

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. 13,466

APPLICATION OF JTD RESOURCES, L.L.C.,)
FOR COMPULSORY POOLING, ~~DOY~~ COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

April 7th, 2005

Santa Fe, New Mexico

2005 APR 21 AM 10 10

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, April 7th, 2005, 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

April 7th, 2005
Examiner Hearing
CASE NO. 13,466

	PAGE
EXHIBITS	3
APPEARANCES	3
APPLICANT'S WITNESS:	
<u>DAN LEONARD</u> (Landman)	
Direct Examination by Mr. Bruce	5
Examination by Mr. Kellahin	16
Examination by Examiner Jones	21
REPORTER'S CERTIFICATE	25

* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	6	16
Exhibit 2	7	16
Exhibit 3	8	16
Exhibit 4	11	16
Exhibit 5	13	16
Exhibit 6	15	16
Exhibit 7	15	16

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A P P E A R A N C E S

FOR THE APPLICANT:

JAMES G. BRUCE
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 Santa Fe, New Mexico 87504

FOR CHESAPEAKE OPERATING COMPANY/CHESAPEAKE
 EXPLORATION LIMITED PARTNERSHIP:

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 P.O. Box 2265
 Santa Fe, New Mexico 87504-2265
 By: W. THOMAS KELLAHIN

* * *

1 WHEREUPON, the following proceedings were had at
2 9:55 a.m.:

3 EXAMINER JONES: Case 13,466, Application of JTD
4 Resources, L.L.C., for compulsory pooling, ~~El~~ ^{Lea} County, New
5 Mexico.

6 Call for appearances.

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

9 EXAMINER JONES: Thank you, Mr. Bruce.

10 Any other appearances in this case? Mr.
11 Kellahin, making an appearance?

12 MR. KELLAHIN: Yes, sir. Mr. Examiner, I'm Tom
13 Kellahin of the Santa Fe law firm of Kellahin and Kellahin,
14 appearing this morning on behalf of Chesapeake Operating
15 Company. They also do business as Chesapeake Exploration
16 Limited Partnership. I think that's the parent company
17 that actually holds the mineral interest, and the operating
18 company is, in fact the operating company.

19 I have no witnesses.

20 EXAMINER JONES: Is that written in any of this
21 appearance that you've filed?

22 MR. KELLAHIN: Yes, sir.

23 EXAMINER JONES: Okay. No other appearances?

24 One witness. Will the witness please stand to be
25 sworn?

(Thereupon, the witness was sworn.)

DAN LEONARD,

the witness herein, after having been first duly sworn upon his oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BRUCE:

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

A. Dan Leonard.

Q. Where do you reside?

A. Midland, Texas.

Q. What is your relationship to JTD Resources, L.L.C.?

A. I manage that company and perform the duties of landman.

Q. Have you previously testified before the Division as a petroleum landman?

A. I have.

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

A. I am.

Q. Does JTD Resources and its -- Capataz Operating, who you are requesting to operate this well, have numerous wells and interests in this area?

A. We do, for a number of years.

MR. BRUCE: For a number of years.

1 Mr. Examiner, I'd tender Mr. Leonard as an expert
2 petroleum landman.

3 MR. KELLAHIN: No objection.

4 EXAMINER JONES: Mr. Leonard is qualified as an
5 expert petroleum land manager.

6 Q. (By Mr. Bruce) Mr. Leonard, could you identify
7 Exhibit 1 for the Examiner and describe briefly what JTD
8 seeks in this case?

9 A. Exhibit 1 is a Midland Map Company land plat
10 highlighting the southeast-northeast quarter of -- well,
11 actually it doesn't. It's the northeast of the southeast
12 quarter.

