

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 COMPULSORY POOLING,)
 EDDY COUNTY, NEW MEXICO)

CASE NO. 13,867

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

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

February 1st, 2007

Santa Fe, New Mexico

2007 FEB 15 AM 8 44

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, Jr., Hearing Examiner, on Thursday, February 1st, 2007, 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.

* * *

I N D E X

February 1st, 2007
 Examiner Hearing
 CASE NO. 13,867

PAGE

APPEARANCES

3

APPLICANT'S WITNESS:

KEN GRAY (Landman)

Direct Examination by Mr. Bruce
 Examination by Examiner Jones

4

13

REPORTER'S CERTIFICATE

20

* * *

E X H I B I T S

Applicant's

Identified

Admitted

Exhibit 1	5	13
Exhibit 2	7	13
Exhibit 3	8	13
Exhibit 4	10	13
Exhibit 5	11	13
Exhibit 6	12	13

* * *

A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS, JR.
Assistant General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

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

* * *

1 WHEREUPON, the following proceedings were had at
2 10:27 a.m.:

3 EXAMINER JONES: At this time we will call Case
4 Number 13,867, Application of Devon Energy Production
5 Company, L.P., for compulsory pooling, Eddy County, New
6 Mexico.

7 Call for appearances.

8 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe
9 representing the Applicant. I have one witness to be
10 sworn.

11 EXAMINER JONES: Will the witness please stand to
12 be sworn?

13 (Thereupon, the witness was sworn.)

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

17 DIRECT EXAMINATION

18 BY MR. BRUCE:

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

20 A. Yes, my name is Ken Gray and I live in Oklahoma
21 City, Oklahoma.

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

23 A. I work for Devon Energy Production Company as a
24 landman.

25 Q. Have you previously testified before the

1 Division?

2 A. Yes, I have.

3 Q. And were your credentials as an expert landman
4 accepted as a matter of record?

5 A. Yes, they were.

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

8 A. I am.

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

11 EXAMINER JONES: Mr. Gray is qualified as an
12 expert petroleum landman.

13 Q. (By Mr. Bruce) Mr. Gray, could you identify
14 Exhibit 1 and briefly describe what Devon seeks in this
15 case?

16 A. Exhibit 1 is a copy of the Midland Map Company,
17 highlighting the northeast quarter of the southwest quarter
18 of Section 20, Township 21 South, Range 26 East, and we are
19 seeking compulsory pooling of that northeast quarter,
20 southwest quarter, from the surface to the base of the
21 Delaware formation.

22 Q. What is the working interest ownership of this 40
23 acres?

24 A. Well, between Devon and its current partner,
25 Fasken Oil and Ranch, we're reasonably certain that we own

1 100 percent of the working interest, but about 25 years ago
2 there were some less than acceptable conveyances from -- or
3 attempts to convey certain interests from Tenneco to
4 Devon's predecessor under this lease, so there's a slight
5 chance that Tenneco might be able to claim an interest.

6 Q. Okay.

7 A. And as you know, Tenneco hasn't been in business
8 for about 20 years, so...

9 Q. Okay. And if I recall, since I was involved in
10 this some number of years ago, it was that the assignment
11 was vague and didn't specifically cover this property?

12 A. It didn't specifically cover this lease. It
13 conveyed all of Tenneco's interest in the Catclaw Draw Unit
14 area, whatever that means. I mean, we're reasonably close
15 to the Catclaw Draw Unit here, but we're not -- it didn't
16 specifically convey this lease.

17 Q. The Catclaw Draw Unit itself is just a little bit
18 to the west of this?

19 A. Just a couple miles to the west, yeah.

20 Q. Okay. Now on the other hand, Tenneco never
21 assigned this acreage to any other operator, did it?

22 A. Never been assigned out of Tenneco, officially.

23 Q. And so provided Tenneco owns this acreage, you
24 seek to force pool them into the well?

25 A. That's correct.

1 Q. Did Devon attempt to get Tenneco to join in this
2 well?

3 A. Yes, we've tried numerous things to locate not
4 just Tenneco but their successor, or successors.

5 Q. And what is reflected in Exhibit 2?

6 A. Exhibit 2 is a series of e-mails and letters to
7 not only Tenneco, who -- the address that was given to us
8 was in Houston, which is actually the address for El Paso
9 right now, so El Paso may be one of the successors to
10 Tenneco. But not only El Paso but there's some other
11 e-mails and correspondence from Total E&P USA, who we
12 thought might be one of the successors to Tenneco, and
13 amongst this correspondence is a letter from Total
14 disclaiming any interest.

