

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 COSTILLA ENERGY, INC.,	)	CASE NOS. 12,029
FOR COMPULSORY POOLING, EDDY COUNTY,	)	
NEW MEXICO	)	
	)	
APPLICATION OF COSTILLA ENERGY, INC.,	)	and 12,030
FOR COMPULSORY POOLING, EDDY COUNTY,	)	
NEW MEXICO	)	
	)	(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

August 20th, 1998

Santa Fe, New Mexico

ORIGINAL

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Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, August 20th, 1998, 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.

\* \* \*

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

## I N D E X

August 20th, 1998  
 Examiner Hearing  
 CASE NOS. 12,029 and 12,030 (Consolidated)

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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:

JAMES G. BRUCE, Attorney at Law  
612 Old Santa Fe Trail, Suite B  
Santa Fe, New Mexico 87501  
P.O. Box 1056  
Santa Fe, New Mexico 87504

## ALSO PRESENT:

MARK W. ASHLEY  
NMOCD Petroleum Geologist  
2040 South Pacheco  
Santa Fe, New Mexico 87505

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   11:04 a.m.:

3           EXAMINER CATANACH: At this time we'll call Case  
4   12,029.

5           MR. CARROLL: Application of Costilla Energy,  
6   Inc., for compulsory pooling, Eddy County, New Mexico.

7           EXAMINER CATANACH: Call for appearances in this  
8   case.

9           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
10   representing the Applicant. I have two witnesses to be  
11   sworn.

12           EXAMINER CATANACH: Any additional appearances?  
13   Will the witnesses please stand to be sworn in?  
14   (Thereupon, the witnesses were sworn.)

15           MR. BRUCE: Mr. Examiner, I forgot. At this time  
16   I would ask that Case 12,030 be called and consolidated  
17   with this case, since it involves the same section of land.

18           EXAMINER CATANACH: At this time we'll call Case  
19   12,030.

20           MR. CARROLL: Application of Costilla Energy,  
21   Inc., for compulsory pooling, Eddy County, New Mexico.

22           EXAMINER CATANACH: Call for appearances in this  
23   case.

24           MR. BRUCE: Jim Bruce again for the Applicant.

25           EXAMINER CATANACH: Any additional appearances in

1 this case?

2 Okay, Mr. Bruce, you may proceed.

3 GARY L. WINTER,

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

6 DIRECT EXAMINATION

7 BY MR. BRUCE:

8 Q. Would you please state your name and city of  
9 residence?

10 A. My name is Gary Lynn Winter, Midland, Texas.

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

12 A. Costilla Energy, Inc., as their district landman.

13 Q. Have you previously testified before the Division  
14 as a landman?

15 A. No, sir.

16 Q. Would you please outline your educational and  
17 employment background?

18 A. I graduated from the University of Oklahoma in  
19 1977 with a bachelor's of business administration, majoring  
20 in petroleum land management.

21 I went to work for Mewbourne Oil Company in 1977  
22 through 1992. From 1992 to 1996 I went to work as a  
23 contract landman for ARCO Oil and Gas. I joined Costilla  
24 in 1996.

25 I've worked southeast New Mexico since 1985 and

1 have been a certified professional landman since 1985.

2 Q. And are you familiar with the land matters  
3 involved in this Application?

4 A. Yes, sir.

5 MR. BRUCE: Mr. Examiner, I'd tender Mr. Winter  
6 as an expert petroleum landman.

7 EXAMINER CATANACH: He is so qualified.

8 Q. (By Mr. Bruce) Briefly, what does Costilla seek  
9 in these two cases?

10 A. In Case 12,030, Costilla seeks an order pooling  
11 the north half of Section 33, Township 16 South, Range 26  
12 East, from the surface to the base of the Chester formation  
13 for all pools and formations spaced 320 acres; the  
14 northwest quarter of Section 33 for all formations spaced  
15 160 acres; and the southeast of the northwest quarter of  
16 Section 33 for all formations spaced on 40 acres.

17 In Case 12,029, we seek an order pooling the  
18 south half of Section 33, in the same township and range,  
19 from the surface to the base of the Chester formation for  
20 all pools and formations spaced on 320 acres; southwest  
21 quarter of Section 33 for all formations spaced 160 acres;  
22 and the northwest of the southwest of Section 33 for all  
23 pools spaced on 40 acres.