13 Q. Oops, sorry about that.

14 A. You're not the landman.

15 MR. BRUCE: Mr. Examiner, I think I might have
16 done some of them proper and some of them I didn't, but
17 the --

18 THE WITNESS: Mine highlights the northeast of
19 the southeast, I don't know what yours does.

20 EXAMINER JONES: I've had them tell me that I'm
21 not the landman many times.

22 (Laughter)

23 EXAMINER JONES: Don't feel bad.

24 MR. BRUCE: The Examiner has the correct one, as
25 does the court reporter, Mr. Kellahin does.

1 THE WITNESS: So it's just me.

2 MR. BRUCE: So it was just me and you.

3 EXAMINER JONES: Yeah, I've got it right.

4 THE WITNESS: Fine.

5 Q. (By Mr. Bruce) Go ahead.

6 A. It highlights the southeast-northeast quarter of
7 Section 35 of Township 19 South, Range 38 East, Lea County,
8 New Mexico. JTD seeks an order pooling the southeast-
9 northeast quarter from the surface to the base of the Abo
10 formation, and the unit will be dedicated to our Roundup
11 Number 1 well.

12 Q. What is the well's footage location?

13 A. The footage location for the well will be 1980
14 from the north and 660 from the east.

15 Q. And that is an orthodox well location?

16 A. It is.

17 Q. What is the working interest ownership in the
18 well unit? And I refer you to Exhibit 2.

19 A. Well, this is a fee tract. There are
20 approximately 21 mineral owners in this tract. We've
21 acquired leases from 12 of these owners, covering
22 approximately 78 1/2 percent of the mineral interest. The
23 working interest owners in the proposed well are listed on
24 Exhibit 2. We're at the top there with the 78 1/2 percent,
25 then there are five other entities owning the roughly 21-

1 1/2-percent balance.

2 Q. Okay. Of these -- outside of JTD Resources, what
3 mineral owners do you seek to pool on this list at this
4 time?

5 A. All with the exception of Roy Barton and the
6 Ramsland interest. We've come to terms with both of them
7 for participation in the well.

8 Q. Okay. In particular, with respect to the
9 Ramsland group, they were notified of this hearing today,
10 right?

11 A. They were.

12 Q. And they just recently signed a lease?

13 A. Tuesday.

14 Q. Tuesday. Let's -- And looking still at Exhibit
15 2, the final interest owner, W.E. Bennett and Beatrice
16 Bennett, is that an unlocatable interest owner?

17 A. Yes, sir.

18 Q. Okay. Let's first go to the locatable interest
19 owners you seek to pool. Could you -- Excuse me, and today
20 we're here for ChevronTexaco and Chesapeake. First, could
21 you identify Exhibit 3 for the Examiner?

22 A. Exhibit 3 reflects copies of correspondence that
23 we've directed to ChevronTexaco and Chesapeake, the well
24 proposals that we submitted to them on February 11th.

25 Q. Okay. Now, ChevronTexaco's interest is actually

1 a mineral interest; is that right?

2 A. Yes, sir.

3 Q. And you have been attempting to lease that
4 interest?

5 A. Since last fall. We first contacted Chevron, oh,
6 October of 2004.

7 Q. Okay. And they -- you could never -- at the
8 time, you couldn't agree on a lease term, so you sent them
9 a letter with an AFE offering them to join in the well?

10 A. Well, originally they were not receptive to the
11 lease proposal and wanted to know when and where we were
12 going to drill a well and what their interest would be, and
13 acted sort of like they would participate in the well but
14 were not interested in a lease.

15 And then this year, after sending the well
16 proposal on February 11th, they did indicate that they
17 would -- read the lease and submitted a lease form to us
18 that we couldn't live with, and we've been in negotiations
19 with them since and -- nearing a satisfactory completion of
20 that, I hope.

21 Q. And besides any correspondence with Texaco,
22 you've had phone conversations with them also?

23 A. Numerous telephone calls, yes, sir, with two or
24 three different landmen at Chevron.

25 Q. And even as recently as this week?

1 A. Yes.

2 Q. And you would prefer to lease their interest,
3 would you not?

4 A. Oh, absolutely.

5 Q. If you do come to voluntary agreement with
6 ChevronTexaco, will you notify the Division that they are
7 not subject to any pooling order?