15 So we've attempted to contact the potential
16 successors to Tenneco with no success so far.

17 Q. And the Total -- Let's take a step back. I
18 believe a lot of assets were assigned from Tenneco to Fina
19 at one point?

20 A. That's right.

21 Q. And Fina -- not these -- not this particular
22 land, but a number of assets?

23 A. Right.

24 Q. And by merger, et cetera, Total is the successor
25 to Fina.

1 A. That's correct.

2 Q. And then you mentioned El Paso, and if I recall
3 my corporate history, Tenneco also had pipeline companies,
4 and El Paso became the successor to Tenneco's pipeline
5 assets?

6 A. That's right. Actually the Total letter refers
7 us to El Paso as a possible successor to Tenneco.

8 Q. Okay. So besides contacting Total you wrote to
9 Tenneco at the El Paso address?

10 A. That's correct.

11 Q. And El Paso or -- El Paso as Tenneco's successor
12 has never offered to join in the well or --

13 A. No, about the only thing we've gotten out of El
14 Paso was that they were going to attempt to determine
15 whether they could claim ownership to this, but they
16 haven't been able to so far.

17 Q. Okay. One final letter, Exhibit 3 from Chevron,
18 what is that about?

19 A. Well, Chevron actually did succeed to some of
20 these Tenneco interests, basically in the Catclaw Draw Unit
21 itself, so we thought, well, maybe we'll get in touch with
22 Chevron, see if they're claiming any of this, since we're
23 so close to the Catclaw Draw Unit, but Exhibit 3 is a
24 letter dated January 11th from Chevron disclaiming any
25 interest in this particular lease.

1 Q. So although Devon and its working interest
2 partners think they own the interest, there is some issue
3 and nobody else is claiming it?

4 A. That's correct.

5 Q. And you're just trying to tie up the interests so
6 that you satisfy the --

7 A. It's basically just a curative matter, as far as
8 we're concerned.

9 Q. Okay. In your opinion, has Devon made a good
10 faith effort to obtain the voluntary joinder of any other
11 interest owner in this well?

12 A. Yes, we have.

13 Q. Now -- and Mr. Brooks is probably familiar with
14 part of this, but what is the well's -- This well was
15 previously drilled?

16 A. The well was previously drilled, I believe, in
17 1999 as a Morrow well. The surface location, for whatever
18 reason, was approved and permitted at 1320 feet from the
19 south line and 2323 feet from the west line of Section 20,
20 which is, as best we can tell, an unorthodox location.

21 Q. The well unit for that Morrow well was, I
22 believe, the west half?

23 A. Yes, it was.

24 Q. And it was -- But it was directionally drilled to
25 a standard bottomhole location?

1 A. That's correct.

2 Q. So insofar as at least the deep gas zones, there
3 wasn't a problem until the well ceased producing in the gas
4 zones?

5 A. That's correct.

6 Q. And Devon plans to recomplete this well in the
7 Delaware formation?

8 A. Yes.

9 Q. And the well is unorthodox in the Delaware?

10 A. It is unorthodox in the Delaware.

11 Q. And has Devon determined that as to the Delaware
12 it is in the northeast southwest of Section 20?

13 A. Yes, it is.

14 Q. And Devon has applied for administrative approval
15 of an unorthodox location?

16 A. Yes, we have.

17 Q. Now does the unorthodox location matter insofar
18 as interest ownership in the well unit and offsetting
19 acreage?

20 A. No, this is one -- the west half of Section 20 is
21 one federal lease and common ownership throughout.

22 Q. So there's nobody whose correlative rights will
23 be adversely affected by the unorthodox location?

24 A. No.

25 Q. And does Exhibit 4 contain information on the

1 well location and the directional survey?

2 A. Yes. As best we can tell, the horizontal
3 distance of the Delaware from the surface location is about
4 51 feet north and 38 1/2 feet west of the surface location.

5 Q. Okay. So where you penetrate the Delaware is
6 definitely in the northeast southwest quarter?

7 A. Yes, it is.

8 Q. What is Exhibit 5?

9 A. Exhibit 5 is our cost estimate to drill and
10 complete a 4000-foot Delaware test.

11 Q. And that is how you propose the well to
12 Tenneco/El Paso and the others?

13 A. Yes, it is.

14 Q. And they never bore any cost of the original
15 well, did they?

16 A. No, they didn't. Devon and its partners footed
17 that bill.

18 Q. Would this cost for a Delaware well be in line
19 with the cost of wells drilled to this depth in other parts
20 of -- or in this area of Eddy County?

