

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. 13,132

APPLICATION OF DEVON ENERGY PRODUCTION)
COMPANY, L.P., FOR COMPULSORY POOLING,)
EDDY COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

RECEIVED

BEFORE: DAVID R. CATANACH, Hearing Examiner

DEC 4 2003

November 20th, 2003

Santa Fe, New Mexico

Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, November 20th, 2003, 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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November 20th, 2003
Examiner Hearing
CASE NO. 13,132

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A P P E A R A N C E S

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 8:20 a.m.:

3 EXAMINER CATANACH: And we'll go a little bit out
4 of order this morning. The Mewbourne case will be heard
5 later on this morning.

6 First case we'll hear this morning is Case
7 13,132, which is the Application of Devon Energy Production
8 Company, L.P., for compulsory pooling, Eddy County, New
9 Mexico.

10 Call for appearances in this case.

11 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
12 representing the Applicant. I have two witnesses.

13 EXAMINER CATANACH: Any additional appearances?

14 Okay, will the witnesses please stand to be sworn
15 in?

16 (Thereupon, the witnesses were sworn.)

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

20 DIRECT EXAMINATION

21 BY MR. BRUCE:

22 Q. Would you please state your name and city of
23 residence for the record?

24 A. My name is Ken Gray, and I live in Oklahoma City,
25 Oklahoma.

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

2 A. I work for Devon Energy Production Company as a
3 landman.

4 Q. Have you previously testified before the
5 Division?

6 A. Yes, I have.

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

9 A. They were.

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

12 A. Yes, I am.

13 MR. BRUCE: Mr. Examiner, I tender Mr. Gray as an
14 expert petroleum landman.

15 EXAMINER CATANACH: Mr. Gray is so qualified.

16 Q. (By Mr. Bruce) Mr. Gray, could you identify
17 Exhibit 1 and describe for the Examiner what acreage you
18 seek to pool?

19 A. Exhibit 1 is basically just an 8-1/2-by-11 copy
20 of the Midland Map Company land plat, and the east half of
21 Section 6, Township 23 South, Range 27 East, is highlighted
22 as the spacing unit for which we are seeking pooling.

23 Q. What formation do you seek to pool?

24 A. Only the Morrow formation.

25 Q. Okay. And what is the well's proposed location?

1 A. The proposed location is 1330 feet from the north
2 line and 1330 feet from the east line of Section 6.

3 Q. Referring to Exhibit 2, could you describe the
4 ownership in the Morrow formation?

5 A. Well, this is a cartoonish depiction of a
6 wellbore. The top of the wellbore is what we've determined
7 to be the top of the Morrow formation at 11,366 feet, with
8 the base being 11,883 feet.

9 Q. Now, those -- You have a geologist who can
10 testify about those depths, do you not?

11 A. Yes, we do.

12 Q. Okay, go ahead.

13 A. And as you can see, the ownership from what we
14 are calling Zone A, represented in the red print, is --
15 we've set the ownership out on the left side of the
16 wellbore. That particular zone represents 76.4 percent of
17 the total Morrow interval as we see it.

18 In black is the ownership within a five-foot
19 interval from 11,761 feet to 11,766 feet, and the ownership
20 there is different from the previous ownership.

21 And then last but not least, we have the
22 ownership below 11,766 feet, which is Zone C, representing
23 22.6 percent of the Morrow interval. And again, the
24 ownership there is different. Some of the owners are the
25 same, but hardly ever are the percentages the same.

1 And finally, going down the middle of the
2 wellbore is a little arrow that indicates that there is an
3 existing joint operating agreement that covers all depths
4 down to 11,766 feet, but not below.

5 Q. Okay, so a portion of the Morrow is not subject
6 to a JOA?

7 A. That's correct.

8 Q. What does Devon request in this case?

9 A. Well, in addition to pooling the interests below
10 11,766 feet, which we've not made formal agreements with,
11 we're requesting two other things, that being that the
12 Commission order the equitable sharing of any production
13 that we may find within the Morrow interval, based on these
14 percentages on this wellbore schematic, being Zone A, Zone
15 B and Zone C.

