

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. 13,772

APPLICATION OF OXY USA WTP LIMITED)
 PARTNERSHIP FOR COMPULSORY POOLING,)
 EDDY COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

September 28th, 2006

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, September 28th, 2006, 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

September 28th, 2006
 Examiner Hearing
 CASE NO. 13,772

PAGE

APPEARANCES

3

APPLICANT'S WITNESS:

DAVID RAY EVANS (Landman)

Direct Examination by Mr. Carr

5

Examination by Mr. Bruce

11

Examination by Examiner Catanach

14

Further Examination by Mr. Bruce

14

REPORTER'S CERTIFICATE

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E X H I B I T S

Applicant's

Identified

Admitted

Exhibit 1

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Exhibit 2

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Exhibit 3

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Exhibit 4

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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
Deputy General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

FOR CHARLES D. RAY:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
Santa Fe, New Mexico 87504

* * *

1 WHEREUPON, the following proceedings were had at
2 8:35 a.m.:

3
4 EXAMINER CATANACH: Case 13,772, which is the
5 Application of OXY USA WTP Limited Partnership for
6 compulsory pooling, Eddy County, New Mexico.

7 Call for appearances.

8 MR. CARR: May it please the Examiner, my name is
9 William F. Carr with the Santa Fe office of Holland and
10 Hart, L.L.P. We represent OXY USA WTP Limited Partnership
11 in this matter, and I have one witness.

12 MR. BRUCE: Mr. Examiner, Jim Bruce representing
13 Charles D. Ray. I don't think I'm going to present a
14 witness.

15 EXAMINER CATANACH: Okay. And --

16 MR. CARR: Mr. Catanach, I'd like the record to
17 reflect that my witness, David Evans, testified in the
18 prior case, that he remains under oath and that his
19 qualifications as an expert in petroleum land matters have
20 been accepted and made a matter of record.

21 EXAMINER CATANACH: The record shall so reflect,
22 except I'll ask Mr. Bruce if he has any objection to this
23 witness.

24 MR. BRUCE: No, sir.

25 EXAMINER CATANACH: Okay, you may proceed.

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DAVID RAY EVANS,

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

DIRECT EXAMINATION

BY MR. CARR:

Q. Mr. Evans, are you familiar with the Application
filed in this case?

A. Yes, I am.

Q. And you're familiar with the status of the lands
in the area that's the subject of this Application?

A. Yes, I am.

Q. Would you briefly summarize for the Examiner what
it is that OXY seeks in this matter?

A. Order pooling all leaseholds and minerals from
the surface to the base of the Morrow formation under the
following standard spacing units located in the north half
of Section 16, 24 South, 28 East, Eddy County, New Mexico.

Q. And what acreage are we seeking to pool?

A. The north half of 16.

Q. Are we seeking just spacing units developed on
320-acre spacing?

A. 320-acre spacing for the west Malaga-Morrow and
the Atoka, west Malaga Atoka.

Q. The well is actually located in the northwest
quarter of the section; isn't that right?

1 A. That's correct.

2 Q. And OXY holds the leasehold interest in that
3 northwest quarter?

4 A. That's correct.

5 Q. So there's no need to pool on anything less than
6 160-acre spacing?

7 A. Correct.

8 Q. Let's go to what has been marked for
9 identification as OXY Exhibit Number 1. Would you identify
10 that or review it for Mr. Catanach?

11 A. That is our plat for the OXY Big Spender State
12 Com Number 1, located in the north half of 16, 24 South, 28
13 East.

14 Q. And it shows the proposed location?

15 A. Correct.

16 Q. And the ownership and lease numbers for the two
17 leases that are the subject of this hearing?

18 A. That's correct.

19 Q. And shows that Mr. Ray has State of New Mexico
20 Lease VL-0017 covering the northeast quarter of the
21 section; is that correct?

22 A. That's correct.

23 Q. And what is the primary objective for the
24 proposed well?

25 A. Morrow formation.

1 Q. And is this acreage governed by statewide rules
2 that provide for 320 spacing and 660-foot setbacks?

3 A. Yes.

4 Q. Could you review for the Examiner the percentage
5 of the working interest that has so far been voluntarily
6 committed to the well?

