

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 APACHE CORPORATION )  
FOR COMPULSORY POOLING, LEA COUNTY, )  
NEW MEXICO )

CASE NO. 11,789

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

May 29th, 1997

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, May 29th, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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May 29th, 1997  
Examiner Hearing  
CASE NO. 11,789

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

FOR THE DIVISION:

RAND L. CARROLL  
 Attorney at Law  
 Legal Counsel to the Division  
 2040 South Pacheco  
 Santa Fe, New Mexico 87505

FOR THE APPLICANT:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.  
 Suite 1 - 110 N. Guadalupe  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: WILLIAM F. CARR

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 10:32 a.m.:

3           EXAMINER STOGNER: At this time I'll call next  
4 case, 11,789.

5           MR. CARROLL: Application of Apache Corporation  
6 for compulsory pooling, Lea County, New Mexico.

7           EXAMINER STOGNER: Call for appearances.

8           MR. CARR: May it please the Examiner, my name is  
9 William F. Carr with the Santa Fe law firm Campbell, Carr,  
10 Berge and Sheridan. We represent the Apache Corporation in  
11 this matter, and I have two witnesses.

12           EXAMINER STOGNER: Any other appearances?

13           The witnesses can be sworn in at this time.

14           (Thereupon, the witnesses were sworn.)

15           MR. CARR: Mr. Stogner, initially I would like to  
16 point out that in this case we are only pooling certain  
17 royalty interest owners. Accordingly, no risk penalty  
18 needs to be assessed in this order.

19           Furthermore, when the Application was filed, we  
20 sought the pooling of all formations on 160-acre spacing in  
21 the southeast quarter of Section 16 -- I mean, Section 28  
22 in Township 16 South, Range 38 East. I've been advised  
23 there's no potential for a gas well in the area, so we're  
24 not going to be seeking an order pooling the southeast  
25 quarter. We're only looking at the pooling of the mineral

1 interests under the southwest quarter of the southeast  
2 quarter for an oil well.

3 There is an old order -- dates back to the  
4 1950s -- concerning the Knowles-Drinkard Pool. The order  
5 is unique in that it provides that although data was  
6 insufficient on spacing at that time, there should be no  
7 more than two wells on the 160-acre tract. I can find  
8 nothing that provides for 80-acre spacing, and so for that  
9 reason there is no 80-acre.

10 So what we're looking at here, Mr. Stogner, is  
11 the pooling of a 40-acre -- certain royalty interest owners  
12 in a 40-acre tract.

13 EXAMINER STOGNER: I haven't seen one of these in  
14 a while. Okay, so we're just force pooling some royalty  
15 interest owners.

16 MR. CARR: So that all interests are committed.  
17 It's a small interest, but it is outstanding. There isn't  
18 authority to commit those under the existing leases, so  
19 we're picking up some old royalty interests.

20 EXAMINER STOGNER: And we're talking about an  
21 old, old agreement --

22 MR. CARR: Yes.

23 EXAMINER STOGNER: -- lease, at one time or  
24 another?

25 MR. CARR: Goes back to the 1930s. It's an old

1 lease.

2 EXAMINER STOGNER: Lea County?

3 MR. CARR: Yes, sir.

4 EXAMINER STOGNER: Most of those came -- if I  
5 remember right, were up in San Juan or Sandoval or Rio  
6 Arriba County.

7 MR. CARR: Right.

8 EXAMINER STOGNER: Hm. Okay.

9 MR. CARR: All right?

10 EXAMINER STOGNER: Thank you, sir.

11 GARY A. CARSON,

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

14 DIRECT EXAMINATION

15 BY MR. CARR:

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

17 A. Yes, Gary A. Carson.

18 Q. And where do you reside?

19 A. I live in Houston, Texas.

20 Q. By whom are you employed?

21 A. I work for Apache Corporation.

22 Q. And what is your position with Apache  
23 Corporation?

24 A. I'm a senior staff landman for the Apache  
25 Corporation.

1 Q. Mr. Carson, have you previously testified before  
2 this Division?

3 A. No, I have not.

4 Q. Could you review for Mr. Stogner your educational  
5 background?

6 A. Yes, I graduated from Marietta College in  
7 Marietta, Ohio, in 1970 with a degree in history. I have  
8 two years of graduate study at Ohio State University. I  
9 have a law degree from Boston College Law School in 1975.