16 And secondly, we're asking the Commission to name
17 Devon as the operator as to the Morrow formation.

18 Q. Referring to Exhibit 3, how do you propose to
19 allocate costs and production among the working interest
20 owners?

21 A. Well, Exhibit 3 is a spreadsheet based on the
22 ownership on Exhibit 2, and we would propose that Zone A --
23 the owners within Zone A would share equitably in any
24 completion within the Morrow interval based on their
25 ownership within that Zone A, times the factor of 76.402321

1 percent.

2 Likewise for the 5-foot zone from 11,761, and
3 then the Zone C below 11,766.

4 Q. Okay.

5 A. And those -- the blended -- or the equitable
6 numbers are calculated here on the spreadsheet, as well as
7 for the overriding royalty interest owners.

8 Q. Now, the royalty interests are not listed on
9 that. There is no depth severance in the Morrow formation
10 as to royalty owners?

11 A. No.

12 Q. Okay. Now, regarding this proposal, you're just
13 simply using the thickness of the various Morrow zones.
14 Why do you use this proposal rather than, say, drilling the
15 well and looking at where the well is perforated?

16 A. It would seem to me that it would be simpler --
17 not knowing where we were going to complete in the Morrow,
18 whether it's going to be below 11,766 or above, it just
19 seems simpler to calculate the equitable share prior to
20 drilling the well. Then there's no argument about where
21 you're completed and who owns what at that interval.

22 MR. BRUCE: Okay. Mr. Examiner, if I can address
23 that issue too, I'd note that the force-pooling statute,
24 when it comes to just surface acreage, allocates production
25 on an acreage basis, regardless of whether or not a

1 particular tract may be productive or contribute as much to
2 the well as a different tract, and so I would use that as
3 an analogy also.

4 Q. (By Mr. Bruce) Now, we'll do the notice
5 affidavit letter, but were all of these interest owners on
6 your Exhibit 2 or 3 notified of this hearing?

7 A. Yes, they were.

8 Q. Even the parties -- There are some parties who
9 only own an interest under the JOA depths, are there not?

10 A. Correct.

11 Q. And you did notify them for purposes of the
12 allocation of production?

13 A. Right.

14 Q. So that they would be subject to the allocation
15 of production under any order that the Division may issue?

16 A. Right.

17 Q. Before we get to your contacts with the working
18 interest owners, what is Exhibit 4, Mr. Gray?

19 A. Exhibit 4 is a letter dated April 11th, 2002 --
20 I'm sorry, that's my letter

21 Q. The second page.

22 A. Second page. March 15th, 2002, is a demand
23 letter from the mineral owners in -- or at least some of
24 the mineral owners in the northeast quarter of Section 6.
25 Basically it's a demand letter to drill a well on their

1 lease or on lands that incorporate their lease, based on
2 drainage from an offset well in Section 5 that our friends
3 from Mewbourne had drilled not too long prior to that.

4 At that point in time, we had not elected to
5 participate in a well. This was -- I think Chaparral had
6 proposed a well shortly prior to that. They were the
7 operators, supposedly, at the time, and I assumed that they
8 owned an interest in the Morrow at that time. We actually
9 elected to nonconsent that proposal in March of 2002, and I
10 subsequently responded to the mineral owners in my April
11 11th letter.

12 Q. Okay, but there is that outstanding demand that
13 the are requesting someone to drill a well on their
14 acreage?

15 A. Yes.

16 Q. Okay. Now, you mentioned Chaparral. Do they own
17 a working interest in the Morrow formation?

18 A. No, Chaparral, although they're named -- they're
19 the successor operator under the operating agreement, they
20 own no interest in any zone, except for the Strawn
21 formation.