7 A. Yes, McCombs Energy, 12 1/2 percent; Kennedy
8 Minerals, 2.5; Siana Oil and Gas, 6.3; OGX Production
9 Limited 14; and OXY USA, 14.7.

10 Q. And are these interests in the northwest quarter
11 of the section?

12 A. That's correct.

13 Q. Could you summarize the efforts you've made to
14 obtain the voluntary participation of Mr. Ray in this well?

15 A. Well, our first contact was with a letter and an
16 AFE dated May 5th, and a second letter updating the AFE,
17 correcting the location of the well, on May the 19th. Also
18 an operating agreement was sent and the communitization
19 agreement was sent on June the 14th.

20 Q. And have you had telephone conversations with Mr.
21 Ray in addition to these communications?

22 A. My co-broker, Richard Coats, has talked to him on
23 multiple occasions.

24 Q. Have you in your opinion made a good-faith effort
25 to obtain Mr. Ray's voluntary participation in the well?

1 A. Yes, we have.

2 Q. Is OXY Exhibit 2, various correspondence and
3 documents that reflect your efforts to obtain the voluntary
4 participation of Mr. Ray?

5 A. Yes, they are.

6 Q. Could you identify what has been marked OXY
7 Exhibit Number 3?

8 A. That's our AFE dated May the 4th.

9 Q. This AFE is the same as the earlier AFE provided;
10 the only thing changed is the location --

11 A. Location --

12 Q. -- of the well?

13 A. -- that's correct.

14 Q. So the numbers are the same that were provided?
15 Both times they've been the same?

16 A. Yes, sir.

17 Q. What are the totals set forth on this exhibit?

18 A. Dryhole cost of \$1,711,606, and completed well,
19 \$2,495,500.

20 Q. Are these costs in line with the costs actually
21 incurred by OXY in developing other properties in the area?

22 A. Yes, they are.

23 Q. Does Exhibit Number 2, which we've previously
24 admitted -- or presented -- contain a copy of the
25 accounting procedures for joint operations attached to the

1 joint operating agreement for this well?

2 A. Yes, it does.

3 Q. And do these COPAS accounting procedures provide
4 for periodic adjustment and overhead and administrative
5 costs?

6 A. Yes, they do.

7 Q. Does OXY request that the figures as set forth in
8 the order that results from this case be adjusted in
9 accordance with the COPAS procedures set forth in this
10 joint operating agreement and attachment?

11 A. Yes.

12 Q. Have you made an estimate of the overhead and
13 administrative cost to be incurred while drilling the well
14 and also while producing it if, in fact, it is successful?

15 A. Yes.

16 Q. And what are those figures?

17 A. \$6000 a month and \$600 a month.

18 Q. And what is the source of those figures?

19 A. 2005-2206 Ernst and Young survey.

20 Q. Do you recommend that these figures be
21 incorporated into the order that results from today's
22 hearing?

23 A. Yes.

24 Q. Does OXY request that the 200-percent charge for
25 risk authorized by statute be imposed on each cost-bearing

1 interest not voluntarily committed to the well?

2 A. Yes.

3 Q. And will OXY USA WTP Limited Partnership be the
4 operator of the well?

5 A. Yes.

6 Q. What is the current status of the well? Have you
7 commenced drilling it?

8 A. Not yet, but it will be shortly.

9 Q. Is Exhibit Number 4 an affidavit confirming that
10 notice of this hearing has been provided in accordance with
11 the Rules of the Division?

12 A. Yes, they are.

13 Q. Were Exhibits 1 through 4 either prepared by you
14 or compiled at your direction and supervision?

15 A. Yes.

16 Q. Can you testify as to the accuracy of these
17 exhibits?

18 A. Yes.

19 MR. CARR: Mr. Catanach, at this time we move the
20 admission into evidence of OXY Exhibits 1 through 4.

21 EXAMINER CATANACH: Any objection?

22 MR. BRUCE: No objection.

23 EXAMINER CATANACH: Exhibits 1 through 4 will be
24 admitted.

25 Q. (By Mr. Carr) Mr. Evans, if this Application is

1 granted and the well drilled, is it your opinion that that
2 will be in the best interest of conservation, the
3 prevention of waste and the protection of correlative
4 rights?