10 Since that time I've undertaken a variety of  
11 different courses with specialized emphasis in oil and gas  
12 land activity and land leasing and mineral leasing.

13 Q. Would you review your work experience for the  
14 Examiner?

15 A. Yes, I was employed originally in the oil and gas  
16 industry in 1978 by the Pennzoil Corporation in  
17 Parkersburg, West Virginia. I worked with Pennzoil through  
18 1981 in Parkersburg and in Denver, Colorado.

19 At that time I was employed by Bow Valley  
20 Petroleum. I worked with Bow Valley through 1987.

21 I was then employed as a regional landman with  
22 Axem Resources for six and a half years.

23 At that point I became land manager with Vessels  
24 Oil and Gas in Denver, Colorado, and for the last two years  
25 I've been employed by the Apache Corporation in Houston,

1 Texas.

2 Q. In all these various jobs, have you been employed  
3 as a petroleum landman?

4 A. Yeah, in all of these jobs I've been employed as  
5 a petroleum landman or in one facet thereof. In some  
6 instances I was a land manager, in some instances a  
7 regional landman, in some instances just a title of  
8 landman.

9 Q. Are you familiar with the Application filed in  
10 this case on behalf of Apache Corporation?

11 A. Yes, I am.

12 Q. Does the geographic area of your responsibility  
13 with Apache include the portion of southeastern New Mexico  
14 involved in this case?

15 A. Yes, it does.

16 Q. Are you familiar with the status of the lands in  
17 the subject area?

18 A. Yes, I am, having commissioned J.O. Easley, a  
19 land-records research group from Roswell, New Mexico, to  
20 conduct a land investigation in this matter.

21 MR. CARR: Mr. Stogner, at this time we would  
22 tender Mr. Carson as an expert witness in petroleum land  
23 matters.

24 EXAMINER STOGNER: Mr. Carson is so qualified.

25 Q. (By Mr. Carr) Mr. Carson, would you summarize

1 for Mr. Stogner what it is Apache seeks in this case?

2 A. Apache is seeking an order that would pool the  
3 interval from the surface to the base of the Strawn  
4 formation in the southwest of the southeast quarter of  
5 Section 28 of Township 16 South, Range 38 East, in Lea  
6 County, New Mexico, in preparation for upcoming drilling of  
7 a well to be designated the Maltese Falcon 28 Number 1.

8 Q. And what will be the location of that well?

9 A. The location of that well is proposed to be at  
10 1664 feet from the east line and -- let's see -- 778 feet  
11 from the south line.

12 Q. And is that a standard location?

13 A. Yes, it would be.

14 Q. Could you refer to what has been marked for  
15 identification as Apache Exhibit Number 1, identify this  
16 and review it for Mr. Stogner?

17 A. Yes, Exhibit Number 1 is a land plat that shows  
18 the proposed location for the Maltese Falcon well and shows  
19 the leasehold and mineral ownership of the adjoining  
20 quarter sections around that.

21 The captioning here is that Apache Corporation is  
22 shown as an et al. That includes a group of other working  
23 interest owners and investors who are now planning on  
24 joining in drilling.

25 The percentage that's reflected there is a

1 percentage of the mineral interest that is under lease or  
2 has agreed to lease. It does not reflect the outstanding  
3 interest in Universal Resources or Rollins Koppel.

4 Q. Is the ownership common throughout the southeast  
5 quarter of Section 28?

6 A. Yes, it is.

7 Q. What is the primary objective in the well? The  
8 Strawn formation?

9 A. The primary objective is the Strawn formation,  
10 which is predicted to be at an 11,700-foot depth.

11 Q. And this would be a wildcat well on the Strawn?

12 A. Yes, it would.

13 Q. Let's go to Exhibit Number 2. Can you identify  
14 and review that for the Examiner?

15 A. Yes, Exhibit Number 2 is a list that shows the  
16 mineral ownership in the southeast quarter of Section 28.  
17 It is common throughout the southeast and the southwest of  
18 Section 28.