8 A. Certainly.

9 Q. Now, let's move on to Chesapeake's status.
10 Chesapeake is a working interest owner; they're not a
11 mineral interest owner; is that correct?

12 A. Right, Chesapeake has acquired leases from
13 several mineral owners in the tract, and we have likewise
14 submitted to them on February 11th a well proposal.

15 Q. With an AFE?

16 A. With an AFE.

17 Q. And have you also had telephone conversations
18 with Chesapeake?

19 A. Yes.

20 Q. What is Chesapeake's status at this point?

21 A. Well, Chesapeake has indicated that they will
22 participate in the well, and they've signed an AFE and
23 returned that to us. Upon receipt of the AFE we sent them
24 a joint operating agreement for signature, and to that they
25 haven't responded yet.

1 Q. Okay. Now, signing an AFE isn't -- that doesn't
2 form a contract with them?

3 A. No.

4 Q. And so what you need from them is a JOA?

5 A. Yes.

6 Q. Now, again, you'd rather have them sign a JOA
7 than force pool them, if it comes to that?

8 A. Absolutely.

9 Q. But at this point they have not signed a JOA, so
10 you do seek to pool them?

11 A. We do.

12 Q. And again, if Chesapeake does sign a JOA, will
13 you notify the Division that they are not subject to a
14 pooling order?

15 A. We will.

16 Q. Now, let's move on to Mr. and Mrs. Bennett, the
17 unlocatable interest owners. They own a fairly substantial
18 interest in the well unit?

19 A. Yes, an undivided 1/12, according to the records.

20 Q. If you could refer to your Exhibit 4, identify
21 that, and maybe just briefly summarize the steps, first of
22 all, when Mr. and Mrs. Bennett acquired their interest,
23 what the status of that interest is today, and what steps
24 you took to try to locate them.

25 A. Well, Exhibit 4 is the letter that was directed

1 to me by a landman in Midland named Glen Farmer who does
2 quite a bit of work for us in this area. He determined
3 from the records, oh, late last summer, early last fall,
4 that Bennetts owned this undivided 1/12 interest. They
5 apparently acquired this mineral interest in 1934. They
6 entered into an oil and gas lease with Gulf, dated March
7 19, 1944, and at that time they resided in Magnolia,
8 Columbia County, Arkansas. They have not appeared in the
9 record since.

10 Q. So it's gone 60 years without any further
11 instrument affecting their interest?

12 A. Yes. As this letter indicates, Mr. Farmer made
13 -- he's constantly tracking down these interests for us.
14 He made numerous attempts to find them through the
15 Internet. He found a bunch of Bennetts in Magnolia,
16 Arkansas. Of course, this is 60 years after the fact of
17 the execution of that oil and gas lease. He talked to all
18 of them, I think. Nobody knew of these people. He didn't
19 find W. or Beatrice. He did talk to a realtor who's been
20 there quite a long period of time named Greg Bennett, who
21 had never heard of W. Bennett or Beatrice. And we checked
22 the probate records in that county -- I believe that county
23 is Columbia County -- and found no probates on W.E. or his
24 wife Beatrice.

25 Further, this letter goes on to state that he did

1 some further work in the Caprock Title Company in Midland
2 with the Lea County records, and he found some evidence of
3 W. Bennett and his wife Beatrice living in Lake of the
4 Ozarks, Missouri, during the -- oh, from the 1960s to the
5 1980s. And he did the same thing with the Internet search
6 there, trying to find them, and we searched the probate,
7 and that -- I think that's Camden County, Missouri --
8 didn't turn up anything. We just -- as his letter
9 indicates, he's turned over every stone he can think of and
10 hasn't had any luck finding them, and suggested we not
11 spend any more of his time and my money trying.

12 Q. In your opinion, have you made either a good
13 faith effort to obtain the voluntary joinder of the
14 interest owners in the well or to locate the unlocatable
15 owners?

