

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 MEWBOURNE OIL COMPANY  
FOR COMPULSORY POOLING AND THREE  
NON-STANDARD WELL UNITS, EDDY COUNTY,  
NEW MEXICO

CASE NO. 14299

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

BEFORE: WILLIAM B. JONES, Hearing Examiner  
DAVID K. BROOKS, Legal Examiner  
TERRY G. WARNELL, Technical Examiner

March 31, 2009

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM B. JONES, Hearing Examiner, DAVID K. BROOKS, Legal Examiner, and TERRY G. WARNELL, Technical Examiner, on Tuesday, March 31, 2009, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91  
Paul Baca Professional Court Reporters  
500 Fourth Street, N.W., Suite 105  
Albuquerque, NM 87103 505-843-9241

RECEIVED  
2009 APR 14 AM 9 43

## A P P E A R A N C E S

## FOR THE APPLICANT:

James G. Bruce, Esq.  
Attorney at Law  
P.O. Box 1056  
Santa Fe, New Mexico 87504

## INDEX

## PAGE

## WITNESS: PAUL HADEN

Direct Examination by Mr. Bruce	3
Examination by Mr. Jones	12
Examination by Mr. Brooks	15
Further Direct Examination by Mr. Bruce	16
Examination by Mr. Warnell	16

## EXHIBITS

## PAGE

EXHIBITS 1 THROUGH 9 ADMITTED INTO EVIDENCE	12
REPORTER'S CERTIFICATE	18

1 MR. JONES: Let's go back on the record  
2 and call Case 14299, application of Mewbourne Oil Company  
3 for compulsory pooling and three non-standard well units,  
4 Eddy County, New Mexico. Call for appearances.

5 MR. BRUCE: Mr. Examiner, Jim Bruce of  
6 Santa Fe representing the applicant. I have one witness,  
7 again, Mr. Haden, so if the record could reflect that he  
8 was previously sworn and qualified.

9 MR. JONES: The record should reflect that  
10 Mr. Haden has previously been sworn and qualified.

11 PAUL HADEN

12 Having been first duly sworn, testified as follows:

13 EXAMINATION

14 BY MR. BRUCE:

15 Q. Mr. Haden, Could you identify Exhibit 1 for  
16 the Examiner?

17 A. Exhibit Number 1 is a land plat. It's taken  
18 from Midland Map Company. It indicates the proposed  
19 spacing unit, which is the north half of Section 1 of 22  
20 south/25 east. It also indicates the well location which  
21 is indicated by a red dot. The north half is also  
22 comprised of Lots 5 through 12. The north half contains  
23 approximately 344.34 acres.

24 Q. And the well is in Lot 9, which is the  
25 southwest/northwest?

1 A. That's correct.

2 Q. Do you also seek to force pool 40-acre units?

3 A. Yes, we do.

4 Q. And Lots 7 through 10 being the northwest  
5 quarter roughly for 160-acre well units?

6 A. Yes, sir.

7 Q. What is the name of the proposed well?

8 A. The name of the proposed well is the Hackberry  
9 Hills Federal Com -- excuse me. It's not a Com. It's  
10 just Federal #1 well. It's on one federal lease.

11 Q. What is the footage location of the well?

12 A. 1,650 from the north and 990 from the west.

13 Q. What is Exhibit 2?

14 A. Exhibit 2 is taken from our proposed operating  
15 agreement. It indicates the ownership of the parties, as  
16 well as their addresses and also indicates the two  
17 contract areas.

18 Q. What are the depths of those contract areas?

19 A. Contract Area A covers the ownership from the  
20 surface to a depth of 10,600 feet beneath the surface,  
21 and Contract Area B covers depths below 10,600 feet  
22 beneath the surface to the base of the Morrow formation.

23 Q. Is the target zone below 10,600 feet?

24 A. Yes, sir, which would be Morrow formation.

25 Q. And looking at Contract Area B, are all the

1 parties committed to -- in the Contract Area B, the deep  
2 zone -- committed to the well?