19 And it also shows, opposite the mineral owner,  
20 the number of acres of ownership and the status of that  
21 mineral ownership.

22 On the second page is a list of the working  
23 interest owners. It shows their percentage of the  
24 leasehold that is held, and it shows the status relative to  
25 the proposed Maltese Falcon well to be drilled.

1 Q. Now, when we look at this exhibit, you have 100  
2 percent of the working interests committed to the well; is  
3 that correct?

4 A. That is correct.

5 Q. And when we look at the interests that have not  
6 agreed to join, these are, in fact, royalty interests that  
7 are shown on page 1 of this exhibit; is that correct?

8 A. Yes, that is correct.

9 Q. Now, if we look at the Rollins and Koppel  
10 interest, what is the status of that interest?

11 A. The Rollins interest or the Rollins M. Koppel  
12 interest, the Rollins M. Koppel interest is an interest  
13 that is owned by an attorney located in Texas. He has  
14 agreed orally to lease these lands to Apache and its  
15 partners in the well. However, despite repeated  
16 conversations he has not sent that lease in to us, so we do  
17 not have it in hand.

18 Q. Okay. Now, the royalty -- This is the royalty  
19 interest that he has not committed. The working interest  
20 is committed; is that right?

21 A. That is correct. The interest that is shown here  
22 is his mineral interest which he has not leased.

23 Q. Now, when we look at the Imperial Trust Company,  
24 it is indicated there that they will not respond; is that  
25 right?

1           A.    That is correct.

2           Q.    Have you contacted them or attempted to contact  
3 them?

4           A.    Yes.  J.O. Easley, on behalf of Apache has  
5 attempted to contact them through writing them a letter and  
6 mailing that letter to their last known address, which was  
7 in Canada.  And they have not responded to that, nor has  
8 any oral contact been made with them.

9           Q.    What about Roy G. Barton?

10          A.    Roy G. Barton has been contacted through having a  
11 letter sent to him at his address in Hobbs, New Mexico, and  
12 having six phone calls made to his office.  Those phone  
13 calls reached his secretary.  Mr. Barton did not return  
14 phone calls, nor has he been available to answer the phone  
15 when these calls were made.

16          Q.    Now, let's go back up to Universal Resources.  
17 They have agreed to lease?

18          A.    Yes, contact has been made with Universal  
19 Resources, both through letters and through oral  
20 conversation, and they have agreed to lease.

21          Q.    And you do not have that at this time?

22          A.    No, despite advising them of this hearing being  
23 pending, they have not returned that to date.

24          Q.    If these other interest owners do voluntarily  
25 agree to participate in the well, will you advise the

1 Division of that?

2 A. Yes.

3 Q. Now, as to the last interest, this Paul Baulhaud  
4 or -- can you explain the status of the efforts made to  
5 locate this individual?

6 A. Yes. Easley, on behalf of Apache Corporation,  
7 conducted an examination of the records in the county and  
8 obtained an address for Paul Balbaud, which was listed as  
9 General Delivery, Paris, France. That came as a result of  
10 his name appearing on an old lease instrument from the  
11 1930s.

12 A letter was mailed to Paul Balbaud, beginning of  
13 May, and no response has been heard or no contact made.

14 Q. Was that letter sent to Mr. Balbaud in General  
15 Delivery, Paris, France?

16 A. Yes, it was.

17 Q. There's nothing in the probate records that would  
18 indicate there has ever been a probate in southeastern New  
19 Mexico of this interest; is that right?

20 A. That is correct, records of the probate have been  
21 checked and there has been no probate of that interest or  
22 no form probate.

23 Q. So at this point in time, we have 100 percent of  
24 the working interests committed to the well; is that  
25 correct?

1           A.    That is correct.

2           Q.    And we have over 97 percent of the royalty  
3 interests actually committed to the well?

4           A.    I think counting the 8 acres that Universal  
5 Resources holds, that we're actually about 95 percent.

6           Q.    Could you identify what has been marked as Apache  
7 Exhibit Number 3, please?

8           A.    Yes, Exhibit Number 3 are copies of the letters  
9 that have been sent to Universal Resources, Imperial Trust  
10 Company, Roy Barton and Paul Balbaud.

