

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:

ORIGINAL

APPLICATION OF MARSHALL &
WINSTON, INC., FOR APPROVAL
OF A NONSTANDARD OIL SPACING
AND PRORATION UNIT AND
COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO

Case No. 14868

TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Technical Examiner
DAVID K. BROOKS, Legal Examiner

June 25, 2012

Santa Fe, New Mexico

This matter came on for hearing before the New
Mexico Oil Conservation Division, RICHARD EZEANYIM,
Technical Examiner, and DAVID K. BROOKS, Legal
Examiner, on Monday, June 25, 2012, at the New
Mexico Energy, Minerals, and Natural Resources
Department, 1220 South St. Francis Drive, Room 102,
Santa Fe, New Mexico.

REPORTED BY: PAUL BACA, CCR #112
PAUL BACA COURT REPORTERS
500 4th Street, NW, Suite 105

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1 A P P E A R A N C E S

2 For Applicant:

3 James Garrett Bruce
 4 P.O. Box 1056
 5 Santa Fe, New Mexico 87504
 6 505-982-2043

7 I N D E X

8 WITNESS: PAGE:

9 RONALD MILES

10 Examination by Mr. Bruce 4

11 BRENT MAY

12 Examination by Mr. Bruce 14

13 CERTIFICATE OF COURT REPORTER 25

14

15

16 EXHIBIT: DESCRIPTION

17 1-3 Mr. Miles' Exhibits 12

18 4-8 Mr. May's Exhibits 20

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1 CHAIRMAN BROOKS: At this time we'll call
2 Case Number 14868, application of Marshall &
3 Winston, Inc., for approval of a nonstandard oil
4 spacing and proration unit and compulsory pooling,
5 Eddy County, New Mexico.

6 Call for appearances, please.

7 MR. BRUCE: Mr. Examiner, Jim Bruce of
8 Santa Fe, representing the applicant.

9 I have two witnesses.

10 CHAIRMAN BROOKS: Very good.

11 The witnesses may be sworn.

12 (Witnesses sworn.)

13 CHAIRMAN BROOKS: Would you state your
14 names for the record, please.

15 THE WITNESS: Brent May.

16 THE WITNESS: Ronald Miles.

17 CHAIRMAN BROOKS: Very good.

18 You may call your first witness,
19 Mr. Bruce.

20 MR. BRUCE: I call Mr. Miles.

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1 RONALD MILES,
2 after having been first duly sworn under oath,
3 was questioned and testified as follows:

4 EXAMINATION

5 BY MR. BRUCE:

6 Q. Mr. Miles, where do you reside?

7 A. Roswell, New Mexico.

8 Q. And what is your occupation?

9 A. I'm a certified professional landman.

10 Q. Have you previously testified before the
11 division?

12 A. No, sir.

13 Q. Could you summarize your educational and
14 employment background for the Examiner?

15 A. I have a bachelor of business
16 administration degree from Eastern New Mexico
17 University.

18 I am a certified professional landman, as
19 certified by the American Association of
20 Professional Landmen.

21 I've been active in the oil and gas land
22 business for 30 years. I owned and actively managed
23 an abstract and title insurance company in Portales,
24 Roosevelt County, for ten years.

25 Q. And have you performed -- you are an

1 independent landman. Have you performed land work
2 for a number of oil and gas companies in this state?

3 A. Yes, sir.

4 Q. And do you have any association with the
5 New Mexico Landman's Association?

6 A. Yes, sir. I'm a member and former
7 president of the New Mexico Landmen's Association,
8 formerly on the board of directors of the American
9 Association of Professional Landmen.

10 Q. And what is your relationship with
11 Marshall & Winston in this case?

12 A. I'm an independent contractor.

13 Q. And as part of that, did you conduct a
14 title review of land in Section 25, which is the
15 subject of this application?