22 Q. Okay.

23 A. They do own a royalty interest, but not working
24 interest.

25 Q. Could you describe what Exhibit 5 is?

1 A. Yeah, Exhibit 5 is a series of letters beginning
2 on October 24th, and these letters are following up to a
3 number of conversations we've had with Chaparral, not only
4 on the drilling of the well but concerning operations of
5 the well since we do have the issue of the existing joint
6 operating agreement.

7 But Exhibit 5 is just a series of letters,
8 beginning on October 24th, where I advised them that --
9 which they knew already, that we intended to drill the
10 well. And even though they were the operator, technically,
11 down to a certain point in the Morrow formation, that they
12 owned no interest in the Morrow, and that we requested them
13 just to waive any rights that they would have under the
14 existing operating agreement as to the Morrow and allow us
15 to operate.

16 The November 13th letter from Chaparral kind of
17 gives you four or five things, conditions under which they
18 thought they could see their way clear to let us operate.

19 And then my letter of November 14th responding to
20 their letter.

21 And we've had one more conversation with them
22 since then, as of, I think, a couple of days ago. But
23 nothing's been resolved as between us.

24 Q. Now, Chaparral does not own an interest in the
25 Morrow, correct?

1 A. Correct.

2 Q. And Devon does own an interest in the lower zone,
3 which was not subject to a JOA?

4 A. That's right.

5 Q. So you do have the right to drill to the base of
6 the Morrow?

7 A. And presumably have the right to operate those
8 lower zones too.

9 Q. Okay. Let's move on to your contacts with the
10 interest owners who do own an interest in the Morrow, and
11 we'll go through these quickly, but Exhibits 6 through 9
12 are various letters. Could you just go briefly through
13 each one of those with the Examiner and tell Mr. Catanach
14 the status of those negotiations and -- and a couple of
15 things, Mr. Gray.

16 For instance, the first letter is to Shell
17 Offshore. They don't show up in your Exhibit 2. Would you
18 go into that a little bit?

19 A. Yeah, Shell Offshore Ventures appears to be the
20 successor to Mabee Petroleum Corporation. Mabee Petroleum
21 Corporation is the record owner of an interest in some of
22 these zones. But as a practical matter, they were either
23 acquired or merged with Shell Onshore [sic] Ventures at
24 some point, and the address for Mabee Petroleum Corporation
25 is on file with the Texas Secretary of State at this

1 address with Shell, so we assumed that Shell was the
2 successor, and that's the reason for this letter.

3 I think subsequent to this letter, Shell has been
4 in touch with Mr. Bruce and advised him that they didn't
5 think they owned anything, that they had either sold it to
6 -- Citation, I think they said. But I'm not sure that they
7 really know where it went.

8 But this was just kind of a curative matter, this
9 proposal to them, just in case they did own something.

10 Q. So they own an interest of record, but Citation
11 or someone else claims the interest?

12 A. They are the successor to Mabee, who owns an
13 interest of record.

14 Q. Okay. And then the second letter is to Magnum
15 Hunter.

16 A. Yeah, Exhibit 7 is a series of letters, starting
17 June 20th, which is our initial proposal letter. Follow-up
18 letter on July 24th indicating we hadn't received a
19 response from them to our proposal of June 20th. And then
20 an October 21st letter to them, basically advised them that
21 we were going to seek to pool, ask for the allocation
22 within the Morrow interval and name us as operator.

23 And these are only three letters. We've had
24 numerous conversations with Magnum Hunter over the last few
25 months, as late as out in the hall just a minute ago. So

1 we verbally have agreed on a number of things, we just
2 don't have it in writing yet. So that's the reason for
3 their naming them here.

4 Q. Okay. Exhibit 8, Citation. Citation owns an
5 interest only in the JOA acreage, do they not?

6 A. That's correct.

7 Q. So you would not seek to force pool their
8 interest, but you would seek to make them subject to any
9 cost and production allocation under the Order?

10 A. That's right. And again, these are a series of
11 letters that -- starting in June and up through late
12 October. Again, we've had numerous conversations with
13 Citation as to what their decision is going to be, whether
14 to be nonconsent or farm out. So we're to that point with
15 them as well. They will not participate.

