

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 APPLICATION OF CHI ENERGY)	CASE NOS. 12,879
CORPORATION FOR COMPULSORY POOLING, EDDY)	
COUNTY, NEW MEXICO)	
APPLICATION OF APPLICATION OF CHI ENERGY)	12,880
CORPORATION FOR COMPULSORY POOLING, EDDY)	
COUNTY, NEW MEXICO)	
APPLICATION OF APPLICATION OF CHI ENERGY)	and 12,881
CORPORATION FOR COMPULSORY POOLING, EDDY)	
COUNTY, NEW MEXICO)	
_____)	(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

August 1st, 2002

Santa Fe, New Mexico

RECEIVED

AUG 1 2002

Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, August 1st, 2002, 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.

* * *

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

I N D E X

August 1st, 2002
Examiner Hearing
CASE NOS. 12,879, 12,880 and 12,881

	PAGE
EXHIBITS	3
APPEARANCES	4
APPLICANT'S WITNESS:	
<u>ROBERT H. BELL</u> (Landman)	
Direct Examination by Mr. Bruce	5
Examination by Examiner Brooks	18
REPORTER'S CERTIFICATE	21

* * *

E X H I B I T S

Applicant's (12,879)	Identified	Admitted
Exhibit 1	7	18
Exhibit 2	8	18
Exhibit 3	11	18
Exhibit 4	13	18
Exhibit 5	13	18

* * *

Applicant's (12,880)	Identified	Admitted
Exhibit 1		18
Exhibit 2	13	18
Exhibit 3	14	18
Exhibit 4	14	18
Exhibit 5	14	18

* * *

Applicant's (12,881)	Identified	Admitted
Exhibit 1	15	18
Exhibit 2	15	18
Exhibit 3	16	18
Exhibit 4	16	18
Exhibit 5	17	18

* * *

A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS
Attorney at Law
Energy, Minerals and Natural Resources Department
Assistant General Counsel
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

JAMES G. BRUCE, Attorney at Law
324 McKenzie
Santa Fe, New Mexico 87501
P.O. Box 1056
Santa Fe, New Mexico 87504

ALSO PRESENT:

DAVID R. CATANACH
Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

* * *

1 WHEREUPON, the following proceedings were had at
2 10:22 a.m.:

3 EXAMINER BROOKS: Okay, at this time we will call
4 Case Number 12,879, Application of Chi Energy Corporation
5 for compulsory pooling, Eddy County, New Mexico; Case
6 Number 12,880, Application of Chi Energy Corporation for
7 compulsory pooling, Eddy County, New Mexico; and Case
8 Number 12,881, Application of Chi Energy Corporation for
9 compulsory pooling, Eddy County, New Mexico.

10 Call for appearances.

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

13 EXAMINER BROOKS: Okay, you may call your
14 witness.

15 He needs to be sworn. I had the others sworn
16 twice, so I'll just have him sworn once.

17 (Thereupon, the witness was sworn.)

18 ROBERT H. BELL,

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

21 DIRECT EXAMINATION

22 BY MR. BRUCE:

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

24 A. Robert H. Bell.

25 Q. Where do you reside?

1 A. Roswell, New Mexico.

2 Q. What is your occupation?

3 A. I am an independent petroleum landman.

4 Q. And what is your relationship to Chi Energy in
5 this matter?

6 A. I've been retained by Chi Energy to help
7 facilitate these com agreements and a compulsory pooling.

8 Q. Okay. Have you previously testified before the
9 Division?

10 A. Yes, I have.

11 Q. And were your credentials as an expert petroleum
12 landman accepted as a matter of record?

13 A. Yes, they were.

14 Q. And are you familiar with the land matters
15 involved in these three particular Applications?

16 A. Yes, sir, I am.

17 MR. BRUCE: Okay. Mr. Examiner, I would tender
18 Mr. Bell as an expert petroleum landman.

19 EXAMINER BROOKS: So qualified.

20 Q. (By Mr. Bruce) Mr. Bell, let's start off by
21 going through these cases. In the first one, 12,878, what
22 does Chi Energy seek in this case?

23 A. Chi seeks to pool the west half of Section 4,
24 Township 17 South, Range 28 East, from the surface to the
25 base of the Morrow formation for all formations spaced on

1 160 and 320 acres.

2 Q. Okay. Now, the next two cases, 12,880, you are
3 similarly seeking to pool the north half of adjoining
4 Section 10?

5 A. That's correct.

6 Q. And in the Case 12,881, you are seeking to pool
7 the south half of Section 10, correct?

8 A. That's correct.

9 Q. And they're all in the same township and range?

10 A. Correct.

11 Q. Okay, let's look first at the first case. What
12 is Exhibit 1?

13 A. Exhibit 1 is a C-102 form outlining the well
14 unit, which is outlined in yellow, representing the west
15 half of Section 4.