24 Q. What is Exhibit 1?

25 A. Exhibit 1 is a land plat outlining the proposed

1 north-half and south-half well units. The proposed wells  
2 are marked on the plat.

3 The Funk 49 Number 2 well is in the north half.  
4 It is an orthodox location at 1980 from the north line and  
5 1680 from the west line.

6 The Funk 49 Number 1 well is in the south half.  
7 It is an unorthodox location at 1650 from the south line  
8 and 1080 from the west line.

9 Q. And that unorthodox location was approved  
10 administratively by the Division, was it not?

11 A. Yes, sir.

12 Q. What is the working interest ownership in the  
13 north half of Section 33? And I refer you to Exhibit 2.

14 A. Exhibit 2 shows the north-half working interest  
15 in Section 33 as being as follows: Costilla Energy, Inc.,  
16 is approximately 89 percent; Nearburg Exploration, L.L.C.,  
17 approximately 5 percent; Betty Colwell, approximately 5  
18 percent; Tony Ray Townsend, approximately a half a percent;  
19 and Gary Duane Townsend, a half a percent.

20 Q. And which of those parties do you seek to pool?

21 A. Betty Colwell, Tony Ray Townsend and Gary Duane  
22 Townsend.

23 Q. What about the south half? What is the working  
24 interest ownership in that well?

25 A. South half of 33 is Costilla Energy, Inc.,

1 approximately 88 percent; Nearburg Exploration Company,  
2 L.L.C., approximately 6 percent; Michael H. Moore, 1  
3 percent; the estate of Parker Wilson, Jr., deceased, 1  
4 percent; the estate of Edith C. Wheeler, deceased, 1  
5 percent; Mary J. McWhorter, 1 percent; David H. Arrington,  
6 1 percent; and Ann D. Allison, 1 percent.

7 Q. And again, you seek to force-pool everyone except  
8 Nearburg Exploration?

9 A. That is correct.

10 Q. Now let's discuss your efforts to obtain the  
11 voluntary joinder of interest owners in the wells. What  
12 are Exhibits 4 and 5?

13 A. Four and 5 -- Four contains copies of letters  
14 sent by Costilla to interest owners in Well Number 2, and  
15 Exhibit 5 contains copies contains copies of letters sent  
16 to the interest owners in the Number 1 well. The letters  
17 contain several different offers or types of leases, lease  
18 offers, AFEs, requests for joinders, and in one case an  
19 operating agreement.

20 Q. Now, with respect to Exhibit 4, the letters to go  
21 Betty Colwell. What about the Townsends? What is their  
22 status?

23 A. The Townsends are address -- or the whereabouts  
24 are unknown. And we have checked the county records,  
25 telephone directories, we've contacted mineral owners in



1 the section to find out if any of those know where they  
2 are. From an affidavit of heirship, it showed both the  
3 Townsends, Gary and Tony, were located in Gladewater,  
4 Texas, in 1977. We've contacted Townsends in Gladewater  
5 and also in the Dallas-Forth Worth area. None of these  
6 parties are related to those Townsends, and they don't know  
7 their whereabouts either.

8 Q. So at this point it's a dead end with respect to  
9 locating the Townsends?

10 A. It is at this point.

11 Q. Now, in addition to these letters, did you also  
12 call interest owners?

13 A. We've contacted all the parties except for  
14 Michael H. Moore, who apparently has an unlisted telephone  
15 number.

16 Q. In your opinion, has Costilla made a good-faith  
17 effort to obtain the voluntary joinder of all interest  
18 owners in the wells?

19 A. Yes, we have.

20 Q. Would you identify Exhibits 6 and 7 for the  
21 Examiner and discuss their contents briefly?

22 A. Exhibits 6 and 7 are copies of the AFEs to the  
23 two wells.

24 Q. What are the costs of the wells?

25 A. They propose an 85-foot, 100-foot Chester test

1 with an estimated dryhole of \$355,603 and a completed well  
2 cost of \$590,940.