16 A. Yes, sir.

17 Q. And are you familiar with the land matters
18 involved in this case?

19 A. Yes, sir.

20 MR. BRUCE: Mr. Examiner, I tender
21 Mr. Miles as an expert petroleum landman.

22 CHAIRMAN BROOKS: So qualified.

23 Q. (By Mr. Bruce) Mr. Miles, could you
24 identify Exhibit 1 and describe briefly what
25 Marshall & Winston seeks in this case?

1 A. Yes, sir. As you can see, there's
2 numerous lines in that southeast quarter, and those
3 are broken into 20-acre parcels. And one of the
4 parcels that we've been working on, there's a
5 one-eighth mineral interest owner that we have been
6 unable to find.

7 Q. And is the well unit for the well involved
8 in this case, the west half, southeast quarter of
9 Section 25?

10 A. Yes, sir.

11 Q. And as you said, that west half, southeast
12 quarter, is comprised of four separate 20-acre
13 tracts?

14 A. That's correct.

15 Q. And what is the name of the well involved
16 in this case?

17 A. The well is the Boot Hill 25, Well Number
18 1.

19 MR. BRUCE: And, Mr. Examiner, when you
20 look at the OCD's records, there's a little
21 confusion. The surface location was originally
22 going to be in the Section 36 to the south, but the
23 location is actually 2590 feet from the south line
24 and 2140 feet -- 2145 feet from the east line, with
25 the terminus in the southwest quarter, southeast

1 quarter of Section 25.

2 When you look at the division's record,
3 it's still reading -- you have to go to Section 36
4 to find the API information on the well.

5 CHAIRMAN BROOKS: Okay. The actual
6 surface location, though, is going to be in Section
7 25?

8 MR. BRUCE: Yes. 2590 from the south line
9 and 2145 feet from the east line.

10 CHAIRMAN BROOKS: Okay. So that's a long
11 way from that south line. How did that get to be
12 there, from -- it was originally going to be in
13 Section --

14 MR. BRUCE: They -- they just changed the
15 location. It was originally going to be a
16 south-to-north well bore. They drilled it --

17 CHAIRMAN BROOKS: It's north to south.
18 Okay. What is the terminus, though?

19 MR. BRUCE: Actually, Mr. Examiner, the
20 well has been drilled. The actual footage is 332
21 feet from the south line and 2157 from the east
22 line.

23 CHAIRMAN BROOKS: 200 --

24 MR. BRUCE: 332 --

25 CHAIRMAN BROOKS: 332 from the setoff.

1 MR. BRUCE: From the south side.

2 And 2157 from the east line.

3 CHAIRMAN BROOKS: 2157 in the east line.

4 And that's also in Section 25?

5 MR. BRUCE: That's correct.

6 CHAIRMAN BROOKS: Okay. Continue.

7 Q. (By Mr. Bruce) And in this case, who does
8 Marshall & Winston seek to pool?

9 A. We seek to pool Julia McKinley.

10 Q. And what does -- interest does she own in
11 the well unit?

12 A. Ms. McKinley acquired an undivided
13 one-eighth interest by warranty dated October 24,
14 1919, and recorded on -- the file of record on
15 April 1st in the year 2021.

16 Q. And -- not 2021.

17 A. I'm sorry. 1921, at 9:00 a.m. Excuse me.
18 Thank you. 1921.

19 Q. And what is the actual legal description
20 of the 20-acre tract that she owns an interest in?

21 A. Her parcel is in Township 19 south, Range
22 25 east, Section 25. And it's the west half of the
23 west half of the west half of the southeast quarter.

24 Q. Now, you've mentioned the deed by which
25 she acquired her interest. Is that submitted as

1 Exhibit 2?

2 A. Yes, sir, I believe it is. Yes, sir.

3 Q. And are there any other instruments of
4 record regarding this interest in the last 95 years
5 or so?

6 A. No, sir.

7 Q. Besides -- could you inform the Examiner
8 what records you searched, what else you did to try
9 to locate Ms. McKinley or her heirs?

10 A. Okay. The first thing we do is we get our
11 legal description and then we go to the abstract
12 company and look through the tract books or the card
13 files and take down book and page numbers of any
14 documents that need to be reviewed at the county
15 clerk's office or at the district court clerk's
16 office.