16 Q. And then finally, Wainoco Oil and Gas. What is
17 the status with them?

18 A. Wainoco, I've had one -- Other than this letter,
19 I've had one telephone conversation with Wainoco. Wainoco
20 advised me at that point that they had sold to another
21 party who in turn had sold to Magnum Hunter, and they were
22 claiming no interest but they still are a record owner. So
23 I presume our friends at Magnum Hunter will end up with
24 this interest. But we named them just for -- just because
25 they are a record owner.

1 Q. Okay. And when you were -- Just as an aside,
2 these are only the letters to the parties who you have not
3 yet received an agreement from?

4 A. Right.

5 Q. There were numerous other letters from various
6 other parties listed on Exhibits 2 and 3?

7 A. Correct.

8 Q. Okay. Including the overriding royalty owners;
9 is that correct?

10 A. That's correct.

11 Q. Okay. In your opinion, has Devon made a good-
12 faith effort to obtain the voluntary joinder of the parties
13 in this well and in this particular cost and allocation
14 proposal?

15 A. Yes, we have.

16 Q. Would you identify Exhibit 10 and discuss the
17 well cost for the Examiner?

18 A. 10 is an authorization for expenditure dated June
19 23rd, 2003, prepared by our engineering staff. It
20 indicates a dryhole cost of \$863,000 with a completed well
21 cost of \$1,457,490.

22 Q. And is this cost in line with the cost of other
23 wells drilled to this depth in this area of Eddy County?

24 A. We believe it is.

25 Q. And again, Devon does request that it be

1 designated operator of the well?

2 A. That's correct.

3 Q. Do you have a recommendation for the amounts
4 which Devon should be paid for supervision and
5 administrative expenses?

6 A. We would recommend drilling well rates of \$6000
7 with -- I'm sorry -- yeah, \$6000. And \$600 a month for a
8 producing well.

9 Q. And are these amounts equivalent to those
10 normally charged by Devon and other operators in this area?

11 A. We believe they are.

12 Q. And do you request that these rates be adjusted
13 periodically as provided by the COPAS accounting procedure
14 as to the nonconsenting parties?

15 A. Yes.

16 Q. And does Devon request the maximum cost-plus-200-
17 percent risk charge?

18 A. Yes, we do.

19 Q. Finally, were all interest owners notified of
20 this hearing?

21 A. All interest owners with whom we hadn't already
22 made a deal, yes.

23 Q. Okay.

24 A. Which brings us to dismissals.

25 Q. Okay. Now, Mr. Gray, if you look at Exhibit 11,

1 which is the notice affidavit, attached as Exhibit A to the
2 notice letter are a number of names. Which parties who
3 were notified on this list do you not seek any relief
4 against?

5 A. We would seek to dismiss AYCO Energy, L.L.C.;
6 Bright Hawk/Burkard Venture; Exxon Mobil; Richard D. Steed;
7 and Wallace H. Scott, Jr.

8 Q. And were Exhibits 1 through 11 prepared by you or
9 under your supervision, or compiled from company business
10 records?

11 A. Yes.

12 Q. And in your opinion is the granting of Devon's
13 Application in the interests of conservation and the
14 prevention of waste?

15 A. Yes, it is.

16 Q. One final question. Has it been -- This demand
17 letter was what, a year, a year and a half ago?

18 A. Uh-huh.

19 Q. Has it been difficult getting an agreement among
20 everyone, apparently over the years, to get a well drilled?

21 A. Well, you can ask our friends at Mewbourne and
22 some other companies that have tried to put this thing
23 together before, and for obvious reasons there's not ever
24 been a -- or not lately, anyway, been a well drilled in the
25 -- to the Morrow in the north half of this section. So

1 yeah, it's been pretty difficult.

