

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 AMERISTATE OIL AND GAS,)
INC., FOR COMPULSORY POOLING,)
EDDY COUNTY, NEW MEXICO)

CASE NO. 12,247

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

September 16th, 1999

Santa Fe, New Mexico

OIL CONSERVATION DIV.
99 SEP 24 AM 11:35

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, September 16th, 1999, 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

September 16th, 1999
 Examiner Hearing
 CASE NO. 12,247

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APPLICANT'S WITNESSES:	
<u>MARK NEARBURG</u> (Landman; President, Ameristate Oil and Gas, Inc.)	
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<u>LOUIS J. MAZZULLO</u> (Geologist)	
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* * *

A P P E A R A N C E S

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By: PAUL R. OWEN

* * *

1 WHEREUPON, the following proceedings were had at
2 10:02 a.m.:

3 EXAMINER CATANACH: Okay, at this time we'll call
4 Case 12,247.

5 MR. CARROLL: Application of Ameristate Oil and
6 Gas, Inc., for compulsory pooling, Eddy County, New Mexico.

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

9 MR. OWEN: Paul Owen, with the Santa Fe law firm
10 Campbell, Carr, Berge and Sheridan for the Applicant,
11 Ameristate Oil and Gas, Inc. I have two witnesses in this
12 matter.

13 EXAMINER CATANACH: Okay, call for additional
14 appearances.

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

17 (Thereupon, the witnesses were sworn.)

18 MR. OWEN: May it please the Examiner, I call as
19 my first witness Mr. Mark Nearburg.

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

23 DIRECT EXAMINATION

24 BY MR. OWEN:

25 Q. Mr. Nearburg, why don't you tell us your full

1 name and where you live?

2 A. Mark Nearburg, Austin, Texas.

3 Q. And who do you work for?

4 A. Ameristate Oil and Gas, Inc.

5 Q. What do you do for Ameristate?

6 A. President.

7 Q. Have you previously testified before this
8 Division?

9 A. Yes.

10 Q. Have you testified as a landman before this
11 Division?

12 A. Yes.

13 Q. At the time of that testimony, that previous
14 testimony, were your credentials as a petroleum landman
15 accepted and made a matter of record?

16 A. Yes.

17 Q. Are you familiar with the Application filed in
18 this case on behalf of Ameristate?

19 A. Yes.

20 Q. Are you familiar with the status of the lands in
21 the subject area?

22 A. Yes.

23 MR. OWEN: Mr. Examiner, I tender Mr. Nearburg as
24 an expert petroleum landman.

25 EXAMINER CATANACH: Mr. Nearburg is so qualified.

1 Q. (By Mr. Owen) Mr. Nearburg, why don't you tell
2 us briefly what Ameristate seeks with this Application?

3 A. Ameristate seeks an order pooling all minerals
4 from the surface to the base of the Morrow formation in the
5 north half of Section 30, Township 17 South, Range 25 East,
6 Eddy County, New Mexico, underlying the north half, forming
7 a standard 320-acre gas spacing and proration unit for
8 formations and/or pools developed on 320-acre spacing,
9 which presently includes but is not necessarily limited to
10 the Richard Knob-Atoka-Morrow Gas Pool; 160-acre spacing,
11 all minerals from the surface to the base of the Morrow
12 formation underlying the northeast quarter for formations
13 and/or pools developed on 160-acre spacing, which presently
14 includes, but not necessarily limited to, the Eagle Creek-
15 Strawn Gas Pool; all minerals from the surface to the base
16 of the Morrow underlying the south half, northeast quarter,
17 of Section 30, forming a standard 80-acre oil spacing and
18 proration unit for all formations and/or pools developed on
19 80-acre spacing; the southwest-northeast quarter to form a
20 standard 40-acre oil spacing and proration unit for
21 formations and/or pools developed on 40-acre spacing, which
22 presently includes, but is not necessarily limited to, the
23 undesignated Eagle Creek-San Andres Pool, the pooled unit
24 to be dedicated to Ameristate's proposed Maneater Federal
25 Com Well Number 1, to be drilled at a standard location

1 1980 feet from the north line and 1980 feet from the east
2 line of Section 30.

3 Q. And Mr. Nearburg, does Ameristate's Exhibit
4 Number 1 reflect the well and the status of the lands n the
5 subject area?