17 And this is all Fee lands, this 20. So
18 that's where the recordation should be held.

19 We also checked the records of the trace
20 book, but it was too vague.

21 We also checked the New Mexico courts.gov,
22 and I only found one listing for a Julie Francis
23 McKinley, nothing at all for a Julia. And that was
24 NMcourts.gov.

25 We also checked Google. I didn't find

1 anything for Julia McKinley. I found a lot of
2 things on McKinley County, New Mexico, but nothing
3 at all for Julia.

4 We also checked FaceBook, and have
5 actively checked several people named McKinley, just
6 shooting in the dark hoping to find someone.

7 And we found one lady on October 21 --
8 excuse me, I'm sorry -- June 21, just a couple of
9 days ago. And her name is Jennifer McKinley, and
10 she was going to go ask her family at a family
11 reunion. So I believe we have done everything
12 possible.

13 Q. Now, you've mentioned you checked probate
14 records. Now the address on the deed is in Butler
15 County, Kansas, correct?

16 A. Yes.

17 Q. What did you do with respect to the Butler
18 County records?

19 A. We also checked the Butler County probate
20 records, and there was nothing of record on her.

21 Q. Okay. How long have you actually been
22 looking for Ms. McKinley or her heirs?

23 A. Since 2007. I have a letter dated
24 January 22, 2008, recommending -- stating that we
25 have tried to contact her and recommending that her

1 interest be carried until something else could
2 happen with it.

3 Q. So you haven't given up looking for her,
4 but you've had no success yet?

5 A. Correct.

6 Q. In your opinion has Marshall & Winston
7 made a good faith effort to locate this interest
8 owner?

9 A. Yes, sir.

10 Q. Now with respect to the pooling, does
11 Marshall & Winston request the maximum cost plus
12 200 percent risk charge?

13 A. Yes, sir.

14 Q. And was notice published as against Julia
15 McKinley in an Eddy County newspaper?

16 A. Yes, sir.

17 Q. And is that reflected in Exhibit 3?

18 A. Yes, sir.

19 Q. And were Exhibits 1 through 3 compiled
20 from company business records?

21 A. Yes.

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

25 A. Yes, sir.

1 MR. BRUCE: Mr. Examiner, I would move the
2 admission of Marshall & Winston Exhibits 1 through
3 3.

4 CHAIRMAN BROOKS: Exhibits 1 through 3 are
5 admitted.

6 MR. BRUCE: I have no further questions of
7 the witness.

8 CHAIRMAN BROOKS: Okay. This is in
9 Section 25, 19 south, 25 east?

10 MR. BRUCE: Yes, that's correct.

11 CHAIRMAN BROOKS: And the unit to be
12 formed will be the west half of the southeast
13 quarter?

14 MR. BRUCE: That's correct.

15 CHAIRMAN BROOKS: Okay. I didn't hear --
16 I missed it, if it was said, what is the overhead
17 charge to be?

18 MR. BRUCE: Our next witness will address
19 that, Mr. Chairman.

20 CHAIRMAN BROOKS: Okay.
21 What is the target formation?

22 MR. BRUCE: This is a Glorieta Yeso well.

23 CHAIRMAN BROOKS: Okay. Has it been
24 assigned to a pool?

25 MR. BRUCE: I think this is in the

1 north -- it's the North 7 Rivers Glorieta Yeso pool.

2 CHAIRMAN BROOKS: And you're asking only
3 for pooling in the -- in that pool?

4 MR. BRUCE: That is correct.

5 CHAIRMAN BROOKS: Okay. That's all I
6 have.

7 Mr. Ezeanyim?

8 CHIEF ENGINEER EZEANYIM: Well, you're
9 asking for two things: The 40 acres and the
10 80 acres, right?

11 MR. BRUCE: No, no, just 80-acre pooling.
12 An 80-acre nonstandard unit.

13 CHIEF ENGINEER EZEANYIM: Okay. But when
14 I read the application it said 40 acres. I mean,
15 are you -- do you want to withdraw?