11          Q.    In your opinion, have you made a good-faith  
12 effort to locate all interest owners in this tract and  
13 provide them with an opportunity to voluntarily participate  
14 in this well?

15          A.    Yes, we have.

16          Q.    Is Exhibit Number 4 an affidavit with attached  
17 address list, letter and certified receipts, confirming  
18 that notice of this hearing has been provided in accordance  
19 with OCD rules?

20          A.    Yes, that is correct. It is an exhibit that  
21 identifies the mailing to the individuals that are the  
22 object of this proceeding.

23          Q.    Have you made an estimate of the overhead and  
24 administrative costs to be incurred and also while  
25 producing it, if it is successful?

1 A. Yes, we have.

2 Q. And what are those figures?

3 A. We have an estimate that it would be \$6000 a  
4 month on a drilling well rate and \$600 a month on a  
5 producing well rate.

6 Q. What were these figures based on?

7 A. These figures were based upon the agreement of  
8 the working interest owners in wells that have been drilled  
9 nearby, by Apache's predecessor in this area, which was  
10 Aquila --

11 Q. And in fact, all the working interest owners  
12 identified on Exhibit Number 2 have agreed to these  
13 numbers, have they not?

14 A. That is correct.

15 Q. Do you recommend that these figures be  
16 incorporated into any order which results from this  
17 hearing? Do you recommend that these --

18 A. Yes.

19 Q. -- figures be incorporated...

20 Were Apache Exhibits 1 through 4 either prepared  
21 by you or compiled under your direction?

22 A. They were either prepared by me or prepared under  
23 my supervision and direction.

24 Q. And can you testify as to the accuracy of the  
25 exhibits?



1 Q. This seems like an unusually high number of  
2 investors. Or have you ran into this before in Lea County,  
3 New Mexico?

4 A. By "investors" are you referring to the working  
5 interest owners?

6 Q. Working interest owners and also royalty  
7 interest. It seems like an awful large number.

8 A. I rather thought the same myself.

9 Q. You couldn't find any record of perhaps why or --

10 A. Not really. There has been activity in this  
11 area, not so much aimed at the Strawn formation but at  
12 shallower horizons. It's my belief that this is the result  
13 of the fee mineral ownership having been divided by parties  
14 interested in development, dating back through the  
15 Thirties.

16 The large number of working interest owners is  
17 explained by the fact that the Heyco group is participating  
18 in this, and they have a number of relationships with other  
19 members of the Yates family.

20 Additionally, the Beasley interest has been  
21 divided out among people who in many instances here are  
22 either employees of or related to the Beasley interest.

23 Q. And the Paul Balbaud -- How did you pronounce  
24 that?

25 A. I'm not really sure how that's supposed to go but

1 I think it's Balbaud.

2 Q. Yeah, you have it spelled several different ways.  
3 I mean, it's...

4 But the instrument on file in Lea County, how far  
5 did that date back?

6 A. That was, I believe, 1938.

7 Q. 1938. And did it give the General Delivery in  
8 Paris, France, address at that time?

9 A. Yes.

10 Q. Have you gotten that General Delivery letter  
11 back?

12 A. We have not received it back.

13 EXAMINER STOGNER: Hm.

14 MR. CARR: My notice letter has not come back  
15 either.

16 EXAMINER STOGNER: Do they have a term "General  
17 Delivery" over there? That may mean something else.  
18 There's no telling what kind of mailing list you may get  
19 on, Mr. Carr.

20 THE WITNESS: It is hard to say, indeed. The  
21 French Postal Service is somewhat different than ours.

22 EXAMINER STOGNER: No other questions. This  
23 witness may be excused.

24 MR. CARR: At this time, Mr. Stogner, just really  
25 to present the AFE in this case, we'd call Wayne Brown.

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WAYNE E. BROWN,

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

DIRECT EXAMINATION

BY MR. CARR:

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

A. Yes, Wayne E. Brown.

Q. And where do you reside?

A. Houston, Texas.

Q. By whom are you employed?

A. Apache Corporation.

Q. And what is your position with Apache?

A. A senior staff reservoir engineer.

Q. Have you previously testified before this Division?

A. No, I have not.

Q. Could you briefly review for the Examiner your educational background?

A. Yes, I have a BS degree in chemical engineering from the University of Pittsburgh in 1979.

Q. Since 1979, for whom have you worked?

A. I have three years with Texaco, nine years with Forest Oil, two years with Washington Energy Exploration, and the last four years with Apache Corporation.