2 Q. Do you think entry of an order as you requested
3 in this matter is necessary to protect the parties, not
4 only the working interest owners, but the royalty owners'
5 correlative rights?

6 A. Yes, I do.

7 MR. BRUCE: Mr. Examiner, I'd move the admission
8 of Exhibits 1 through 11.

9 EXAMINER CATANACH: Exhibits 1 through 11 are
10 admitted.

11 Nothing simple anymore, is there?

12 EXAMINATION

13 BY EXAMINER CATANACH:

14 Q. As I understand it, Mr. Gray, Chaparral is the
15 operator under the JOA?

16 A. Down to a certain point.

17 Q. They own no interest in the Morrow?

18 A. Correct, they own no interest in any interval
19 other than the Strawn.

20 Q. Okay. Now you've tried to reach an agreement
21 with Chaparral regarding the drilling of the well. Is that
22 agreement necessary in your opinion?

23 A. Yeah, I think it is.

24 Q. So you -- you really wouldn't --

25 A. I think either we have to do that voluntarily

1 with them, or the Commission has to order it that way.
2 Chaparral has tried to put this thing together themselves
3 with no luck, Mewbourne has tried to do it with no luck.

4 You know, I guess it's conceivable that if we
5 can't agree on who's going to operate, a well doesn't get
6 drilled. And then we have these mineral owners who, you
7 know, aren't protected.

8 I don't know if it's necessary. I think it needs
9 to be done. I mean, you know, in my mind the joint
10 operating agreement is exactly what it says, and that would
11 be that everybody shares and is affected by the joint
12 operations and shares the costs, the revenues and all the
13 benefits. And in this case that's not going to happen if
14 they are the operator. They have no economic or financial
15 interest in the well. And I can't imagine why they would
16 want to operate.

17 And I don't know that they want to. We just
18 haven't agreed otherwise. So I don't think the operating
19 agreement was entered into, I don't think it was
20 contemplated by the interest owners that anybody would ever
21 operate that didn't own an interest, an economic interest,
22 in the well. And I know that occurs all the time nowadays.
23 I don't know that anybody would intentionally enter into an
24 agreement that way.

25 And those are legal issues that you and I

1 probably aren't going to settle, but that's kind of the way
2 we see it, just as a practical matter.

3 Q. So at this point, do you believe that you're
4 going to reach an agreement with Chaparral?

5 A. Yeah, probably. But as of today we have not.

6 Q. Okay.

7 A. I mean, you can see some of their criteria for
8 what -- under which they would agree to let us operate, and
9 some of those just -- we're not going to do some of those
10 things.

11 Q. Okay. So the interests that you're pooling below
12 a depth of 11,766 are at this point -- Magnum Hunter; is
13 that right?

14 A. I think Wainoco.

15 Q. Just those two?

16 A. Yeah, and as I said -- as I testified before, the
17 people claim they sold it to AYCO and Burkard who are named
18 on here, and since dismissed, and those two entities have
19 since sold all their interests to Magnum Hunter.

20 So our friends at Magnum Hunter, when they join
21 in this well, will have some cleanup work to do with their
22 title.

23 Q. And you anticipate Magnum Hunter joining them?

24 A. I anticipate they will.

25 Q. But insofar as the interests that you're trying

1 to pool, these are the interest owners of record that you
2 found, right?

3 A. Right.

4 Q. So any transactions that have occurred that have
5 not been recorded, that's --

6 A. Yeah.

7 Q. Okay. With regards to the other interest owners
8 above the pooled interval --

9 A. Above 11,766?

10 Q. Yeah.

11 A. Uh-huh.

12 Q. -- now, you've discussed your proposal with some
13 of those interest owners?

14 A. Absolutely, we've proposed the well to everyone
15 in the Morrow formation, and we have -- But those people
16 aren't subject to -- are not necessarily subject to the
17 pooling --

18 Q. Right, they're --

19 A. -- they're subject to the operating agreement.
20 And whatever their election is under that operating
21 agreement will be, you know, covered by that operating
22 agreement, in terms of nonconsent.