16 A. I think we have.

17 Q. Would you identify Exhibit 5 and discuss the cost
18 of the proposed well?

19 A. Exhibit 5 is an AFE that was prepared for the
20 working interest participants by Capataz Operating.
21 Capataz is a contract operator that operates all of the
22 wells that we have in this area, and has for a number of
23 years.

24 This AFE is for a 7800-foot test. Its estimated
25 dryhole cost is \$390,000, completion cost is \$515,383 --

1 now, these are cost estimates -- and the total estimated
2 well cost is \$905,385.

3 Q. And again, you, along with Capataz Operating, do
4 have quite a bit of experience in drilling a number of
5 wells in this area?

6 A. We do.

7 Q. And you believe you have a good handle on the
8 costs of these wells?

9 A. I think he has a very good handle on it, yeah.

10 Q. And you believe this cost is in line with the
11 cost of other wells drilled to this depth in this area of
12 New Mexico?

13 A. To the best of my knowledge it is, yes.

14 Q. Are there more than one objective? It's being
15 drilled down to the Abo. Are there different objectives in
16 the well also?

17 A. Yes, the lower Leonard is what we're after, and
18 it's -- the Blinebry, Tubb, Drinkard and Abo formations are
19 the main shots we have. There's a potential in the San
20 Andres also.

21 Q. Okay. And again, do you request that Capataz
22 Operating, Inc., be designated operator of the well?

23 A. We do.

24 Q. And do you have a recommendation for the amounts
25 which the operator should be paid for supervision and

1 administrative expenses?

2 A. We do, we request that \$4500 a month be allowed
3 for the drilling and \$450 a month be allowed for producing
4 the well.

5 Q. And are these amounts equivalent to those
6 normally charged by operators in this area for wells of
7 this depth?

8 A. Yes, to the best of my knowledge they are.

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

11 A. We certainly do.

12 Q. In the event any interest owners do go
13 nonconsent, do you request the statutory cost-plus-200-
14 percent risk charge be assessed against the nonconsenting
15 interest owners?

16 A. Yes, we do.

17 Q. Were the interest owners, the locatable interest
18 owners, notified of this hearing by certified mail?

19 A. They were.

20 Q. And is that submitted as Exhibit 6?

21 A. Yes.

22 Q. And then was notice to Mr. and Mrs. Bennett
23 published in the newspaper in Lea County?

24 A. Yes, that is your Exhibit 7, I believe.

25 Q. Were Exhibits 1 through 7 either prepared by you

1 or under your supervision or compiled from company business
2 records?

3 A. Yes.

4 Q. And in your opinion, is the granting of this
5 Application in the interests of conservation and the
6 prevention of waste?

7 A. It is.

8 MR. BRUCE: Mr. Examiner, I'd move the admission
9 of Exhibits 1 through 7.

10 MR. KELLAHIN: No objection.

11 EXAMINER JONES: Exhibits 1 through 7 will be
12 admitted to evidence.

13 EXAMINATION

14 BY MR. KELLAHIN:

15 Q. Thank you, Mr. Jones.

16 Mr. Leonard, let me direct your attention back to
17 the Chesapeake transactions.

18 A. Yes, sir.

19 Q. You indicated in your testimony that you had a
20 signed AFE back on this well from Chesapeake?

21 A. Yes.

22 Q. I don't see it submitted as an exhibit. Do you
23 have it with you?

24 A. I do.

25 Q. Would you look to see if your copy is the same

1 one I have? There should be a transmittal letter of March
2 30th, and the AFE itself, according to my copy, was signed
3 off by Chesapeake on -- I think that's either the 28th or
4 the 29th of March.

5 A. Cover letter is the 30th.

6 Q. Yes, sir, and the AFE that you have signed back?

7 A. It looks like it's the 29th.

8 Q. Yeah.

9 A. Yes, sir.

10 Q. Subsequent to receiving that letter, then, it's
11 my understanding from your testimony that you then sent
12 Chesapeake a proposed operating agreement?