3 A. All the parties listed in Contract Area B are  
4 committed. They've signed AFEs and this operating  
5 agreement.

6 Q. So in this case are you seeking to force pool  
7 only parties in Contract Area A, the shallow zone?

8 A. That's correct.

9 Q. Which parties do you seek to force pool?

10 A. We are seeking to force pool the interest of  
11 Paul R. Ray, also the Estate of Stanley R. Tyler, also  
12 Norman L. Stevens, Jr., Trustee of the Norman L. Stevens,  
13 Jr. Revocable Trust, Nielson Enterprises, Inc. and Malco  
14 Products, Inc.

15 Q. Now, you are seeking to force pool people in  
16 the shallower depths. What is Exhibit 3?

17 A. Exhibit Number 3 is taken from our operating  
18 agreement dated October 1st, 2008. Under Article XVI(F)  
19 it provides differing ownership as to depths, as to what  
20 costs are associated the parties' interest in the  
21 Contract Area A and B. It sets forth a formula in which  
22 to calculate these proportionate costs for each of these  
23 owners who own the so-called shallow rights from the  
24 surface to 10-6.

25 Q. Now, will the initial cost be borne only by

1 the deep-rights owners?

2 A. That's correct.

3 Q. So 100 percent of the cost will be borne by  
4 Occidental, McCombs and Mewbourne?

5 A. Correct.

6 Q. So this cost allocation would only come in  
7 play if during the term of the pooling order, the well is  
8 re-completed up-hole?

9 A. That's correct.

10 Q. And would you ask that the provisions of this  
11 cost allocation be incorporated in the order?

12 A. Yes, we do.

13 MR. BROOKS: Where is the cost allocation?

14 MR. BRUCE: Exhibit 3, Mr. Examiner.

15 THE WITNESS: Which comes from page 17 and  
16 page 17A of our joint operating agreement.

17 MR. BRUCE: The very bottom item, XVI(F).

18 Q. (By Mr. Bruce) And, Mr. Haden, does Exhibit 4  
19 contain copies of your correspondence with the parties  
20 being pooled?

21 A. Yes. Exhibit Number 4 contains the copies of  
22 the correspondence with all the parties being pooled.

23 Q. And I notice there's some handwritten notes on  
24 there. Have you tried to have telephone calls with these  
25 parties also?

1           A.     Yes. We've talked with some of these people  
2     via telephone, one being the Estate of Stanley R. Tyler.  
3     We talked with Jim Tyler. He had some questions  
4     regarding what we're proposing to do. He apparently has  
5     no experience in oil and gas at all, and we've explained  
6     to him what his options were.

7           Q.     And I think the correspondence goes from the  
8     most recent back to the earliest correspondence. The  
9     original letters to the interest owners were mailed  
10    approximately a month and a half ago?

11          A.     Right.

12          Q.     And in your opinion have you made a good-faith  
13    effort to obtain the voluntary joinder of these five  
14    interest owners in the well?

15          A.     Yes, we have. And we also sent all of these  
16    interest owners our proposed operating agreement for  
17    their signature. We've advised them that once they're  
18    signed up, they would be dismissed from the pooling  
19    hearing. Some of them have signed, some have not.

20          Q.     Now, of the parties listed on Exhibit 2, are  
21    there any unlocateable interest owners?

22          A.     There's one unlocateable interest owner, Malco  
23    Products, Inc.

24          Q.     And what's the status of that corporation?

25          A.     This apparently is a defunct corporation,

1     apparently was established in June of 1952. Also, it was  
2     incorporated June 28th, 1965. Apparently this  
3     corporation dissolved.

4           Q.     And Exhibits 5 and 6 are copies of online data  
5     from the New Mexico Public Regulation Commission?

6           A.     Yes.

7           Q.     And there were two corporations with the same  
8     name, were there not?

9           A.     Correct.

10          Q.     And they were both dissolved and you don't  
11     have any further information on the corporation?

12          A.     No further information.

13          Q.     In your opinion has Mewbourne -- let's take a  
14     step back. Apparently Malco Products acquired its  
15     interest some time ago?