23 Q. My question, where I'm heading, is, have any of
24 these interest owners expressed any concern over the way
25 that you intend to allocate costs or production from the

1 well?

2 A. No.

3 Q. Has anyone, including any of the pooled interest
4 owners, expressed any concern about that?

5 A. No.

6 Q. And you believe it's a fair and equitable way to
7 allocate costs and production?

8 A. Well, you know, you can play with the numbers as
9 far as the top of the Morrow and the bottom of the Morrow,
10 but our geological witness will explain how he came up with
11 that and the fact that he has discussed it with the Artesia
12 OCD, and they generally agree. I mean, it could be, you
13 know, any set of numbers, but I think the percentages would
14 still probably work out the same.

15 No, nobody's argued with the allocation, and I
16 think the one and only reason is that they realize without
17 this allocation the well won't get drilled, it can't be
18 drilled. And we've had a number of people actually sign
19 the agreement. That's why we dismissed some of these
20 people.

21 MR. BRUCE: Mr. Examiner, I don't think he
22 testified about it, but they do have a written agreement
23 that Mr. Gray proposed as far as the costs and production
24 allocation, which a number of people have signed.

25 EXAMINER CATANACH: Oh, there is a separate

1 document --

2 MR. BRUCE: For the ones who have agreed to it
3 voluntarily.

4 THE WITNESS: Everyone has been supplied with
5 this allocation agreement, and I'll be glad to submit it
6 with all this other paperwork or incorporate the language
7 into the Order, whatever, but -- yeah, yeah --

8 EXAMINER CATANACH: If you could submit copies of
9 those executed agreements, that would probably help.

10 Q. (By Examiner Catanach) Okay. Now, with regards
11 to the Citation, you don't have them shown as being an
12 owner of record, right?

13 A. No, I do. Not below -- Well, yeah.

14 Q. In the pooled interval you show them with zero
15 percent.

16 A. Oh, below 11,766?

17 Q. Right.

18 A. Right, they don't own anything below that.

19 Q. Okay.

20 A. And I might clarify that. We're not pooling
21 Citation for the purposes of pooling the deeper Morrow
22 interval, we're naming them strictly for the allocation
23 part.

24 Q. Okay. So at this point it's just, again, Magnum
25 Hunter and Wainoco?

1 A. Right.

2 Q. Who may have sold their interest to Magnum
3 Hunter?

4 A. Right.

5 EXAMINER CATANACH: Okay, I think that's all I
6 have of this witness, Mr. Bruce.

7 MR. BRUCE: We just have some brief geologic
8 testimony, Mr. Examiner.

9 CURT D. MCKINNEY,
10 the witness herein, after having been first duly sworn upon
11 his oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BRUCE:

14 Q. Will you please state your name and city of
15 residence?

16 A. My name is Curt McKinney, and I live in Edmond,
17 Oklahoma.

18 Q. Who do you work for?

19 A. Devon Energy Corporation.

20 Q. And what is your job with Devon?

21 A. I'm a petroleum geologist.

22 Q. Have you previously testified before the
23 Division?

24 A. I have.

25 Q. And were your credentials as an expert geologist

1 accepted as a matter of record?

2 A. Yes, they were.

3 Q. And are you familiar with the geology involved in
4 this particular Application?

5 A. Yes, I am.

6 MR. BRUCE: Mr. Examiner, I'd tender Mr. McKinney
7 as an expert petroleum geologist.

8 EXAMINER CATANACH: Mr. McKinney is so qualified.

9 Q. (By Mr. Bruce) Mr. McKinney, could you refer to
10 your Exhibit 12, the cross-section, and describe how you
11 came up with the tops and bottoms that were on Mr. Gray's
12 Exhibit 2?

13 A. This is a five-well cross-section, the fifth well
14 being our proposed location, in the middle of the exhibit.
15 It runs from west to east across Section 6 and into the
16 west half of Section 5.