16 MR. BRUCE: Since the well has been
17 drilled, we're just asking for the -- it really
18 doesn't matter. Because if you look at the tracts
19 in there, the interest ownership would be the same
20 for either the 40-acre or 80 acres. But we would be
21 content with just an 80-acre nonstandard unit.

22 CHIEF ENGINEER EZEANYIM: Okay. That's
23 all my questions.

24 CHAIRMAN BROOKS: The witness may stand
25 down.

1 THE WITNESS: Thank you. And I apologize
2 for not wearing a coat and tie.

3 BRENT MAY,
4 after having been first duly sworn under oath,
5 was questioned and testified as follows:

6 EXAMINATION

7 BY MR. BRUCE:

8 Q. State your name for the record.

9 A. Brent May.

10 Q. And where do you reside?

11 A. Midland, Texas.

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

13 A. Marshall & Winston. I'm a geologist.

14 Q. Have you previously testified before the
15 division?

16 A. Yes, I have.

17 Q. And were your credentials as an expert
18 petroleum geologist accepted as a matter of record?

19 A. Yes, they were.

20 Q. And are you familiar with the geology
21 involved in this case?

22 A. Yes, I am.

23 MR. BRUCE: Mr. Examiner, I would tender
24 Mr. May as an expert petroleum geologist.

25 CHAIRMAN BROOKS: So qualified.

1 Q. (By Mr. Bruce) Mr. May, could you
2 identify Exhibit 4 for the Examiner, and discuss its
3 contents?

4 A. This is a structure map on top of the Yeso
5 formation in Section 25. You can see it colored in
6 yellow. It's the proration unit of the west half of
7 the southeast quarter.

8 Also the trace of the horizontal well from
9 north/south is also located in there, the Boot Hill
10 25, Number 1H.

11 Also, I might point out there are several
12 horizontal wells in this area: Section 24, 26, 35,
13 36, all in the 19 south, 25 east; also in Section 2
14 and 3, 20 south to 25 east; and 18 and 19 and 30 of
15 19 and 26 east. Those are all Yeso horizontal
16 producers.

17 Structure is fairly straightforward here,
18 stepping from the west down to the east. Most of
19 those producers and those horizontals are updip of
20 this location with the exception of the producers in
21 19/26 which are downdip.

22 I might point out that those wells are --
23 have a little bit higher water cut. So we -- but
24 we're -- our well was in the range of the better
25 producers as far as structure goes.

1 Q. And what is Exhibit 5?

2 A. Exhibit 5 is a net porosity map on the --
3 what I just called the Yeso pay zone, and I'll show
4 that on the next exhibit, the cross-section.

5 You can see, going through the -- through
6 the well, Boot Hill 25 Number 1H, is the 100-foot
7 contour interval.

8 I might note that most of the other
9 producers have varying thicknesses, anywhere from a
10 little bit thicker than the Boot Hill should have
11 encountered to several that have less. So we're
12 right in the range as far as the porosity.

13 I also might point out this is based on
14 neutron porosity greater than or equal to 6 percent.

15 Q. And you mentioned the cross-section.
16 Could you identify that for the Examiner?

17 A. One thing I'll point out on Exhibit 4 -- I
18 forgot to point out the trace of the cross-section
19 green AA prime, going from southwest to northeast.

20 This is a stratigraphic cross-section,
21 AA prime. It basically shows that the producing or
22 pay interval is continuous through that area. It's
23 got the top of the Glorieta marked on it; the top of
24 the Yeso, which is also the dam. I just identified
25 the pay interval as the pay interval. And I

1 identified the base of what I determined to be the
2 pay interval.

3 Also on -- there's three wells that are
4 shown on this. I noted in red where the laterals
5 were placed.

6 Starting on the left-hand side the Concho
7 BT 36 State Number 1, the 36 in 19/25. It's on the
8 far left. It was down on the southeast side of the
9 cross-section. That well through -- I believe it's
10 March -- has produced about 55,000 barrels of oil
11 from the Yeso, from that interval.