16          A.     Yes, long ago.

17          Q.     And so when you examined the Eddy County  
18     records --

19          A.     Total dead end. We had sent a proposal letter  
20     to the last known address and it obviously came back.

21          Q.     In your opinion has Mewbourne made a  
22     good-faith effort either to obtain the voluntary joinder  
23     of the interest owners in the well or to locate the  
24     unlocateables?

25          A.     Yes.



1 Q. What is Exhibit 7?

2 A. Exhibit 7 is a copy of our proposed AFE for  
3 the Hackberry Hills Federal #1 well. It indicates the  
4 estimated well cost of -- completed well cost of  
5 \$2,915,900 with a cost case in point of 1,943,800. It  
6 also gives the proposed depth of 12,000 feet and the well  
7 location which I've indicated previously.

8 Q. Are these costs in line with costs of other  
9 wells drilled at this depth in this area of New Mexico?

10 A. Yes, they are.

11 Q. And, again, this AFE is a little older so some  
12 of these costs may have come down since then?

13 A. Right. This AFE is actually dated July of  
14 '08. That was at the very top of the well costs,  
15 estimated well costs, for these wells of this depth.  
16 This estimated cost has come down in our opinion at least  
17 30 to 33 percent since July of '08.

18 Q. And are the costs that you believe will be  
19 applied today in line with costs of other wells drilled  
20 at this depth in this area of Eddy County?

21 A. Correct.

22 Q. Do you request Mewbourne be appointed operator  
23 of the well?

24 A. Yes, we do.

25 Q. What overhead rates are you requesting?

1           A.       We're requesting an overhead rate of 7,000 per  
2     month for a drilling overhead rate, and \$700 a month for  
3     a producing well rate should this well be productive.

4           Q.       And are those amounts equivalent to those  
5     charges by Mewbourne and other operators in this area for  
6     wells of this depth?

7           A.       Yes.

8           Q.       Do you request that these overhead rates be  
9     adjusted periodically under the COPAS accounting  
10    procedure?

11          A.       Yes, we do.

12          Q.       Does Mewbourne request the maximum cost plus  
13    200 percent risk charge?

14          A.       We do.

15          Q.       Were the parties being pooled notified of this  
16    hearing?

17          A.       Yes, sir, they were.

18          Q.       And Exhibit 8 is my Affidavit of Notice?

19          A.       That's correct.

20          Q.       In this letter, Mr. Haden, I notified several  
21    additional parties, other than the ones you've indicated  
22    on Exhibit 2 that were being pooled. Your prior listing  
23    is correct at this time as to the parties being pooled;  
24    is that right? Several of these parties have since  
25    joined in the well?

1           A.     Correct. The interest of Sharbro Oil Limited  
2     and Sacramento Partners Limited, they have signed our  
3     operating agreement. Also, CBR Oil Properties signed the  
4     agreement. Norman L. Stevens, Jr. Revocable Trust signed  
5     an AFE but thus far has not signed the operating  
6     agreement. The other parties listed have not signed the  
7     operating agreement.

8           Q.     Marathon has joined in the well, has it not?

9           A.     We've obtained a term assignment from them  
10    covering their interest.

11          Q.     And Fasken Land and Minerals has joined in,  
12    have they not?

13          A.     Yes. We've obtained a term assignment for  
14    their interest, also.

15          Q.     And will you notify the Division if any  
16    additional parties join in the well?

17          A.     Yes, we will.

18                   MR. BRUCE: And, Mr. Examiner, Exhibit 9  
19    is simply the Affidavit of Publication from the Carlsbad  
20    newspaper as against Malco Products, Inc., the  
21    unlocateable.

22          Q.     (By Mr. Bruce) Mr. Haden, were Exhibits 1  
23    through 9 prepared by you or under your supervision or  
24    compiled from company business records?

25          A.     Yes, they were.

1           Q.     In your opinion is the granting of this  
2     application in the interest of conservation and the  
3     prevention of waste?

4           A.     That's correct.

5                     MR. BRUCE:  Mr. Examiner, I move the  
6     admission of Exhibits 1 through 9.

7                     MR. JONES:  Exhibits 1 through 9 will be  
8     admitted.

9                     (Exhibits 1 through 9 were admitted.)