16 Q. Okay, and there are two wells in this particular
17 well unit, are there not?

18 A. That's correct, the Heavy Harry Number 1 and 2.

19 Q. Now, these are both Morrow producers?

20 A. That's correct.

21 Q. And you would seek to pool 320 acres, as well as
22 each quarter section, for each particular well?

23 A. Yes, sir.

24 Q. Okay. Now, in all three poolings are you seeking
25 to pool only overriding royalty owners?

1 A. That's correct, only overrides.

2 Q. Are there numerous overrides?

3 A. Yes, sir, there are.

4 Q. Is this -- 17 South, 28, this is a pretty --
5 actually a quite old producing area, is there not?

6 A. That's correct. In some cases the wells have
7 been producing from the 1930s and 1940s.

8 Q. Okay. As a result, the overriding royalty
9 ownership has become quite split up?

10 A. Yes, it has.

11 Q. And it's difficult not only just signing up
12 everybody but locating everybody; would that be a correct
13 statement?

14 A. Yes, sir.

15 Q. Now, in today's hearings we are seeking to pool
16 some owners that you have not been able to locate; is that
17 correct?

18 A. That's correct.

19 Q. And other owners who simply have just failed to
20 sign -- or ratify the communitization agreement?

21 A. Correct.

22 Q. Okay. Let's look at, again in Case 12,879, your
23 Exhibit 2. What is that?

24 A. Exhibit 2 is a copy of the communitization
25 agreement for each of the wells. And if you'll turn to

1 Exhibit A, on each of the wells -- or each of the com
2 agreements, it will show the number of tracts involved.
3 For the west half of Section 4 there are four tracts, six
4 different ownerships. For the Hiawatha, which is the north
5 half --

6 Q. Now, wait, let's just start on this one --

7 A. Okay.

8 Q. -- let's just stick with this one. So for the
9 first one, Exhibit 2 of Case 12,879, Exhibit A shows that
10 there are what, five individual lease tracts, are there
11 not?

12 A. Correct.

13 Q. And then the next page, Exhibit B, lists the
14 interest ownership in each of those tracts?

15 A. That's correct.

16 Q. And all of the working interest owners have
17 signed the com agreements, have they not?

18 A. Yes.

19 Q. And so what you are looking at is certain
20 overriding royalties, and all of those overriding royalties
21 are listed on these tracts, are they not?

22 A. That's correct.

23 Q. Who do you seek to force pool in this particular
24 case?

25 A. The overriding royalty interests that we seek to

1 force pool are marked in yellow on your exhibit. Do you
2 want me to name those particular individuals?

3 MR. BRUCE: Mr. Examiner, would you require them
4 to be named for the record?

5 EXAMINER BROOKS: They're in the exhibit,
6 correct?

7 MR. BRUCE: Yes --

8 EXAMINER BROOKS: They're listed here on this --

9 MR. BRUCE: Yes, they're all the highlighted
10 persons.

11 EXAMINER BROOKS: No, it won't be necessary to
12 read the names into the record.

13 Q. (By Mr. Bruce) Okay. And these are the only
14 people you seek to force pool, the ones highlighted in
15 yellow, Mr. Bell?

16 A. That's correct.

17 Q. And all of the others, of whom there are many,
18 the overriding royalty and working interest owners have
19 ratified or signed the communitization agreement?

20 A. That is correct.

21 Q. What steps did you do, did you take, to locate
22 these owners?

23 A. I personally did a pretty extensive search of the
24 state, federal, county records, sent letters to last known
25 addresses for most of these people, did a computer search,

1 Internet search, and tried to acquire old phone books and
2 just different things, the standard steps that I would
3 normally take.

4 Q. Okay. Now, we do have several addresses. Are
5 many of these addresses that you were able to come up with
6 old or no longer valid addresses?

7 A. That's correct. In cases where I did have an
8 existing address I sent letters to that address, and those
9 were all returned undeliverable.

10 Q. Okay. What is Exhibit 3? And let's just stick
11 with Case 12,879 at this point.

12 A. Okay, Exhibit 3 is the correspondence that we
13 have -- letters that I have sent out --

14 Q. Okay.

15 A. -- to last known addresses for different people.

16 Q. Okay. Without going through these, you did --
17 whenever you had an address that looked reasonable, you did
18 mail out a com agreement and a ratification to these
19 people?

20 A. Yes, sir, I did.

21 Q. Okay. In particular, let's look at this case.
22 Your first letter, which is over a year ago to this Mrs.
23 Mary Ann Antone, she was locatable, was she not?

24 A. Yes, she was. I talked to Mrs. Antone on the
25 telephone in El Paso. I believe that she may be suffering

1 from some sort of dementia. The conversations did not go
2 well. And I believe that the other people listed on this
3 letter were all out of the same estate, and I --

4 Q. Did she claim to know them or where they were?

5 A. She said that she knew of them. She said some of
6 them were deceased; she didn't tell me which ones. And
7 like I said, this letter is evidence I sent the letter
8 asking for some help trying to locate these people, with no
9 response.

10 Q. Okay, so despite the phone calls and your letter,
11 she never did give you any further information on the
12 location of certain of these people?

13 A. That's correct.

14 Q. Okay. And then the other letters are again from
15 -- requests to sign the com agreement.

16 In your opinion, has Chi Energy made a good-faith
17 effort to locate the names and addresses of these people
18 and obtain their voluntary joinder?