17 What I've labeled on here -- These are all the --
18 generally the available porosity logs from these
19 representative wells, with the scales shown generally at
20 the base of the log to identify the type of log. They're
21 either density neutron logs or sonic logs.

22 The top of the Morrow, for the purpose of the
23 allocation formula, is identified on this cross-section
24 labeled "top of Morrow clastics". It's this red line near
25 the top of the cross-section, and it's generally

1 immediately beneath this unit that has a low gamma-ray
2 reading and a generally low porosity reading. It's a
3 carbonate in the Morrow formation. And beneath that is
4 when you start to get into the sandstone-bearing portion of
5 the Morrow. That's where your gas pays are.

6 And I discussed this pick as the top of the
7 Morrow clastics with Bryan Arrant, with the OCD in Artesia,
8 and discussed these very wells with him. And he found that
9 reasonably acceptable as the top of the Morrow clastics.

10 Q. Okay. So that established the footages or the
11 depths used in the allocation of production.

12 Now the second issue is, do both the middle
13 Morrow, which is subject to the JOA, and the lower Morrow,
14 appear to be potentially productive in the area of the
15 proposed well?

16 A. Yes, they do.

17 Q. And could you identify your Exhibit 13 and
18 discuss that issue for the Examiner?

19 A. Exhibit 13 is a map of the area, again centered
20 around Section 6 where we want to drill in the east half.

21 MR. BRUCE: That's Exhibit 12, that's probably a
22 duplicate copy, Mr. Examiner.

23 THE WITNESS: That's it, right there.

24 All right, this is a nine-section plat
25 surrounding Section 6 where in the Joell Number 2, the

1 location under question, is prominently labeled in the
2 middle. We're in 23 South, 27 East. It's a 1-to-2000
3 scale, and you can readily see each section is labeled, so
4 there's your sort of eyeball estimate of scale and
5 distances, et cetera.

6 The Morrow wells are identified by the red dots.
7 These are bubble symbols to indicate relatively production
8 from the Morrow. Each producing well is labeled as to the
9 cumulative production in BCF, is the bold kind of a purple
10 color, usually a single digit with one number after the
11 decimal point.

12 For instance -- oh, let's just use an example.
13 Let's look at Section 5. In the northwest quarter there's
14 a well. Above the well symbol is labeled "Ryan". That's
15 the well name. The well number is to the right of the
16 symbol. That's the Ryan Number 1. The TD of the well is
17 11,915 feet. That's labeled immediately above the well
18 symbol.

19 To the lower right of the well symbol there's a
20 number 2.2 in green. That represents the cumulative
21 production of oil from that well. And then below that
22 there's a number in kind of a purplish, darker color,
23 slightly larger font. It says 3.6. That's the cumulative
24 production from the Morrow in BCF. And then beneath that
25 is a bold, black number. It says minus 8552. That's the

1 top of the lower Morrow in that wellbore. So that's
2 generally how all the wells are labeled.

3 Then you also see, superimposed on that red
4 bubble there's a -- half the symbol is colored in blue and
5 half is colored in green. The blue refers -- Looking at
6 the legend, the blue would indicate that that well was
7 productive from the middle Morrow. The green would
8 indicate that it's also productive from the lower Morrow.
9 And that scheme follows across the plat.

10 Other things to notice, there are light gray
11 contours that generally strike northeast-southwest. Those
12 are contours that represent the subsea structure on the top
13 of the lower Morrow. It's a good time-stratigraphic marker
14 and a good representation of what the actual structure is
15 in this area, so you can get a relative feel for updip and
16 downdip from one well to the next.

17 To address your question, you can see that
18 there's more or less an arc of production to the southeast
19 and to the northeast of our proposed location where the
20 lower Morrow is productive, represented by those green half
21 circles. In addition, you'll notice that surrounding the
22 location are the blue half circles from many of the wells,
23 indicating that the middle Morrow produces in virtually
24 every direction from our proposed location.