10                    MR. JONES:  Mr. Haden, this AFE -- well,  
11     first of all, these people that may have joined  
12     recently -- was it recently that they joined?

13                    THE WITNESS:  Yeah.  The interest of CBR,  
14     they've signed the operating agreement, also, Fasken.  
15     These people that have recently joined, it's been within  
16     the last two to three weeks.

17                    MR. JONES:  Okay.  The AFE being last  
18     year's AFE, do you think -- and being a lot higher than  
19     it probably is now, do you think that influenced anybody  
20     not to join?  In other words, they just took it at face  
21     value and used that for their economics and decided --

22                    THE WITNESS:  Well, the companies who have  
23     given us term assignments, they have their own staff in  
24     which they know approximately what these well costs are  
25     now so they can make their determination based on their

1 own information.

2 MR. JONES: And they farmed it out?

3 THE WITNESS: Right. They elected to farm  
4 it out, to not participate.

5 MR. JONES: Everybody's geologist looks at  
6 it a little bit differently.

7 THE WITNESS: Absolutely. Plus product  
8 cost, too. That's keeping a lot of folks from joining in  
9 wells because of economics for good reason.

10 MR. JONES: That was my concern about this  
11 AFE being so much higher than it might be now. I don't  
12 know if that --

13 THE WITNESS: I don't think that would  
14 influence --

15 MR. JONES: It would influence anything?  
16 The 10,000 versus the 10,600, what was the issue there?

17 THE WITNESS: Well, for whatever reason  
18 Charles B. Reed -- he is the one who started this  
19 segregation of the rights as to depth. There must have  
20 been a well drilled, say, to the Strawn Formation, which  
21 is shallower than the Morrow, and that's how the interest  
22 got severed.

23 MR. JONES: At 10,000?

24 THE WITNESS: Yeah, 10,600 feet.

25 Basically 10,600 feet is the very top of the Morrow

1     Formation, which around 10-6, according to geologists,  
2     that interval at 10-6 itself probably is not productive.  
3     It's depths below that that is actually our target zone.  
4     Above 10-6 would include formations such as the Strawn,  
5     which has a possibility for this well, but most likely  
6     not.

7                     MR. JONES:   Strawn gas?

8                     THE WITNESS:   Strawn gas.

9                     MR. JONES:   There's no Atoka?

10                    THE WITNESS:   Probably not.   You can run  
11     into Atoka anywhere in Eddy County.   It depends on your  
12     luck.

13                    MR. JONES:   I notice that it did change  
14     from 10,000 to 10,600, just, basically, last week on  
15     your --

16                    THE WITNESS:   Yeah.   Well, that was a  
17     typo.   Actually, that was a typo.   It should have been  
18     10-6.

19                    MR. JONES:   Oh.   It was always 10-6?

20                    THE WITNESS:   Yes, always been 10-6.

21                    MR. JONES:   This is just a 320 only; is  
22     that right?   I guess I should read the --

23                    MR. BRUCE:   No.   It is 40- and 160-acre  
24     units also.   But in this instance, 40- and 160-acre units  
25     have uniform ownership under that contract area.

1 MR. JONES: And they're all non-standard  
2 according to the definition?

3 MR. BRUCE: Yes, they are all  
4 non-standard. I'm sure this acreage was resurveyed at  
5 some point by the federal government, so it all became  
6 non-standard.

7 MR. JONES: Okay.

8 MR. BROOKS: Okay. I didn't understand  
9 what you last said about the ownership, because you've  
10 got this distinction between deep and shallow rights.

11 MR. BRUCE: But as to the shallow rights,  
12 anything --

13 MR. BROOKS: From 10-6 up?

14 MR. BRUCE: Yes. From 10-6 up, ownership  
15 is uniform, whether you're on 40, 60 or even at 320.

16 MR. BROOKS: So the only distinction then  
17 is below -- the deep rights below 10-6 and the shallow  
18 rights?

19 MR. BRUCE: Correct.

20 MR. BROOKS: Now, this allocation formula,  
21 is this from the operating agreement that governs this  
22 particular tract, the one that the consenting parties  
23 have agreed to?