21 A. Yes, we believe it would.

22 Q. And do you request that Devon be appointed
23 operator of this well?

24 A. Yes, we do.

25 Q. Do you have a recommendation for the amounts

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

3 A. We would recommend \$6000 per month for drilling
4 well rates and \$600 per month for producing well rates.

5 Q. And are these amounts in line with the operating
6 costs charged by other operators of wells of this depth in
7 this area?

8 A. Yes, they are.

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

11 A. Yes.

12 Q. Finally, was Tenneco notified of this hearing?

13 A. Yes, they were.

14 Q. And you tracked Tenneco down to two places, the
15 El Paso address and then a corporation -- CT Corporation
16 system in Hartford, Connecticut?

17 A. The CT Corporation was -- They gave us two
18 addresses, one in Hartford, and the El Paso address in
19 Houston.

20 Q. Okay. And is Exhibit 6 my affidavit of notice to
21 these two addresses?

22 A. Yes, it is.

23 Q. Were Exhibits 1 through 6 prepared by you or
24 under your supervision, or compiled from company business
25 records?

1 A. Yes, they were.

2 Q. And in your opinion is the granting of this
3 Application in the interests of conservation and the
4 prevention of waste?

5 A. Yes.

6 MR. BRUCE: Mr. Examiner, I'd move the admission
7 of Devon's Exhibits 1 through 6.

8 EXAMINER JONES: Devon's Exhibits 1 through 6
9 will be admitted to evidence.

10 EXAMINATION

11 BY EXAMINER JONES:

12 Q. Mr. Gray, the -- so if the Delaware is 38 feet
13 west, that puts it where it's not encroaching on the
14 spacing unit to the east; is that correct?

15 A. Right.

16 Q. And if it's a little bit north, still encroaching
17 to the south, right? Spacing unit to the south? But it's
18 a federal -- Is that right? Because it's 1320 from the
19 south, and if it goes a little bit north, 51 feet more
20 north from there -- Well, it's still closer than 330 --

21 A. We're encroaching on ourselves.

22 Q. On ourselves?

23 A. Yeah.

24 Q. Okay. Even with the makeup of the interests
25 after compulsory pooling, it would still be --

1 MR. BRUCE: Whatever the interest is, it would be
2 uniform throughout.

3 EXAMINER JONES: Okay. You're basically the
4 operator of the south -- the unit to the south --

5 A. Well, the --

6 Q. -- the southeast of the southwest?

7 A. Right, we operate the west half --

8 Q. West half?

9 A. -- of the section, yeah.

10 Q. Okay. But no wells in the Delaware yet?

11 A. No. Actually, this well is -- this is -- we're
12 coming out of the hole, we've got to TA the well or plug it
13 soon, by June, I think it is, per state regulations, so
14 this is our last-ditch effort to keep the well alive.

15 Q. Okay. Is this Bureau of Reclamation area, or is
16 this Bureau of Land Management area?

17 A. No, it's BLM.

18 Q. Okay. You get over under Avalon, I guess it's
19 Bureau of Reclamation.

20 A. Yeah.

21 Q. Now that big boundary to the west -- to the east
22 there, is that --

23 A. It's the City of Carlsbad, city limits.

24 Q. Okay. So this is close to the reef, then, I
25 guess.

1 Now this cost amount you've got here is to
2 drill -- actually to drill a well. Is this just the cost
3 to plug it back and --

4 A. No, that's the cost to -- actually if we were
5 going to have to drill a Delaware well today.

6 Q. So you want to use those costs, because they
7 didn't share in the cost originally?

8 A. That's right. I think the recompletion cost is
9 about \$360,000.

10 EXAMINER JONES: It's incredible how big those
11 costs are nowadays.

12 Is that normal, what we -- have we done that in
13 other --

14 MR. BROOKS: That's not the normal. The Rules
15 state that the normal is that the -- only the additional
16 costs will be allowed as well costs, and the Division can
17 allow drilling costs, some portion thereof. I think it
18 says historical drilling costs. I don't have my rule book
19 with me, and I'm always -- always wish I did when I come to
20 a hearing without it. But the normal is, if they're re-
21 entering, that only the re-entry costs would be allowed as
22 well costs.