3 Q. And are these costs in line with the costs of  
4 other wells drilled to this depth in this area of New  
5 Mexico?

6 A. Yes, sir.

7 Q. Does Costilla request that it be designated  
8 operator of both wells?

9 A. Yes, sir.

10 Q. Do you have a recommendation for the amounts  
11 which Costilla should be paid for supervision and  
12 administrative expenses?

13 A. We request \$4000 per month be allowed for a  
14 drilling well and \$400 a month be allowed for a producing  
15 well.

16 Q. And are these amounts equivalent to those  
17 normally charged by operators in this area, for wells of  
18 this depth?

19 A. Yes, sir.

20 Q. Finally, Mr. Winter, were the uncommitted  
21 interest owners and offset lessees notified of these  
22 hearings?

23 A. Yes, they were. Submitted as Exhibit 8 is an  
24 affidavit of notice with copies of notice letters,  
25 certified return receipts attached, regarding the Number 1

1 well.

2 The Exhibit Number 9 is a similar affidavit for  
3 the Number 2 well.

4 Q. And were Exhibits 1 through 9 prepared by you or  
5 under your supervision or compiled from company business  
6 records?

7 A. Yes, sir.

8 Q. And in your opinion, is the granting of  
9 Costilla's Applications in the interest of conservation and  
10 the prevention of waste?

11 A. Yes, sir.

12 Q. One thing, when do you plan on commencing the  
13 well, Mr. Winter?

14 A. After the 1st of September.

15 MR. BRUCE: Okay. Mr. Examiner, at this time I'd  
16 move the admission of Costilla Exhibits 1 through 9.

17 EXAMINER CATANACH: Exhibits 1 through 9 will be  
18 admitted as evidence.

19 EXAMINATION

20 BY EXAMINER CATANACH:

21 Q. Mr. Winter, did you say you've actually been in  
22 contact with some of these parties?

23 A. All parties except for the Townsends and Michael  
24 Moore.

25 Q. What is the -- What do you think the status is of

1 their joinder in the well?

2 A. We think we -- We've got leases out to the estate  
3 of Parker Wilson, Jr., deceased; Mary Jane McWhorter; and  
4 we have an operating agreement out to Michael H. Moore, who  
5 has the unlisted phone number, with a request for telephone  
6 number and fax for notice purposes.

7 The other parties, I just don't know.

8 Q. You first proposed these wells to these parties  
9 on about July 7th; is that correct?

10 A. The north-half well was proposed July 7th. The  
11 south-half well was proposed approximately May 12th.

12 Q. I'm sorry, I can't find in the May 12th letter  
13 where the well was actually proposed.

14 A. I'm sorry, those are offers to lease.

15 Q. It looks like that well was first proposed on  
16 June 12th?

17 A. Well, June 15th, it looks like. June 12th  
18 through the 15th.

19 Q. And on the Number 2 well, that was actually  
20 proposed July 7th?

21 A. Yes, it was.

22 Q. Do you think that you gave these interest owners  
23 sufficient time to evaluate your proposal prior to filing a  
24 compulsory pooling application?

25 A. Yes, sir.

1 Q. Two weeks.

2 A. We had an extension, we extended it --

3 Q. I'm sorry --

4 A. -- continuance, I mean --

5 Q. Okay. So you think you've given them enough  
6 time, and you think that --

7 A. Yes.

8 Q. Has anybody complained to you about that, that  
9 they didn't have enough time to evaluate this?

10 A. Nearburg Exploration, but they've since joined.

11 Q. Actually, the only party would be the Betty  
12 Colwell interest in that well, right?

13 A. Yes. She was inadvertently left off our first  
14 mailing of the application -- or the notice to the parties.  
15 Since then, we've sent these four letters to her. She's  
16 accepted the first one and will not accept the other  
17 letters. We have called her, and she doesn't want a lease,  
18 doesn't want to do anything. And will hang up on you.

19 Q. Do you know, by chance, what order approved the  
20 unorthodox location for that well?

21 A. No, I do not.

22 MR. BRUCE: I can answer that, Mr. Examiner.  
23 It's NSL-4096.

24 Q. (By Examiner Catanach) Okay. Has your company  
25 drilled a well to this depth recently in this area?

1           A.   This area is more or less wildcat, so no, sir.

2           Q.   Are you satisfied these drilling costs are in  
3 line with what's actually -- or what it actually costs to  
4 drill a well in this area?