13 A. I did.

14 Q. As to the Chevron interest, did they ever sign an
15 AFE, the Chevron people?

16 A. No, they're going to lease to us.

17 Q. So Chesapeake is the only one that executed an
18 AFE?

19 A. Well, Roy Barton did.

20 Q. Yeah. And Roy Barton then was sent a joint
21 operating agreement?

22 A. Well, he is on that same operating agreement that
23 Chesapeake is, but I don't think I've actually sent that.

24 Q. You haven't sent the operating agreement to him
25 yet?

1 A. He participates with us --

2 Q. All the time?

3 A. -- in these wells, yes, sir, and I -- it's the
4 same operating agreement he always signs, and I think that
5 I got the one to Chesapeake out, Federal Expressed, on
6 Saturday to them, but not -- I don't think I that with Roy
7 Barton.

8 Q. As to the Chesapeake, my information is that by
9 cover letter of March 1st, you transmitted that to
10 Chesapeake, the operating agreement?

11 A. March 1st?

12 Q. I'm sorry, April 1st.

13 A. April 1st, yes, sir.

14 Q. And you did that by Federal Express --

15 A. I did.

16 Q. -- on Saturday?

17 A. I took it out there Saturday morning, yes, sir.

18 Q. Which would have been the 2nd, I think?

19 A. Yes. They had it in their hands Monday.

20 Q. So Chesapeake had it in their hands on Monday of
21 this week?

22 A. Yes, sir.

23 Q. What did your April 1st cover letter advise them
24 was the date at which you expected them to sign and return
25 the operating agreement signature pages?

1 A. Yesterday.

2 Q. At five o'clock?

3 A. Yes, sir.

4 Q. Do you think that's a sufficient enough time to
5 review the operating agreement and execute the pages and
6 get it back to you?

7 A. Well, as I explained to the lady at Chesapeake
8 when I sent it to her, it's the exact same form with the
9 operating agreement that we submitted to them in June of
10 last year for another well that they participated with us
11 in.

12 Q. And they signed that one?

13 A. No, they have not returned it. That's the reason
14 I asked them to do this one by Wednesday. But they
15 certainly have had time to look at it.

16 Q. Is it your intention by this letter to withdraw
17 the opportunity for them to participate in this well?

18 A. By my letter?

19 Q. Yeah. If they don't get the signed pages back to
20 you by yesterday, are they now only going to be able to
21 participate pursuant to a pooling order?

22 A. That would not be my intention.

23 Q. Okay, your intention would be if they can get the
24 pages back to you --

25 A. Absolutely.

1 Q. -- before you need to execute the force pooling
2 order, then they could participate in the well under a
3 joint operating agreement?

4 A. Yeah, we would like them to sign it, to sign the
5 operating agreement. The last experience that we had with
6 them wasn't a good one, and they haven't signed it yet, and
7 it's under a producing well, which is not working out very
8 good for us. We virtually have no -- they own a quarter
9 interest in the well, and we have no contract to operate
10 with them under, and that's not satisfactory.

11 Q. In that well, did you exercise the opportunity to
12 pool their interest?

13 A. We did.

14 Q. And that interest is subject to a compulsory
15 pooling order?

16 A. It is.

17 Q. In this case, your preference would be to obtain
18 a signed joint operating agreement, as opposed to working
19 under a force pooling order?

20 A. Well, we would like them to be included in this
21 pooling, and in the event that, you know, they have --
22 what, it's a 30-day time frame, roughly, for you to issue
23 an order?

24 EXAMINER JONES: For me to issue an order?

25 THE WITNESS: Yeah -- well, for the NMOC to

1 issue the order, and then there's a 30-day period after
2 that, that they would have to respond.

3 We're happy to have them participate, you know, I
4 just simply want the operating agreement executed. Last
5 year --

6 Q. (By Mr. Kellahin) Let me make sure I don't have
7 a misunderstanding about what you've intended. They can
8 still sign the operating agreement and get those signature
9 pages back to you within a -- I guess the period of time
10 you're describing is before the election would expire under
11 the pooling order.

