

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 CASE NO. 16449
COMPANY, L.P. FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 1, 2018

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
 PHILLIP GOETZE, TECHNICAL EXAMINER
 DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner, Phillip Goetze, Technical Examiner, and David K. Brooks, Legal Examiner, on Thursday, November 1, 2018, 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.

REPORTED BY: Mary C. Hankins, CCR, RPR
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APPEARANCES

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

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1 (10:43 a.m.)

2 EXAMINER JONES: Call Case Number 16449,
3 Devon Energy Production Company, L.P. for compulsory
4 pooling, Eddy County, New Mexico.

5 Call for appearances in that case.

6 MS. CALLAHAN: Mr. Examiners, Candace
7 Callahan appearing for Devon Energy Production.

8 EXAMINER JONES: Did anyone else appear in
9 this case? No one else entered an appearance?

10 MS. CALLAHAN: No, no one else.

11 EXAMINER JONES: Is this an affidavit case?

12 MS. CALLAHAN: It is.

13 EXAMINER JONES: Devon must have released
14 the floodgates on their money because they've been after
15 us for permits recently.

16 MS. CALLAHAN: They're finally going to
17 drill something.

18 EXAMINER JONES: They're not in a hurry for
19 this one, are they?

20 (Laughter.)

21 MS. CALLAHAN: Well, actually, I think it
22 is on the early part of next year's drilling scheduling.

23 EXAMINER JONES: Early next year.

24 EXAMINER BROOKS: Next year is not far off.

25 MS. CALLAHAN: No, it's not. It's not.

1 So I'd just like to give you a little
2 background for this case. It's related to Devon's Cases
3 16163, 16164, 16346 and 16349, which were all heard
4 September 6th and are still pending before the Division.

5 All five of these applications pertain to
6 the development of Sections 30 and 31, Township 23
7 South, Range 29 East in Eddy County, and they are part
8 of a pilot development program for Devon.

9 EXAMINER JONES: I'm sorry. Can you repeat
10 those case numbers and when they were heard?

11 MS. CALLAHAN: Sure. Sure. 16163, 16164,
12 16346 and 16349, and they were heard September 6th.

13 EXAMINER JONES: Okay. Thank you.

14 MS. CALLAHAN: The first two, 16163 and 64,
15 are proposing wells in the X-Y Wolfcamp interval.

16 And Case Numbers 16346 and 349, as well as
17 this case are proposing wells in the 3rd Bone Spring.

18 And one aspect of this pilot program, as we
19 presented on September 6th, is to minimize any possible
20 communication between the 3rd Bone Spring and the X-Y
21 Wolfcamp, and so as a result of that, Devon plans to
22 codevelop with batch drilling and completion.

23 So I'm giving you-all this information --
24 the purpose for that is to ask you to include, in those
25 other four cases, the affidavit I'm going to present by

1 the engineer that will address the possible
2 communication issues. It was partially addressed by the
3 geologist on September 6th, but we're just supplementing
4 that.

5 So with that, I guess I'd like to first ask
6 you to look at the affidavit of Joe Hammond, which is on
7 Tab 1. And in his affidavit, Mr. Hammond is letting us
8 know that Devon is seeking to pool the uncommitted
9 working interest owners and overriding royalty interest
10 owners in the Cedar Canyon; Bone Spring, Pool Code
11 11520. And this proposed spacing unit is a standard
12 unit which includes proximity tracts, and it's comprised
13 of the east half-west half and the east half-west half
14 of Sections 30 and 31.

15 And if you look at Exhibit 1, which is Tab
16 Number 4, you'll see the wells to be drilled from a
17 surface location in Unit M of Section 1 to a bottom-hole
18 location in Unit C in Section 30. That pretty much runs
19 through the middle of the proposed spacing unit. All
20 the take points are going to be orthodox.

21 Mr. Hammond's Exhibit 2 includes copies of
22 all of the well-proposal letters that Devon sent out to
23 the working interest owners and the AFE. All the
24 working interest owners, Mr. Hammond has stated, have
25 been contacted, and he's been involved in negotiations

1 with all of them. So far none of them have executed
2 JOAs. The proposed JOA provides for drilling and
3 producing rates, overhead rates of 8,000 per month and
4 \$800 per month while producing, which he states are fair
5 and consistent with what other operators are charging in
6 this and similar wells. And Devon is also requesting
7 that the rates be adjusted periodically as provided in
8 the COPAS accounting procedure.

9 The status of the negotiations with all the
10 working interest owners, Mr. Hammond gives in paragraph
11 15 of this affidavit. There are no depth severances in
12 the Bone Spring for this unit, and there are no unleased
13 mineral interests within the proposed unit. The
14 proposed unit includes fee lands only, and all of those
15 leases include pooling clauses.