12 The next well, the Marshall & Winston Boot
13 Hill 25 Number 1H, which I'm showing just as a bore
14 hole because we drilled this well with no pilot
15 hole, and the only part of the -- part of the
16 section that we logged was from the San Andres, so
17 we do not have E-logs across this section.

18 But again I did place -- put on there
19 where we placed the lateral within the section.

20 And the last well on the cross-section of
21 the Concho, Coffman State Number 1 and 30 of 19/26
22 is the downdip. I might point out the downdip well.
23 It had cum-ed about 14,000 barrels of oil and about
24 77,000 barrels of water, a little bit higher water
25 cut, which those three wells downdip have done.

1 Q. In your opinion, will each quarter quarter
2 section in the well unit more or less equally
3 contribute to production?

4 A. Yes, I believe they will. The Yeso was
5 uniform across that.

6 Q. And will -- in your opinion, will the well
7 bore adequately drain this portion of the Yeso
8 reservoir?

9 A. I believe so, yes.

10 Q. Let's move on to Exhibit 7.

11 Could you identify that for the Examiner
12 and discuss how this well -- tell us briefly how
13 this well was completed by Marshall & Winston.

14 A. Okay. Is that the survey?

15 Q. Yes.

16 A. We drilled down -- like I said before, we
17 drilled no pilot hole. We drilled down to --

18 CHIEF ENGINEER EZEANYIM: Which exhibit?

19 THE WITNESS: It should be the survey.

20 CHIEF ENGINEER EZEANYIM: I thought you
21 said 8.

22 THE WITNESS: No, 7.

23 A. We did not drill a pilot hole. We drilled
24 down vertically to approximately about 400 feet
25 above our target and then started kicking off the

1 well. And then of course flat, when we were
2 90 degrees, landed within our target and kept it
3 within our target zone the whole way until we TD'd.

4 Q. How many completion stages were there?

5 A. There was three stages on the frack.

6 Q. And could you identify Exhibit 8, which
7 should be marked Exhibit 8, which is the AFE for the
8 well? Could you identify the drilling cost for this
9 well?

10 A. Yes. On the drilling cost, the dry hole
11 costs were about 1.3 million. And with the
12 completed, it was 2.27 -- \$2,277,280.

13 Q. Now, this well has been drilled. Were
14 those estimated costs fairly accurate?

15 A. Somewhat. But with the way things have
16 been going lately in the oilfield with the
17 escalating costs, it did cost a little bit more,
18 yes.

19 Q. In your opinion, was the cost of the well
20 fair and reasonable and comparable to the cost of
21 other horizontal wells drilled at this depth in this
22 area of New Mexico?

23 A. Yes, from what I understand.

24 Q. And do you request that Marshall & Winston
25 be appointed operator of the well?

1 A. Yes.

2 Q. Do you have a recommendation as to
3 overhead rates?

4 A. Yes. We're requesting \$7,000 a month for
5 the drilling and 700 a month for producing.

6 Q. And are these amounts equivalent to those
7 normally charged by Marshall & Winston and other
8 operators in this area for wells of this type?

9 A. Yes.

10 Q. And do you request that the overhead rates
11 be adjusted periodically as provided by the
12 appropriate accounting procedure?

13 A. Yes, we do.

14 Q. In your opinion, is the granting of this
15 application in the interest of conservation and the
16 prevention of waste?

17 A. Yes.

18 Q. And were Exhibits 4 through 8 either
19 prepared by you or compiled from company business
20 records?

21 A. Yes.

22 MR. BRUCE: Mr. Examiner, I would move the
23 admission of Exhibits 4 through 8.

24 CHAIRMAN BROOKS: 4 through 8 are
25 admitted.

1 MR. BRUCE: I have no further questions of
2 this witness.

3 CHAIRMAN BROOKS: 7,000 is -- 7,700,
4 that's higher than what I have been seeing. Most of
5 these horizontal wells in the Yeso area are 5,500 or
6 6,000 is more normal.