6 A. Yes, shown in yellow are leases which Ameristate
7 has. Orange is a Yates Petroleum farmout. And then I'd
8 like to move to Land Exhibit -- with the well shown.

9 And on Land Exhibit 2, that's a breakdown of the
10 east half, northwest quarter and west half, northeast
11 quarter. For obvious reasons, we could not show the Yates
12 interest on Exhibit 1, but Yates does own some HBP leases
13 in here which are covered by their farmout. Land Exhibit 2
14 shows the leases which Ameristate has acquired under these
15 small tracts.

16 The tract noted as BRADA, B-R-A-D-A, Ameristate
17 purchased those minerals at a tax sale in Eddy County
18 earlier this year.

19 The acreage with the blue diagonal lines is the
20 acreage in question that we want to force pool.

21 Q. Have you been able to secure commitments to the
22 prospect from the areas that are not cross-hached?

23 A. Yes.

24 Q. What's your primary objective with this well?

25 A. The Morrow formation at approximately 8400 feet.

1 Q. Okay. And with these land exhibits, what
2 percentage of the ownership in the subject spacing unit has
3 been voluntarily committed?

4 A. Exhibit Number 3 shows that we have voluntary
5 joinder of 90.625-percent interest.

6 The Helen B. Squires 6.25 percent, she is a lost
7 owner who has disappeared from the records. We have made
8 numerous attempts to find her. The closest we came was a
9 Col. Davidson in Germany, in the United States Air Force.
10 He thought he might be related to her, but when he received
11 the affidavit of heirship he said no, he didn't think he'd
12 better sign them. So he disclaimed an ownership at that
13 time.

14 The Corrine Grace interest, they have refused
15 numerous attempts to lease or farm out their interest as
16 has Linda Gomillion.

17 Q. On Exhibit Number 3 there is a woman named
18 Dorothy S. Perry referenced. What is her relationship
19 to --

20 A. Dorothy S. Perry appeared in the tax records as
21 paying taxes on the Helen B. Squires interest, although we
22 find no tie of her to ownership of the Helen Squires
23 interest.

24 Q. What other efforts have you made to secure the --
25 to identify or locate the individuals indicated as not

1 joining?

2 A. We have identified the location of the Gomillion
3 and Grace interests. They just refuse to lease or farm out
4 their interest.

5 And as previously stated, the Helen B.
6 Squires/Dorothy S. Perry interest, which is shown as
7 Davidson on Land Exhibit 2, there is just no way to track
8 down what happened to Mrs. Squires.

9 Q. Mr. Nearburg, in your opinion as an expert
10 petroleum landman, has Ameristate made a good-faith effort
11 to locate and obtain voluntary joinder of all interest
12 owners in the proposed spacing unit?

13 A. Yes.

14 Q. Okay. Mr. Nearburg, have you made an estimate of
15 the overhead and administrative costs to be incurred while
16 drilling and producing the well?

17 A. Yes, Land Exhibit Number 4 is an AFE for the
18 proposed well showing a dryhole cost of \$287,770, a
19 completion cost of \$229,450, for a total well cost of
20 \$517,220.

21 I would like to request that the Commission allow
22 us to, of course, submit actual costs once the well is
23 drilled. This AFE was prepared in July, but in the last
24 few weeks the rig and pipe costs have increased.

25 Q. Mr. Nearburg, are the costs that are reflected on

1 Ameristate Exhibit Number 4 consistent with what's being
2 charged by other operators in the area for similar wells?

3 A. Yes.

4 Q. Has Ameristate participated in other Morrow
5 formation wells in the area?

6 A. Yes.

7 Q. And are these AFE costs in line with those costs
8 actually incurred in the wells in which Ameristate has
9 participated in the area?

10 A. Yes.

11 Q. Is Ameristate Exhibit Number 4 a true and correct
12 copy of Ameristate's AFE for this Maneater Federal Com
13 Number 1 well?

14 A. Yes.

15 Q. And finally, is Ameristate Exhibit Number 5 an
16 affidavit with attached letters confirming that notice of
17 this Application and hearing have been provided in
18 accordance with OCD rules?