23 EXAMINER JONES: But they didn't pay for it
24 originally. You're just saying that's -- I might have to
25 talk to Mr. Brooks here about that. He's sitting right

1 here, so --

2 MR. BROOKS: Yeah.

3 MR. BRUCE: And if you need any more information,
4 we can get it to you after the hearing.

5 EXAMINER JONES: Okay.

6 MR. BROOKS: I will have to look at the Rule,
7 because I've forgotten -- we wrote that -- I was
8 instrumental in writing that Rule, but I've forgotten what
9 it says.

10 Q. (By Examiner Jones) Was that Devon back in those
11 days, in ninety --

12 A. -- '99? Yeah.

13 Q. -- '99. Yeah, it would have been Devon. Yeah,
14 Tenneco, as far as I remember, they sold things by state,
15 didn't they?

16 A. Well, it was piecemeal. That's why we're tracing
17 all these different companies.

18 Q. How much interest are we talking about her?

19 A. Fifty-percent interest.

20 EXAMINER JONES: Fifty percent, okay.

21 MR. BRUCE: But you're right, they sold it -- I
22 think a lot of Permian Basin assets went to TOC Gulf Coast,
23 Inc., and up in the Rocky Mountains it went to TOC Rocky
24 Mountains --

25 EXAMINER JONES: Okay.

1 MR. BRUCE: -- and that went to Amoco, and the
2 Gulf Coast stuff went to Fina --

3 EXAMINER JONES: Fina.

4 MR. BRUCE: -- but then there are a bunch of
5 other odds and ends as well.

6 EXAMINER JONES: They must have gotten
7 overextended or something, Tenneco. I know '86 was a bad
8 year for everybody.

9 MR. BRUCE: Well, you'll see on Exhibit 1 it
10 still lists Tenneco in the west half there --

11 EXAMINER JONES: Okay.

12 MR. BRUCE: -- up at the top of the northwest
13 quarter.

14 EXAMINER JONES: Okay. Okay, yeah, Tenneco et
15 al.

16 (Laughter)

17 EXAMINER JONES: Okay. Any questions?

18 MR. BROOKS: Well, not really questions. I would
19 just point out that I did the -- I handled the
20 administrative application for the nonstandard location,
21 and that has been issued --

22 EXAMINER JONES: Oh.

23 MR. BROOKS: -- so it's been approved.

24 EXAMINER JONES: Okay.

25 MR. BROOKS: I'm familiar with this area for

1 reasons that you may imagine.

2 (Laughter)

3 MR. BROOKS: The first thing I had to do when I
4 got that administrative application was do a conflict
5 check. I don't believe I own any interest in this section.

6 MR. BRUCE: Well, you do to the north, Mr.
7 Brooks.

8 MR. BROOKS: Well, I know I do to the north --

9 MR. BRUCE: Yeah.

10 MR. BROOKS: -- but not in this area.

11 I believe I recall -- one more point I should put
12 on the record -- I believe -- because Mr. Jones's question
13 raised it -- I believe I recall that while the location as
14 you have plotted it in the Delaware actually doesn't
15 encroach to the east, you did give notice of the
16 administrative application to Mewbourne --

17 THE WITNESS: Yeah.

18 MR. BROOKS: -- which is the operator of the east
19 half --

20 THE WITNESS: We did.

21 MR. BROOKS: -- and they did not object.

22 EXAMINER JONES: Speaking of the Delaware, is
23 this the Bell Canyon, or is this the Brushy or the Cherry?

24 THE WITNESS: I think it's going to be Brushy.

25 EXAMINER JONES: Okay, so it's pretty far down in

1 the -- halfway down in the -- all the way down, I guess.
2 Brushy is on the bottom.

3 MR. BRUCE: Yeah, Brushy is -- I think up here
4 the Brushy Canyon is fairly shallow, if I recall. To the
5 north is Exxon's Avalon-Delaware Unit. It's fairly --
6 rather than being 8500 feet deep, it's more 4500.

7 EXAMINER JONES: I know there were some problems
8 with getting rid of water from the Delaware, from other
9 operators. I think it was Fasken out there, they were
10 approaching us about saltwater disposal wells and it was a
11 problem, but that's not really pertinent here.

12 So that's it, I guess. Let's take Case 13,867
13 under advisement.

14 (Thereupon, these proceedings were concluded at
15 10:40 a.m.)

16 * * *

17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. _____
21 heard by me on _____

22 _____, Examiner
23 Oil Conservation Division
24
25

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 February 4th, 2007.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2010