24 THE WITNESS: That's correct.

25 MR. BROOKS: Okay. All of these parties,

1 of course -- or most of them, are people who are active  
2 in the oil and gas business --

3 THE WITNESS: Right.

4 MR. BROOKS: -- and presumably know what  
5 they're doing?

6 THE WITNESS: Presumably.

7 MR. BRUCE: If I may, Mr. Examiner?

8 Q. (By Mr. Bruce) Mr. Haden, is this an  
9 allocation formula that's been used by Yates on a fairly  
10 regular basis?

11 A. Yes. We got it from Yates Petroleum  
12 Corporation. They use this, apparently.

13 MR. BROOKS: I read through it rather  
14 quickly. I'm not sure to what extent these provisions  
15 would have to be adapted to apply them to a compulsory  
16 come pooling context. We just have to think it through.  
17 But since they are in the joint operating agreement, that  
18 would is seem to be an appropriate approach. But I will  
19 go through it and see if I can figure it out.

20 THE WITNESS: I'm sure you can, Mr.  
21 Examiner.

22 MR. BROOKS: It's a little bit  
23 complicated.

24 THE WITNESS: Yes. Extremely.

25 MR. WARNELL: Mr. Haden, I noticed on



1 Exhibit 2, you've got 343.54 acres, but yet in the  
2 newspaper ad, Exhibit 9, it's 344.34.

3 THE WITNESS: Well, that could have been a  
4 typographical error.

5 MR. WARNELL: Which one shall we go with?

6 THE WITNESS: It should be 343.54 acres.

7 MR. WARNELL: Which is there at the top of  
8 Exhibit 2?

9 THE WITNESS: Yes, sir, it is.

10 MR. BRUCE: Mr. Examiner, I think if you  
11 can read it, Exhibit 2 does have the acreage of each lot.  
12 You could also --

13 MR. WARNELL: -- do the math.

14 MR. BRUCE: Yeah. I tried but I may have  
15 failed.

16 MR. JONES: Okay. Thank you very much.  
17 Thanks for coming up to Santa Fe. Thanks, Mr. Bruce.  
18 We'll take Case 14299 under advisement. That being the  
19 last case in this docket, the docket is adjourned.

20 \* \* \*

21

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

\_\_\_\_\_, Examiner  
Oil Conservation Division

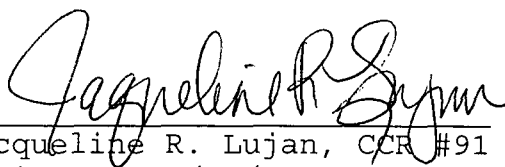
## REPORTER'S CERTIFICATE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO  
HEREBY CERTIFY that on March 31, 2009, proceedings in the  
above captioned case were taken before me and that I did  
report in stenographic shorthand the proceedings set  
forth herein, and the foregoing pages are a true and  
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by  
nor related to nor contracted with any of the parties or  
attorneys in this case and that I have no interest  
whatsoever in the final disposition of this case in any  
court.

WITNESS MY HAND this 13th day of April, 2009.

  
Jacqueline R. Lujan, CCR #91  
Expires: 12/31/2009

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 MEWBOURNE OIL COMPANY                      CASE NO. 14299  
FOR COMPULSORY POOLING AND THREE  
NON-STANDARD WELL UNITS, EDDY COUNTY,  
NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

BEFORE:            WILLIAM B. JONES, Hearing Examiner  
                     DAVID K. BROOKS, Legal Examiner  
                     TERRY G. WARNELL, Technical Examiner

March 31, 2009

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM B. JONES, Hearing Examiner, DAVID K. BROOKS, Legal Examiner, and TERRY G. WARNELL, Technical Examiner, on Tuesday, March 31, 2009, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY:    Jacqueline R. Lujan, CCR #91  
                     Paul Baca Professional Court Reporters  
                     500 Fourth Street, N.W., Suite 105  
                     Albuquerque, NM 87103 505-843-9241