25 Q. (By Mr. Bruce) So as a geologist, you would also

1 want to test the lower Morrow because it appears to be
2 potentially productive?

3 A. Yes.

4 Q. You would not just want to drill to the JOA depth
5 and stop right there?

6 A. No, I -- that -- no, I do -- that's correct.

7 Q. Were Exhibits 12 and 13 prepared by you?

8 A. Yes.

9 Q. And in your opinion is the granting of Devon's
10 Application in the interests of conservation and the
11 prevention of waste?

12 A. Yes.

13 MR. BRUCE: Mr. Examiner, I'd move the admission
14 of Devon Exhibits 12 and 13.

15 EXAMINER CATANACH: Exhibits 12 and 13 will be
16 admitted.

17 EXAMINATION

18 BY EXAMINER CATANACH:

19 Q. Mr. McKinney, is it possible that the lower
20 Morrow will not be productive in the Joell?

21 A. Certainly, yes.

22 Q. In that instance, though, pursuant to your
23 agreement, production will still be shared, even if the
24 well doesn't produce from that lower interval?

25 A. That's correct.

1 Q. That's your understanding?

2 Like you said, it looks like everything to the
3 southeast there is kind of potentially productive in the
4 lower interval, and as you go north and west it -- are
5 those wells not productive in the middle Morrow?

6 A. That's correct, that's correct.

7 Q. So is your well kind of on the edge of potential
8 production there?

9 A. That's -- Yes, that's possible. It's possible
10 that the reservoir quality will just diminish there and we
11 won't be able to make a well in the lower Morrow. There
12 are several sands within the lower Morrow sequence,
13 individual sands, that may or may not be productive, so
14 that's part of the risk of drilling a well, and that's what
15 we're prepared -- that's a risk we're prepared to take, is
16 to enter into this allocation formula and see what we can
17 find.

18 Q. From the data that you've looked at, are the
19 sands in the lower Morrow comparable productionwise to the
20 sands in the middle Morrow?

21 A. Yes.

22 Q. The well in the cross-section just to the left of
23 your proposed well, that well wasn't drilled deep enough to
24 penetrate that lower interval?

25 A. Can you locate that again for me?

1 Q. On your cross-section you've got your proposed
2 Joell Number 2 in the middle, and --

3 A. Oh, yes, yeah.

4 Q. -- just to the left of that?

5 A. Yes, that's correct. Actually, that's sort of
6 the culprit, that well that ended up putting this depth of
7 766 feet [sic] onto that JOA, because they just drilled it
8 into the middle Morrow and stopped, so -- I think if they'd
9 drilled all the way down, we probably wouldn't be here
10 right now.

11 Q. I see. So is the -- This would be the second
12 well on this unit; is that correct?

13 A. For the Morrow?

14 Q. Yeah.

15 A. Yes, yes.

16 Q. So the well in the southeast quarter is producing
17 at this time?

18 A. No, it's plugged.

19 Q. Oh, it's plugged, okay.

20 A. Yes.

21 Q. That is the Morris Antweil?

22 A. Yes, and Missouri NM land, that well is plugged.

23 EXAMINER CATANACH: Okay, P-and-A'd.

24 Okay, I think that's all I have, Mr. Bruce.

25 Anything further?

1 MR. BRUCE: Do you want anything further in this
2 case?

3 EXAMINER CATANACH: Yeah, I want a draft order, I
4 want you to take a shot at that.

5 MR. BRUCE: Do I have to? I will get you one.

6 EXAMINER CATANACH: Okay. There being nothing
7 further in this case, Case 13,132 will be taken under
8 advisement.

9 (Thereupon, these proceedings were concluded at
10 8:56 a.m.)

11 * * *

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13
14
15
16 I do hereby certify that the foregoing is
17 a complete record of the proceedings in
18 the Examiner hearing of Case No. 13132
19 heard by me on November 20 2003
20 David R. Catnach, Examiner
21 Oil Conservation Division
22
23
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 November 24th, 2003.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006