5 A. Yes.

6 MR. CARR: That concludes my direct examination
7 of Mr. Evans.

8 EXAMINER CATANACH: Mr. Bruce, do you have any
9 questions?

10 MR. BRUCE: Just a few questions.

11 EXAMINATION

12 BY MR. BRUCE:

13 Q. First, Mr. Evans, the final correspondence in
14 your Exhibit 3 concerning the com agreement --

15 A. Uh-huh.

16 Q. -- just for my own edification -- There's number
17 of people listed, Chi Energy and some others. What is
18 their interest in the well?

19 A. They have farmed out or term-assigned their
20 interest.

21 Q. Okay, so are the overriding royalty?

22 A. Right.

23 Q. Do they have back-ins?

24 A. No.

25 Q. And Mr. Evans, this area of 24 South, 28 East,

1 this is an area that you pretty much handle for OXY, is it
2 not?

3 A. That's correct.

4 Q. And I don't have an additional copy of this plat,
5 but over to the west of Section -- This is Section 16.
6 Over to the west in the north half of 17, has Mr. Ray
7 farmed out some interest to OXY?

8 A. I don't recall.

9 Q. And down to the south southwest in Section 29,
10 has Mr. Ray farmed out some interest to OXY?

11 A. I don't recall. If you could tell me the well
12 names -- I wouldn't -- My predecessor might have taken
13 those farmouts.

14 Q. The Second Chance Fed Com Number 1.

15 A. Okay, yes.

16 Q. Okay, and that Second Chance Fed Com Number 1 has
17 been completed as a Morrow producer; is that right?

18 A. That's correct.

19 Q. Fairly recently?

20 A. Fairly recently.

21 Q. And to date it looks like a decent well?

22 A. Yes.

23 Q. Producing over 4 million a day?

24 A. Yes.

25 Q. Now in the south half of this Section 16, OXY has

1 recently drilled a well in the -- is it in the southwest
2 quarter of Section 16?

3 A. Uh-huh, yes.

4 Q. And Mr. Ray requested some data from that well,
5 and OXY did turn over that data voluntarily --

6 A. Yes.

7 Q. -- did it not?

8 Has that well been completed yet?

9 A. What's the name of the well?

10 Q. The --

11 MR. RAY: He knows that.

12 THE WITNESS: The Bypass.

13 Q. (By Mr. Bruce) The Bypass, the Bypass State?

14 A. It's -- We're working on it currently.

15 Q. Okay. Is a completion rig on it, or is there any
16 time-frame set for the completion?

17 A. I think the completion rig is on it, and we're
18 having difficulty.

19 Q. Now OXY voluntarily turned over data on that well
20 to date. Is it willing to provide the completion data to
21 Mr. Ray?

22 A. Yes, we are.

23 Q. And with respect to this well, the Big Spender
24 well, when does OXY plan to commence that well?

25 A. As soon as possible within the next two to three

1 weeks.

2 MR. BRUCE: Mr. Examiner, that's all the
3 questions I have of Mr. Evans.

4 MR. CARR: I have not redirect.

5 EXAMINER CATANACH: All-righty.

6 EXAMINATION

7 BY EXAMINER CATANACH:

8 Q. What is the amount of Mr. Ray's interest? Is it
9 50 percent?

10 A. Fifty percent.

11 Q. And he's the only party that is being pooled in
12 this case?

13 A. Yes, sir.

14 EXAMINER CATANACH: I don't have any other
15 questions.

16 MR. BRUCE: I did have one question.

17 FURTHER EXAMINATION

18 BY MR. BRUCE:

19 Q. What is the depth of this well? I was looking at
20 the -- I didn't see it right away.

21 A. I want to say it's 12- -- 13,000. I was going to
22 say 12,900, but it's 13,000.

23 MR. BRUCE: Oh, there it is. Okay, I was looking
24 at the wrong page. Thank you.

25 EXAMINER CATANACH: Anything further?

1 MR. CARR: That concludes our presentation in
2 this matter.

3 EXAMINER CATANACH: Nothing further, Case 13,772
4 will be taken under advisement.

5 (Thereupon, these proceedings were concluded at
6 8:47 a.m.)

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12 I do hereby certify that the foregoing is
13 a complete record of the proceedings in
the Examiner hearing of Case No. 13772
heard by me on September 28, 2006.

14 David R. Catnach, Examiner
15 Oil Conservation Division
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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 September 28th, 2006.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006