16 If you look at Exhibit 3, which is Tab 6,
17 you'll see all the tracts that encompass the spacing
18 unit, and the proximity tracts are 6, 7, 8, 9 and 10.
19 The exhibit also shows the interest owners and their
20 percentage interest.

21 EXAMINER JONES: Did the -- so the -- so
22 the actual fee leases included pooling clauses, but the
23 overriding documents did not; is that right?

24 MS. CALLAHAN: Well, actually, in an
25 abundance of caution, we noticed all the overrides.

1 Some of them vary.

2 EXAMINER JONES: So it's possible --

3 MS. CALLAHAN: Yeah. We wanted all the
4 overrides to be included as pooled parties.

5 EXAMINER JONES: Okay. And working
6 interests.

7 MS. CALLAHAN: There were a number of them.

8 EXAMINER JONES: Okay.

9 MS. CALLAHAN: Let's see. And then Exhibit
10 4 gives you the list of all the names of the parties
11 that Devon wants to pool, names and addresses.

12 And Exhibit 5A is an affidavit of our
13 office of all the notices that we sent out to all the
14 parties to be pooled. If you look at the end of that --
15 I guess it's Tab 9 -- you'll see the list of everybody
16 for whom we sent notices and the status of those
17 notices. You will also see that there are three that we
18 have deemed to be unlocatable, and we published notice,
19 which you'll find at Tab 10, which is Exhibit 6.

20 Mr. Hammond testifies that a diligent
21 search of the Eddy County public records, as well as the
22 Internet records was conducted, and, in his opinion,
23 they made a good-faith effort to reach an agreement with
24 all the parties that Devon seeks to pool. And if they
25 reach a timely agreement with the pooled parties, they

1 will notify the Division. But we will still want all
2 the overriding royalty interest owners to be pooled
3 parties.

4 EXAMINER JONES: No relation?

5 MS. KESSLER: No. It's spelled a totally
6 different way.

7 EXAMINER JONES: Okay. I think I remember
8 that.

9 MS. CALLAHAN: Yeah.

10 Devon is requesting that it be allowed to
11 recover its cost, plus 200 percent risk charge against
12 all nonconsenting working interest owners and that Devon
13 be designated operator.

14 He states that Devon's Exhibits 1 through 6
15 were either prepared by him or compiled by him or under
16 his direction and supervision and that the granting of
17 the application will be in the best interest of
18 conservation and the prevention of waste and the
19 protection of correlative rights.

20 So I'd ask that Mr. Hammond's affidavit and
21 Exhibits 1 through 6 be admitted into the record.

22 (Devon Energy Production Company, L.P.
23 Exhibit Numbers 1 through 6 were offered
24 into evidence.)

25 EXAMINER JONES: Not that the new

1 horizontal well rule gives us a chance to ask, but since
2 I'm an examiner, I wanted to ask anyway. They're
3 forming this unit in the middle of these two sections.
4 Is there a -- so they would be outside -- or are being
5 also developed?

6 MS. CALLAHAN: Yes. The other two -- the
7 other two applications that were heard September 6th
8 were for those two Bone Spring wells on either edge of
9 the section. And the geologist's testimony and the
10 engineer's testimony here will let you know why they've
11 decided to drill three instead of four in this section.

12 EXAMINER JONES: Okay. Exhibits 1 through
13 6 are admitted.

14 (Devon Energy Production Company, L.P.
15 Exhibit Numbers 1 through 6 are admitted
16 into evidence.)

17 MS. CALLAHAN: And then if you turn to Tab
18 2, you'll see the affidavit of the Susan Estes, who is
19 the geologist for Devon.

20 I neglected to mention that Mr. Hammond has
21 previously testified before the Division, and his
22 credentials were accepted as an expert in petroleum land
23 matters.

24 The same is true for Ms. Estes. She
25 previously testified on September 6th, and her

1 credentials as a petroleum geologist were accepted as a
2 matter of record.

3 Ms. Estes lets us know the target is the
4 3rd Bone Spring Sand within the Bone Spring Formation
5 for the Spud Muffin 31-30 332H well and refers us to
6 Exhibit 7, which is found at Tab 11. And Exhibit 7 will
7 answer your question, I think, regarding their proposed
8 development plan for the Bone Spring in this section.
9 The two wells in the western edge and eastern edge of
10 the section are the other Bone Spring wells proposed and
11 heard on September 6th. And then the center well is
12 what we're talking about today. This is just an
13 execution plan to kind of let you know -- give you a
14 visual of what they're doing.