12 A. And then we would dismiss them from the pooling
13 order --

14 Q. Okay.

15 A. -- yes, sir. That's all I'm asking.

16 MR. KELLAHIN: Good, thank you. No further
17 questions.

18 EXAMINATION

19 BY EXAMINER JONES:

20 Q. Okay, so everybody got the same AFE?

21 A. Yes, sir.

22 Q. Okay. And the AFE won't change between -- When
23 do you intend to drill the well?

24 A. Costs are going up so rapidly, I can't guarantee
25 that that's not going to change, but --

1 Q. But once they've signed, they've signed?

2 A. Yes, sir, we've got a rig tentatively lined up
3 for late June.

4 Q. Okay, late June?

5 A. Yes, sir.

6 Q. Okay. But the AFEs have already gone out to be
7 signed, and they still have the opportunity to sign the AFE
8 that they have in their hand, right?

9 A. They've already done that.

10 MR. KELLAHIN: It's the operating agreement.

11 EXAMINER JONES: Already done that?

12 MR. KELLAHIN: Yates -- Chesapeake has signed the
13 AFE. What is circulating now is the signature pages for
14 the JOA.

15 Q. (By Examiner Jones) JOA?

16 A. Yes, sir.

17 Q. Okay. Now --

18 A. We would -- Again, you know, we're not looking
19 for anything except the signature on the operating
20 agreement. The AFE is not a contract. That's all we want
21 them to do, and we would just be happy -- we would like for
22 you to include them in this pooling order, and then we'll
23 be happy to dismiss them if they would simply sign that
24 operating agreement.

25 Q. I understand.

1 Now, Mr. Bennett that can't be located, you put
2 money in escrow or in the bank in --

3 A. In Lea County.

4 Q. -- Lea County, Hobbs, probably, or Lovington?

5 A. Yes, sir.

6 Q. What if they never, ever get located? Ten years,
7 15 years, what happens?

8 A. Well, the way I understand it is, that money
9 escheats to the State. Well, I'm not sure of that. I
10 haven't gotten that far down the road yet on any of these.
11 We have money in the bank that we've done this several
12 times for people that we haven't been able to find.

13 MR. BRUCE: I will say, Mr. Examiner, I can't
14 tell you for sure, because escheating to the State is kind
15 of difficult in New Mexico, more difficult than in other
16 states, and I think the State has to take -- I think both
17 the operator and the State would have to take affirmative
18 action. It just doesn't -- you know, there's not a lapse
19 of time and then it goes to the State. I forget how that
20 works. Maybe Mr. Kellahin knows better.

21 MR. KELLAHIN: The State has to take affirmative
22 action. Once the property is turned over to the lost
23 property department of the State, they then must instigate
24 a process where they again try to find this missing party.
25 If that fails, then the State keeps the money. I'll

1 guarantee you that Mr. Bruce doesn't get it.

2 EXAMINER JONES: Okay, that was my concern.

3 (Laughter)

4 THE WITNESS: You said -- At what point in time
5 does the State do that, affirmative --

6 MR. KELLAHIN: I think it's ten years.

7 THE WITNESS: Okay.

8 MR. KELLAHIN: It takes forever. It's a long
9 time.

10 THE WITNESS: It's a long time.

11 EXAMINER JONES: Okay.

12 THE WITNESS: Well, hopefully by that time it
13 will be a lot of money.

14 EXAMINER JONES: Everybody hopes it will be a
15 lot.

16 I have no further questions. If there's anything
17 further --

18 MR. BRUCE: Nothing further in this matter.

19 EXAMINER JONES: Okay, thank you very much.

20 THE WITNESS: Thank you.

21 EXAMINER JONES: With that, we'll take Case
22 13,466 under advisement.

23 (Thereupon, these proceedings were concluded at
24 10:26 a.m.)

25 I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. _____
heard by me on _____

STEVEN T. BRENNER, CCR
(505) 989-9317, 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 April 12th, 2005.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006