19 A. Yes.

20 Q. Is Ameristate going to call a technical witness
21 to testify about the risk associated with this prospect?

22 A. Yes.

23 Q. Mr. Nearburg, were Ameristate Exhibits Numbers 1
24 through 5 prepared by you or compiled under your direction
25 and supervision?

1 A. Yes.

2 MR. OWEN: Mr. Examiner, I offer Exhibits Number
3 1 through 5.

4 EXAMINER CATANACH: Exhibits 1 through 5 will be
5 admitted as evidence.

6 MR. OWEN: I have nothing further of this witness
7 at this time.

8 EXAMINATION

9 BY EXAMINER CATANACH:

10 Q. Mr. Nearburg, are each of these interest owners
11 being pooled in each of the units that you're forming?

12 A. Yes, sir.

13 Q. Okay. Have you --

14 A. Well, let me check on that. The Gomillion
15 interest would not be included in the 40-acre unit.

16 Q. Okay. That's the only exception?

17 A. Yes, sir.

18 Q. Okay. Do you know or have you explored whether
19 there are any 80-acre-spaced pools in this area?

20 A. I do not know of any wells that have been
21 completed on 80-acre-spaced units.

22 Q. Okay. Just to advise you, if there are not any
23 80-acre pools in this area, we can't pool the 80-acre unit.
24 And I'll research that when I do the order.

25 Did we do overhead rates? Did you mention any

1 or --

2 A. Oh --

3 MR. OWEN: I didn't discuss the overhead rates,
4 Mr. Nearburg. Would you mind --

5 THE WITNESS: We're requesting \$5000 for drilling
6 and \$500 for operations. And again, at the time we drill
7 the well, we'd like to revisit the Ernst and Young most
8 recent report.

9 MR. OWEN: Mr. Nearburg, are those \$5000/\$500
10 figures taken from the most recent Ernst and Young survey?

11 THE WITNESS: Yes.

12 Q. (By Examiner Catanach) So you want the ability
13 to adjust those figures?

14 A. If Ernst and Young -- by the time we go through
15 the federal permitting, if Ernst and Young has come out
16 with a new suggested overhead rate, we'd like to use those.

17 Q. You don't anticipate forming an agreement with
18 the other two parties at all?

19 A. No, sir. We've made repeated attempts, and
20 they've --

21 Q. You have --

22 A. Ms. Gomillion said please do not call anymore,
23 she does not like the oil business.

24 Mr. Grace, through her company, has just not
25 answered repeated attempts to reach an agreement.

1 Q. Do you guys feel like you've exhausted all your
2 attempts to find the other Squires interest?

3 A. Yes, sir, we spent considerable time on that.

4 EXAMINER CATANACH: Okay, I have nothing further.
5 This witness may be excused.

6 MR. OWEN: Thank you, Mr. Examiner.

7 As our next witness we call Mr. Louis J.
8 Mazzullo.

9 LOUIS J. MAZZULLO,
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. OWEN:

14 Q. Mr. Mazzullo, why don't you tell us your full
15 name and where you work?

16 A. I'm Louis J. Mazzullo, I'm an associate with
17 Ameristate Oil and Gas, Ameristate Exploration, and I work
18 out of Albuquerque.

19 Q. Have you previously testified before this
20 Division?

21 A. Yes, I've testified as a petroleum geologist.

22 Q. And were your credentials as a petroleum
23 geologist accepted and made a matter of record?

24 A. Yes, they were.

25 Q. Are you familiar with the Application filed in

1 this case on behalf of Ameristate?

2 A. I am.

3 Q. Have you made a geological study of the area
4 surrounding the proposed well?

5 A. Yes.

6 Q. Are you prepared to share the results of that
7 study with the Examiner?

8 A. Yes, I am.

9 MR. OWEN: Mr. Examiner, are the witness's
10 qualifications acceptable?

11 EXAMINER CATANACH: They are.

12 Q. (By Mr. Owen) Mr. Mazzullo, have you prepared an
13 exhibit for presentation in this case?

14 A. Yes, I have, Exhibit Number 6, which is a
15 combined geologic cross-section, structure map and isopach
16 map-montage of this subject formation.

17 MR. OWEN: Mr. Mazzullo, if I may, Mr. Examiner,
18 if you would like to review the larger cross-section which
19 we intend to introduce -- try to save paper.