15 And Exhibit 8 that she refers to in her
16 affidavit is a subsea structure map that she's prepared
17 for the 3rd Bone Spring Sand, and the spacing unit's in
18 a blue outline. And then she's also shown the proposed
19 well location for the wellbore. The contour interval is
20 50 foot, and the offset 3rd Bone Spring horizontal
21 producers that she's shown here are indicated by blue
22 triangles. She notes that the structure map shows --
23 I'm sorry. On Exhibit 7, she identifies all the wells
24 that Devon is proposing.

25 And then if we turn to Exhibit 8, it's a

1 subsea structure map she's prepared for the top of the
2 3rd Bone Spring Sand. The spacing unit is also outlined
3 in blue. The contour interval is 50 feet, and the
4 proposed wellbore path for this well is depicted by a
5 red line, with the bottom-hole location indicated by a
6 red circle. And, again, the offsets are indicated by
7 blue triangles.

8 EXAMINER JONES: Yeah. I wish the
9 horizontal well rule had specified a certain preferred
10 schematic for bottom-hole locations and surface
11 locations because --

12 MS. CALLAHAN: What would that be if you
13 had your druthers?

14 EXAMINER JONES: If I had my druthers, I
15 would have a circle at the surface and an arrow at the
16 bottom hole, but that's just me. Whatever the
17 convention would be, it would have been nice to have put
18 that in that rule.

19 EXAMINER BROOKS: I agree with everything
20 you said, but I didn't think of it when I was writing
21 the rule.

22 MS. CALLAHAN: It might make our lives
23 easier, too.

24 EXAMINER BROOKS: And we had a committee to
25 write the rule, and nobody thought of it.

1 EXAMINER JONES: Maybe they all disagreed
2 on how to do it.

3 (Laughter.)

4 EXAMINER BROOKS: Well, they came from
5 different companies, so that's very likely.

6 MS. CALLAHAN: So Ms. Estes notes as to
7 Exhibit 8 that it shows the area is gently dipping to
8 the east and to the base and by approximately 1 degree
9 more or less, and she didn't observe any faulting,
10 pinch-outs or any other geologic impediments.

11 And then she references Exhibit 9, which is
12 a gross isopach map. And the contour interval here is
13 10 feet, and the thickness of the sand, she notes,
14 ranges from about 330 feet to almost 370 feet. This map
15 shows the two lines of section for the cross section she
16 prepared to illustrate the consistent and contiguous
17 nature of the Bone Spring and the offsetting development
18 block.

19 And let's see. I think the rest of it
20 speaks for itself.

21 She does discuss the strike section and the
22 dip section in her affidavit. Exhibit 10 is a
23 south-to-north strike section, A to A prime,
24 illustrating the type wells in and offsetting the block
25 and that penetrate the 3rd Bone Spring with the line of

1 the section shown on the inset map. And the proposed
2 target interval is depicted and labeled by yellow
3 shading. She notes that the cross section contains
4 gamma ray, resistivity and porosity logs and that it
5 demonstrates the target interval across the proposed
6 spacing and proration unit. It's laterally consistent
7 and contiguous with log character.

8 And then Exhibit 11 she discusses in her
9 affidavit, reflects a west-to-east dip section, B to B
10 prime, illustrating the type wells in and offsetting the
11 development block that penetrate the 3rd Bone Spring
12 Sand, with the line of section shown on the inset map.
13 The proposed target again is labeled and depicted by
14 yellow shading.

15 In her affidavit, Ms. Estes notes each well
16 in the cross section contains gamma ray, resistivity and
17 porosity logs, and the cross section also demonstrates
18 that the target interval extends across the proposed
19 spacing and proration unit.

20 And then Exhibit 12 is what she's calling
21 gun-barrel diagram similar to a cross section, which she
22 says shows how Devon is attempting to mitigate the
23 potential communication issues between the 3rd Bone
24 Spring and the Upper Wolfcamp that they define X-Y. She
25 states that the public data suggests apparent

1 communication between those two formations, and Devon is
2 doing everything it can to mitigate that risk, and it's
3 part of why they've put together their development
4 program as they have for Sections 30 and 31.

5 I don't know if you want me to explain more
6 about Exhibit 12 or if it's self-explanatory.

7 EXAMINER JONES: Did you say which of these
8 exhibits that you want to relate to the other cases.

9 MS. CALLAHAN: I think that the affidavit
10 of the engineer --

11 EXAMINER JONES: Just the affidavit in
12 general.

13 MS. CALLAHAN: -- will probably be
14 sufficient, because he's really addressing the possible
15 communication issues. She does talk about it as well,
16 and she did discuss it on September 6th, but we're just
17 kind of -- since we're here today to do this, we thought
18 we might as well bolster the testimony in those cases
19 with an engineer's testimony.