7 Why is this one higher?

8 THE WITNESS: I cannot give you an answer
9 for that, but I can find out one for you.

10 CHAIRMAN BROOKS: Okay. Well, because I
11 anticipate the director may ask that question, it
12 might be a good idea if you did that.

13 THE WITNESS: Okay.

14 CHAIRMAN BROOKS: That's all I have.

15 Mr. Ezeanyim?

16 CHIEF ENGINEER EZEANYIM: Let's go back to
17 Exhibit 5 -- 4 and 5.

18 THE WITNESS: 4 and 5?

19 CHIEF ENGINEER EZEANYIM: Yes. I heard
20 you say that the contour of that was 100 feet, but
21 they look like 50. Did you say 100 feet?

22 THE WITNESS: No, sir, I did- -- I don't
23 think I did. But the contour intervals on both are
24 50.

25 CHIEF ENGINEER EZEANYIM: Okay. That's

1 what -- I thought I heard 100. So it makes a whole
2 lot of difference. Okay. Good.

3 You drilled the well, and the question
4 was -- that was posed of you was that it cost a
5 little bit more.

6 For my own consumption, let's say it cost
7 3 million. How do you deal with that? Let's say
8 I'm interested, and I have paid my share on the
9 2.7 million, and then you use 3.7. Do you charge me
10 extra?

11 THE WITNESS: We charge the actual amount
12 that it cost to drill the well, yes.

13 CHIEF ENGINEER EZEANYIM: Okay. So -- but
14 if I want to participate I pay it based on this.

15 THE WITNESS: The AFE is an estimate.

16 CHIEF ENGINEER EZEANYIM: Yes, I know.

17 THE WITNESS: And it's an estimate, and it
18 was done -- I believe this AFE was prepared, yes, in
19 September of 2011.

20 The well was actually -- I believe it was
21 spudded in December of that same year.

22 CHIEF ENGINEER EZEANYIM: Okay.

23 THE WITNESS: And I will point out, even
24 though, yes, it's only about a three-month period,
25 costs have been escalating. We also had a few

1 problems, also, while we were drilling the well.

2 CHIEF ENGINEER EZEANYIM: Have you located
3 every interest owner?

4 THE WITNESS: Yes.

5 CHIEF ENGINEER EZEANYIM: Okay. And
6 therefore, there's no need for you to advertise or
7 escrow funds?

8 THE WITNESS: The only thing I was aware
9 of that we could not locate was the mineral owners.

10 CHIEF ENGINEER EZEANYIM: Well, is there
11 anywhere you have an API number for these wells?

12 MR. BRUCE: Mr. Examiner, it's 3001538552.

13 CHAIRMAN BROOKS: 38552?

14 MR. BRUCE: Yes.

15 CHIEF ENGINEER EZEANYIM: Nothing further.
16 You may step down.

17 Are you finished?

18 CHAIRMAN BROOKS: I'm through.

19 MR. BRUCE: I have nothing further,
20 Mr. Examiner.

21 CHAIRMAN BROOKS: Okay. Case Number
22 146- - 14868 will be taken under advisement.

23 And we will stand in recess until 1:15.

24 MR. BRUCE: Mr. Examiner, just for the
25 witnesses here, all I have left are cases by

1 affidavit, including at the end of the day. And I
2 was going to request that all of my cases -- that
3 Mack Energy and Cimarex be moved to the end of the
4 day. That way the witnesses can get up and out of
5 here.

6 CHAIRMAN BROOKS: Okay. That will be
7 fine.

8 (Proceedings concluded.)
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18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
the Examiner hearing of Case No. 14868
20 heard by me on 6-25-12
21 David K. Burt Examiner
Oil Conservation Division
22
23
24
25

CERTIFICATE

I, Paul Baca, RPR, CCR in and for the
State of New Mexico, do hereby certify that the
above and foregoing contains a true and correct
record, produced to the best of my ability via
machine shorthand and computer-aided transcription,
of the proceedings had in this matter.



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