5           A.   Yes, I am, and I'm convinced of that through the  
6 joinder of Nearburg Exploration.

7           Q.   Did Nearburg agree to your proposed overhead  
8 rates?

9           A.   Yes, we -- Nearburg has agreed to them, and we've  
10 taken a farmout from Yates Petroleum Company, Yates  
11 Drilling, several other companies at those costs.

12                   EXAMINER CATANACH:   Okay, I have nothing further  
13 of this witness.

14                               LOUIS MAZZULLO,  
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.   My name is Louis Mazzullo.

21           Q.   Where do you reside?

22           A.   Albuquerque, New Mexico.

23           Q.   What is your profession?

24           A.   I'm a certified petroleum geological consultant.

25           Q.   What is your relationship to Costilla in this

1 matter?

2 A. I'm under contract with Costilla to provide  
3 consulting services in -- of prospect definition.

4 Q. Have you previously testified before the Division  
5 as a petroleum geologist?

6 A. Yes, I have.

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

9 A. Yes, they were.

10 Q. And are you familiar with geologic matters  
11 relating to these two Applications?

12 A. Yes.

13 MR. BRUCE: Mr. Examiner, I tender Mr. Mazzullo  
14 as an expert petroleum geologist.

15 EXAMINER CATANACH: He is so qualified.

16 Q. (By Mr. Bruce) Mr. Mazzullo, would you please  
17 identify your Exhibit 10 and discuss the zone of interest  
18 in the proposed well?

19 A. Exhibit 10 is a simplified map showing several  
20 channels in the Morrow formation, which is the primary  
21 target of this well. The various colors on the map refer  
22 to the different zones that pinch out in sequence from  
23 south to north against the regional dip, which is to the  
24 southeast, as I show on the map.

25 The main zones of interest are, for the south-

1 half well, the zone colored in yellow and the zone colored  
2 in green, which lies beneath it. The main zone of interest  
3 for the north-half well would be the yellow zone only.

4 And these channel trends are based upon region  
5 mapping and the well control that you see on the map.

6 Q. It also has some production figures on the map.  
7 Could you just briefly discuss those for the Examiner?

8 A. Yes. The main production out of this area has  
9 been from the zone in yellow. And the well immediately  
10 offsetting our proposed south-half location has produced  
11 only 14,000 MCF gas out of the Morrow formation, and the  
12 well immediately to the south, in the north half of Section  
13 4, has produced, now, up nearly 2 BCF of gas. And then  
14 there's other marginal to noneconomic production from this  
15 zone and other zones further down to the south.

16 Q. Further down to the south it appears that even if  
17 you're in trend, there's a substantial danger of having a  
18 noncommercial well?

19 A. It would appear so, yes.

20 Q. What is Exhibit 11?

21 A. Exhibit 11 is merely a reference log section that  
22 ties the Exhibit 10 zones and shows where they're located  
23 within the section.

24 The main zone, again, colored in yellow on  
25 Exhibit 10, is shown as the t5 zone on Exhibit 11, and the



1 underlying green zone, which is a secondary Morrow target  
2 in our south-half location, is shown in green as t6.

3 Q. In looking at these maps together, it appears  
4 that there's really nothing to the north of that well in  
5 Section 4 producing from either zone; is that correct?

6 A. Except -- With the exception of the marginal  
7 14,000 MCF production, there is nothing coming out of that  
8 zone.

9 Q. Based on this, is it your opinion that a maximum  
10 cost-plus-200-percent penalty should be assessed against  
11 any nonconsenting interest owner in these wells?

12 A. Yes, I do, because of the risky nature of the  
13 Morrow and the fact that we are targeting a limited number  
14 of sands at this -- at both locations.

15 Q. Were Exhibits 10 and 11 prepared by you or under  
16 your supervision?

17 A. Yes, they were.

18 Q. And in your opinion, are the granting of Costilla  
19 Energy's Applications in the interests of conservation and  
20 the prevention of waste?

21 A. Yes, it is.

22 MR. BRUCE: Mr. Examiner, I'd move the admission  
23 of Costilla Exhibits 10 and 11.

24 EXAMINER CATANACH: Exhibits 10 and 11 will be  
25 admitted as evidence.

## EXAMINATION

BY EXAMINER CATANACH:

Q. Mr. Mazzullo, the well in Section 32, do you know how long that's been producing?

A. I believe that's plugged at this point, although I don't show it as plugged on the well. I don't recall offhand when it was drilled, but it was prior to 1985.