20 EXAMINER JONES: Is that okay, Mr. Brooks?

21 EXAMINER BROOKS: Well, if the material
22 that's submitted -- now, what was the question? What
23 was the issue? I mean, if the material that's submitted
24 supports the conclusion, it's okay. But were you
25 proposing to submit something to supplement the record?

1 MS. CALLAHAN: To supplement the record of
2 the other cases that are part of this same development
3 program that are still pending before the Division.

4 EXAMINER BROOKS: Okay. They're still
5 pending, so that's okay.

6 EXAMINER JONES: Still pending, but they've
7 been taken under advisement?

8 MS. CALLAHAN: Yes, they have.

9 EXAMINER BROOKS: That's okay.
10 They were uncontested?

11 MS. CALLAHAN: Yes.

12 EXAMINER BROOKS: That's okay. I'm trying
13 to make it okay.

14 MS. CALLAHAN: I appreciate it. I'm just
15 trying to be more helpful by giving you more
16 information.

17 EXAMINER BROOKS: As long as the cases have
18 not been closed and they're still under advisement and
19 there are no other parties involved, then it's okay.

20 MS. CALLAHAN: Okay. Great.

21 EXAMINER JONES: Okay.
22 Any questions?

23 EXAMINER GOETZE: No. The inclusion of the
24 engineer's discussion is good. It supports the claim
25 that they're doing everything possible to make sure

1 there is no communication between the Wolfcamp and the
2 Bone Spring drillings, and the testimony as provided in
3 the affidavit shows that the engineer has taken several
4 measurements to determine and show that communication is
5 not happening. So there is protocol established in the
6 affidavit.

7 EXAMINER BROOKS: And I suppose you ran out
8 of dividers?

9 (Laughter.)

10 MS. CALLAHAN: Well, the engineer's
11 affidavit is the very last one.

12 EXAMINER BROOKS: Well, we always try to
13 keep the engineers last. We don't want them --

14 MS. CALLAHAN: Because it's the most
15 important?

16 EXAMINER JONES: Keep them in a room with
17 cobwebs all over and never let them out.

18 MS. CALLAHAN: So I think Mr. Goetze
19 explained the exhibit much better than I could have.

20 EXAMINER GOETZE: So I get a free trip to
21 wherever OXY's headquarters is.

22 EXAMINER JONES: And Devon's.

23 MS. CALLAHAN: And Devon's.

24 EXAMINER BROOKS: Well, Devon's is in
25 Oklahoma City --

1 EXAMINER JONES: Unless they've moved.

2 EXAMINER BROOKS: -- unless they've moved
3 lately.

4 EXAMINER GOETZE: So who prepared the
5 exhibits, and do you want them to --

6 MS. CALLAHAN: So I do need to get
7 Mr. Garrett, the engineer, accepted as an expert in
8 petroleum engineering. So I guess he does set forth in
9 his affidavit his credentials, his education and his
10 work history. And he has, you know, familiarity with
11 all of the applications before the Division, including
12 this one, related to this pilot program. And he
13 prepared Exhibit 13. And I guess I would ask that the
14 Division accept him as an expert in petroleum
15 engineering.

16 EXAMINER JONES: He's qualified as an
17 expert in petroleum engineering.

18 MS. CALLAHAN: Thank you.

19 And then I also should ask you to accept
20 into the record Exhibits 7 through 13, as well as the
21 affidavits of Ms. Estes and Mr. Garrett.

22 EXAMINER JONES: Exhibits 7 through 13; is
23 that correct?

24 MS. CALLAHAN: Yes.

25 EXAMINER JONES: 7 through 13 and the

1 affidavit of Ms. Estes and Mr. Garrett are admitted in
2 the record in this case.

3 (Devon Energy Production Company, L.P.
4 Exhibit Numbers 7 through 13 are offered
5 and admitted into evidence.)

6 EXAMINER JONES: And I guess we're ready to
7 take under advisement.

8 EXAMINER GOETZE: I have no further
9 comments.

10 MS. CALLAHAN: Any questions?

11 EXAMINER JONES: Thank you very much.
12 16449 is taken under advisement.

13 MS. CALLAHAN: Thank you.

14 (Case Number 16449 concludes, 11:08 a.m.)
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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

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

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

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

20 DATED THIS 11th day of November 2018.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
25 New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2018
Paul Baca Professional Court Reporters