Q. Are you familiar with the Application filed in

1 this case?

2 A. Yes, I am.

3 Q. Are you familiar with the propose Maltese Falcon  
4 28 Well Number 1?

5 A. Yes, I am.

6 Q. Have you reviewed and are you familiar with the  
7 AFE that has been proposed for --

8 A. Yes, I am.

9 MR. CARR: We tender Mr. Brown as an expert  
10 witness in reservoir engineering.

11 EXAMINER STOGNER: Mr. Brown is so qualified.

12 Q. (By Mr. Carr) Could you identify what has been  
13 marked as Apache Exhibit Number 5?

14 A. Yes, this is an Apache internal AFE, generated by  
15 the Apache Corporation, that was submitted to our working  
16 interest parties in this effort to drill the Maltese Falcon  
17 Number 1.

18 Q. And could you review for the Examiner the dryhole  
19 and completion well costs as shown on this exhibit?

20 A. Yes, dryhole cost to the 100-percent interest is  
21 \$630,000, and the completion costs are estimated to be  
22 \$420,000, for a total completed well cost of \$1,050,000 for  
23 an 11,700-foot Strawn test.

24 Q. Now, Mr. Brown, are these costs in line with  
25 what's charged by other operators for similar wells in the

1 area?

2 A. Yes, they are.

3 Q. In fact, has this AFE been approved by the  
4 working interest ownership that's 100-percent committed to  
5 the well?

6 A. The working interest owners have in their hands  
7 copies of this, and it has been reviewed with them at  
8 previous meetings. We have not received all signed AFE  
9 copies back.

10 Q. Does Apache seek to be designated operator of the  
11 proposed well?

12 A. Yes, we do.

13 Q. Was Exhibit 5 either prepared by you or can you  
14 confirm that you have reviewed it and it accurately  
15 reflects the costs that you anticipate for this well?

16 A. Yes, I have reviewed it, and it confirms costs we  
17 should be expecting on this well.

18 Q. In your opinion, will approval of this  
19 Application and the drilling of this well be in the best  
20 interest of conservation, the prevention of waste and the  
21 protection of correlative rights?

22 A. Yes, it will.

23 MR. CARR: At this time, Mr. Stogner, we would  
24 move the admission into evidence of Exhibit Number 5.

25 EXAMINER STOGNER: Exhibit Number 5 will be

1 admitted into evidence.

2 MR. CARR: And that concludes my examination of  
3 Mr. Brown.

4 EXAMINER STOGNER: Mr. Brown, I don't have any  
5 questions in this matter.

6 MR. CARR: And that concludes our presentation in  
7 this case.

8 EXAMINER STOGNER: Mr. Carr, since --

9 MR. CARR: Yes, sir.

10 EXAMINER STOGNER: -- I haven't done one of these  
11 in quite a while, with just royalty interests. It may not  
12 be a bad idea to perhaps review that process.

13 MR. CARR: Okay.

14 EXAMINER STOGNER: Could you provide me a rough  
15 draft?

16 MR. CARR: I can do that.

17 EXAMINER STOGNER: I mean, to Mr. Carroll, to  
18 review?

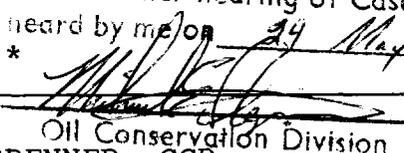
19 MR. CARR: Yes, sir, will do.

20 EXAMINER STOGNER: With that, if nobody else has  
21 anything further -- (Off the record) -- this matter will be  
22 taken under advisement.

23 (Thereupon, these proceedings were concluded at  
24 10:55 a.m.) a complete record of the proceedings in  
the Examiner hearing of Case No. 11289

25

\* \* \*

heard by me on 24 May 1957  
  
Oil Conservation Division, Examiner

STEVEN T. BRENNER, CCR  
(505) 989-9317

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 June 4th, 1997.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 1998