20 THE WITNESS: This is a montage of the Morrow
21 formation, showing the wells in the immediate area of the
22 subject well, which is in the northeast quarter of Section
23 30, that produce out of what has been variously described
24 as the Morrow and/or Atoka formations.

25 The map on the lower part of the diagram is a

1 combined structure map, structure contours shown in black,
2 and the isopach contours shown in blue.

3 What I attempted to do on the map was to portray
4 what I think to be logical areas where channel sands of the
5 Morrow formation trend through the area and hopefully
6 through the proposed location.

7 If you look by the proposed location, there's a
8 deep fault that I believe sometimes controls the location
9 of sand in the lower part of the Morrow formation, which is
10 our primary objective in this area.

11 The isopach, blue isopach lines, indicate or
12 suggest that the Morrow thickens in that area. That's the
13 hope, that the Morrow thickens in that area, and it's based
14 upon an assumption that the deep faults control deposition
15 of sand.

16 Now, that's not always true in the area, and it's
17 maybe true a fraction of the time over this area, but my
18 experience has shown in Eddy and Lea County that this could
19 happen. Although there's no direct evidence of a channel
20 being there from the control wells in the immediate area,
21 this channel sand that's shown in yellow, bright yellow, is
22 extrapolated from the south where there is better well
23 control, and the suggestion is that these channel sands
24 trend from the south, off the field of this map, into the
25 area.

1 The other element that makes me believe that it's
2 a viable location is the fact that the Morrow sands pinch
3 out just immediately north of the area shown by the brown
4 coloring, where there is no Morrow present. That pinchout
5 can go further to the north or it could come further to the
6 south and completely cut us off at our location.

7 So in that respect, it's a very risky venture but
8 one that's worth the effort, according -- if you believe
9 regional trendology of these channel sands coming up from
10 the south.

11 The other element of risk involved in this
12 location can be seen by just looking at the production
13 figures of the wells that immediately offset our proposed
14 location. There are five different categories of wells
15 that I show on the key, different color codes.

16 There's only one well, approximately a mile and a
17 half southeast of our proposed location, that was actually
18 perforated in the zone that we're looking for, in the
19 Morrow itself, in the lower Morrow itself, and that well
20 has only produced 153,000 MCF of gas, which is -- at these
21 rates, at the cost that we're talking about for drilling,
22 is uneconomic.

23 Q. (By Mr. Owen) Now, Mr. Mazzullo, if I might
24 interrupt you, does the upper part of your exhibit here
25 reflect a cross-section that reflects the wells that are

1 indicated by the cross-section line in red on the --

2 A. Yes.

3 Q. -- lower part of your exhibit?

4 A. Yeah, I'm sorry to -- I didn't mention that. The
5 cross-section does show the wells that are connected by the
6 red line on the map. It shows my interpretation of how the
7 sand in the lower Morrow, which is colored yellow, may
8 accumulate along the downthrown side of that deep fault,
9 which is also projected from subsurface well control, both
10 to the north and to the south of our proposed location.

11 And you can see that several -- Of the wells that
12 are on the cross-section, they're perforated in a lot of
13 different places. And it's very rare in this immediate
14 area that you find any that are perforated solely in the
15 lower Morrow, and the lower Morrow is our objective
16 formation here.

17 Most of the wells in this area have been
18 perforated in several different zones simultaneously. We
19 don't intend to do that; we intend to chase just the lower
20 Morrow sand and, if we find it, perforate that alone,
21 regardless of what else we might encounter.

22 Q. Now, Ameristate is seeking to pool the uphole
23 zones as well; is that correct?

24 A. Yes.

25 Q. But your primary objective, and in fact your only

1 objective, is the Morrow at this time?

2 A. Yes, that's our objective.

3 Q. Okay. Based on your geological study, what
4 conclusions have you reached as far as the risk associated
5 with this well?

6 A. This well, as most Morrow wells in this area, is
7 extremely risky, both because of the uncertainty as to
8 whether or not the Morrow is actually going to be there or
9 if it's going to be pinched out, or whether or not those
10 channel sands actually accumulate, as I suggest, on the
11 downthrown side of the fault. It's an extremely risky
12 venture.

13 The upside economics, if you do hit them, make
14 the venture viable, as far as Ameristate is concerned.

15 Q. Based on that assessment, are you prepared to
16 make a recommendation as to the risk penalty that should be
17 assessed against the nonconsenting interest owners?