Q. Okay. The wells to the south of your location, are those all in the P.O.W.-Morrow Pool, do you know?

A. I don't know what pool they're in. Maybe we can reference a land map, but --

Q. That's fine. I can look that up.

MR. WINTER: 1-4 is.

THE WITNESS: One and 4 is? Okay.

Q. (By Examiner Catanach) You would say the t5 is the primary zone, the target zone in both wells?

A. Yes, t5 would be the primary zone, simply because it's the zone that made nearly 2 BCF in that well in Section 4.

And the other zones are either pinched out by our first location or they're -- or, in the case of the green zone, were probably very close to being pinched out.

Q. What do you use for control points north of your location?

A. North of the location, there is a well as you see

1 in Section 30, and there's another one in Section 15, which  
2 would be immediately north of Section 21, if I'm not  
3 mistaken. Those are the only two other control points that  
4 are there.

5 The Morrow zone of interest, this classic zone  
6 that I refer to, the middle and the lower Morrow that I  
7 refer to in Exhibit 11, eventually pinch out, and there is  
8 no Morrow present within four miles -- four or five miles  
9 of this prospect, north of this prospect. It's a  
10 sequential pinchout of the various zones as you go from  
11 south to north.

12 MR. ASHLEY: Was there any seismic control used  
13 here?

14 THE WITNESS: A little bit further to the north  
15 we have an east-west seismic line that confirms that -- you  
16 know, that there is structure or a structural situation  
17 that may or may not set up the location of a channel at  
18 this location, but it's a stretch to try to bring it down  
19 this far.

20 MR. CARROLL: What's this dot-dash line here?

21 THE WITNESS: Oh, that's the City of Artesia  
22 boundaries, as far as we could determine, which is, you  
23 know, one of the reasons why the south-half location wound  
24 up being an unorthodox location.

25 Q. (By Examiner Catanach) What have you got a far

1 as secondary targets in the well?

2 A. The only secondary target that may develop here  
3 would be the upper Pennsylvanian, the Cisco/Canyon. But  
4 its potential is a lot less likely than the Morrow.

5 Q. No Strawn or Atoka potential?

6 A. You know, as it goes in New Mexico, there might  
7 be some limited marginal or barely economic production out  
8 of the Atoka, but I can't map that.

9 EXAMINATION

10 BY MR. ASHLEY:

11 Q. What about the t6 zone?

12 A. Uh-huh.

13 Q. Is there much production in this area from that?

14 A. Down to the south, a couple of miles beyond the  
15 limit of this map, there are maybe one or two wells that  
16 are commingled in the t6 and the t4. You know how it is in  
17 the Morrow; there are several zones perforated  
18 simultaneously.

19 But as far as I recall, there may be only one  
20 well that's actually perforated solely in that zone, but  
21 that's way south of here.

22 Q. Would that be a zone that would be tested in this  
23 well too?

24 A. Yes, in the south-half well. I don't think it  
25 will be present in the north half.

1 EXAMINER CATANACH: Okay, that's all the  
2 questions we have of this witness.

3 MR. BRUCE: I have nothing further.

4 EXAMINER CATANACH: Okay, there being nothing  
5 further, Case 12,029 and 12,030 will be taken under  
6 advisement.

7 (Thereupon, these proceedings were concluded at  
8 11:30 a.m.)

9 \* \* \*

10  
11  
12  
13  
14 I do hereby certify that the foregoing is  
15 a true and correct record of the proceedings in  
16 two former hearings of Case no. 12029 12030  
17 heard by me on August 19 98.

18 David M. Catanach, Examiner  
19 OH Conservation Division  
20  
21  
22  
23  
24  
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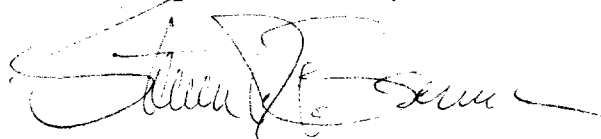
## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                  )   ss.  
COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL September 1st, 1998.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 1998