- are you**
24 **going to allocate the pad costs equally between the two**
25 **wells?**

1 A. Yes. Yes, they are.

2 **Q. And the status is proposed, right?**

3 A. Yes, sir.

4 **Q. Is the pool code 39350? I'm just trying to**
5 **make sure I have my notes right.**

6 MR. BRUCE: Pool code, yes, 39350.

7 EXAMINER McMILLAN: Do you have any
8 questions?

9 EXAMINER WADE: No questions.

10 EXAMINER McMILLAN: Thank you.

11 THE WITNESS: Thank you.

12 EXAMINER McMILLAN: Case Number 15634 shall
13 be continued for two weeks.

14 (Case Number 15634 concludes, 9:36 a.m.)

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25 STATE OF NEW MEXICO

1 COUNTY OF BERNALILLO

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3 CERTIFICATE OF COURT REPORTER

4 I, MARY C. HANKINS, Certified Court
5 Reporter, New Mexico Certified Court Reporter No. 20,
6 and Registered Professional Reporter, do hereby certify
7 that I reported the foregoing proceedings in
8 stenographic shorthand and that the foregoing pages are
9 a true and correct transcript of those proceedings that
10 were reduced to printed form by me to the best of my
11 ability.

12 I FURTHER CERTIFY that the Reporter's
13 Record of the proceedings truly and accurately reflects
14 the exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither
16 employed by nor related to any of the parties or
17 attorneys in this case and that I have no interest in
18 the final disposition of this case.

19

20

21 MARY C. HANKINS, CCR, RPR
22 Certified Court Reporter
23 New Mexico CCR No. 20
24 Date of CCR Expiration: 12/31/2017
25 Paul Baca Professional Court Reporters

24

25