18 A. Yes.

19 Q. What is that recommendation?

20 A. The recommendation is for 200-percent risk
21 penalty.

22 Q. Based on this risky proposition, do you think
23 there is a risk, a chance that you could drill a well at
24 the proposed location that would not be a commercial
25 success?

1 A. Yes, very definitely so, and you can tell just by
2 looking at the production in the area.

3 Q. And should the risk penalty apply to all zones
4 that are being pooled?

5 A. Yes.

6 Q. Does Ameristate seek to be the designated
7 operator of the proposed well?

8 A. Yes, we do.

9 Q. Mr. Mazzullo, in your opinion will the granting
10 of this Application and the drilling of the proposed well
11 be in the best interests of conservation, the protection of
12 correlative rights and the prevention of waste?

13 A. Yes.

14 Q. Was Ameristate Exhibit Number 6 prepared by you
15 or under your direction?

16 A. It was prepared by me.

17 MR. OWEN: Mr. Examiner, I offer Ameristate
18 Exhibit Number 6.

19 EXAMINER CATANACH: Exhibit Number 6 will be
20 admitted as evidence.

21 MR. OWEN: Nothing further of this witness at
22 this time.

23 EXAMINATION

24 BY EXAMINER CATANACH:

25 Q. Mr. Mazzullo, the well in the southeast quarter

1 of Section 32 looks like it encountered, oh, a little less
2 than a hundred feet, and I assume that's gross sand?

3 A. That's gross section, that's not sand.

4 Q. Gross section.

5 A. That's -- Yeah, it's the total section of the
6 yellow zone on the cross-section.

7 Q. Okay. And that is what you would define as a
8 fairly uneconomic well?

9 A. Yes. It's been producing since the 1970s. Well,
10 it was -- I'm sorry, it was completed in the late 1970s.
11 I'm not sure if it's still producing anymore, but that's
12 how much it's accumulated since, I believe, 1979 or
13 somewhere in that vicinity.

14 Q. Okay. It looks like your well location will
15 encounter maybe a little more than 50 feet of section?

16 A. That's, yeah, what we're hoping for.

17 Q. How do you hope to get a better well at your
18 location than that one in the southeast quarter of Section
19 32?

20 A. Well, the other factor here is the trap provided
21 by the regional pinchout of the Morrow, that brown area.
22 If this is true and if we can get a coincidence of the sand
23 along -- or in proximity to that trap, it provides an ideal
24 stratigraphic trap for better accumulations of hydrocarbon.
25 So-called spoon trap, or re-entrant trap.

1 Q. Okay. In that channel sand that you've got
2 mapped in 30 and 31, what's the closest well that produces
3 from that channel sand?

4 A. Oh, if my correlations are correct, the nearest
5 well is approximately two and a half to three miles south
6 of the field of this map, south southeast.

7 Q. Has it not been tested further north yet?

8 A. No, there's very little activity north of here.
9 This is an area that was very active in the late 1970s and
10 early 1980s boom, and there's very little to go on
11 because -- well, there's no lower Morrow north of here, in
12 the brown area, it's gone.

13 Q. Okay. You do have some potential in the upper
14 Morrow bar sand; is that right?

15 A. That's a possibility. But again, there's nothing
16 that's economic.

17 You can see that -- Well, a lot of these wells
18 are commingled from different zones, but there's really
19 nothing that's been established as economic production in
20 there. It would be secondary production at best if we were
21 to get it.

22 And again, that's mapping of that unit in there
23 is just based on limited well correlations that we have in
24 this area.

25 EXAMINER CATANACH: Okay. I have nothing further

1 of this witness, Mr. Owen.

2 MR. OWEN: That concludes my presentation of this
3 case, Mr. Examiner.

4 EXAMINER CATANACH: Okay, there being nothing
5 further in this case, Case 12,247 will be taken under
6 advisement.

7 (Thereupon, these proceedings were concluded at
8 10:30 a.m.)

9 * * *

10
11
12
13 I do hereby certify that the foregoing is
14 a complete and true record of the proceedings in
the Examination of Case 12,247.
15 heard by me on September 16, 1999.
16 David L. Catanach Examiner
Oil Conservation Division


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 18th, 1999.



 STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002

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