19 A. Yes, sir.

20 Q. Okay. Does Chi Energy request that it be
21 designated operator of the wells?

22 A. Yes, they do.

23 Q. And since these are overrides, Chi Energy seeks
24 no well costs or risk penalties; is that correct?

25 A. That's correct.

1 Q. And Exhibit 4 is simply my affidavit of notice;
2 is that correct, Mr. Bell?

3 A. Yes, sir.

4 MR. BRUCE: Finally, Mr. Examiner, as to certain
5 of these people, we did place an advertisement in the
6 Carlsbad newspaper, which is marked as Exhibit 5, giving
7 notice of the pooling hearing.

8 Q. (By Mr. Bruce) Mr. Bell, let's very briefly go
9 through the next two cases in a more summary fashion.

10 Case 12,880, again, that's the north half of
11 Section 10?

12 A. That's correct.

13 Q. And what is Exhibit 2 in that matter?

14 A. Exhibit 2 is the com agreement pertaining to the
15 Hiawatha well located in the north half of Section 10.

16 Q. Okay. And so if you look at Exhibit A on that
17 com agreement, there are what, five tracts of land again in
18 this --

19 A. That's correct.

20 Q. And are the persons you seek to force pool again
21 highlighted in yellow?

22 A. Yes, they are.

23 Q. And again, did you check the county records to
24 attempt to locate the names and addresses of these
25 overriding royalty owners?

1 A. Yes, I did.

2 Q. And is Exhibit 3 copies of the letters you sent
3 out to the interest owners?

4 A. I believe so. Yes, it is.

5 Q. Again, now, in this particular case, the Bright
6 Hawk/Burkard Venture, that letter was not returned to you?

7 A. No, and I did make contact with the Bright Hawk/
8 Burkard Venture on several occasions.

9 Q. They just haven't signed?

10 A. They just haven't signed, and Chi Energy has also
11 been in contact with them, trying to get them to sign.

12 Q. With respect to the following three letters, the
13 Joan Hudson Moore, Jonel Susan Grasso and Jane Ann Hudson
14 Davis, were those letters returned to you?

15 A. Yes, they were.

16 MR. BRUCE: Okay. And again, Mr. Examiner,
17 Exhibit 4 is simply my affidavit of notice. The letter did
18 get to Bright Hawk/Burkard Venture, but was returned with
19 respect to the remaining people.

20 And Exhibit 5 is another notice published in the
21 Carlsbad newspaper naming certain interest owners.

22 Q. (By Mr. Bruce) There were substantially fewer
23 people in this particular well who you could not locate; is
24 that not right, Mr. Bell?

25 A. That's correct, just the four mentioned.

1 Q. Four or five?

2 A. Right. Five, I guess.

3 Q. Finally, let's move on to Case 12,881, Mr. Bell.
4 Again, is Exhibit 1 simply the land plat of this well?

5 A. That's correct, the Coal Train Federal Com.

6 Q. And these wells have been drilled and completed,
7 have they not?

8 A. Yes, all three of these wells have been drilled
9 and completed.

10 Q. Moving on to your Exhibit 2 in this case, could
11 you identify it?

12 A. Exhibit 2 is the com agreement covering the Coal
13 Train Federal Com Number 1.

14 Q. And Exhibit A again shows that again there are
15 five tracts in this particular well unit; is that correct?

16 A. That's correct.

17 Q. And Exhibit B again lists the people who own
18 interest in this well, and the only ones who haven't joined
19 in are the ones highlighted in yellow?

20 A. That's correct.

21 Q. Now, on some of these you're looking at pretty
22 small interests, are you not? Most of them?

23 A. Yes.

24 Q. Again, did you attempt to contact all of these
25 people?

1 A. I did.

2 Q. And your correspondence is marked Exhibit 3?

3 A. That's correct.

4 Q. What about Weller Energy, what was -- Have they
5 responded to you?

6 A. No, they have not. We have sent them several
7 letters, have been unable to contact them by phone. The
8 address that I have here, I believe, is an accurate
9 address. None of the correspondence has been returned,
10 however it hasn't been signed.

11 Q. Okay, three of the people are the Moore, Grasso
12 and Davis interests. In the prior well, again, that was
13 returned, I believe?

14 A. Yes, sir.

15 Q. And Bright Hawk/Burkard Venture, again, has
16 refused to sign anything?

17 A. Correct.

18 MR. BRUCE: Mr. Examiner, again, Exhibit 4 is
19 simply my notice affidavit regarding these people. Mr.
20 Examiner, if you'll look at that particular notice letter,
21 I did have one additional person on there, Barnett
22 properties, which is on the exhibit to the notice letter.

23 Q. (By Mr. Bruce) Mr. Bell, you did not attempt to
24 seek to pool them at this time; they have signed a
25 ratification, have they?

1 A. Yes, sir, they have signed.

2 MR. BRUCE: Okay, so that was just a surplus
3 notice.

4 And once again, Mr. Examiner, Exhibit 5 is just
5 simply the affidavit of publication of the notice of the
6 pooling published in the Carlsbad newspaper.

7 Q. (By Mr. Bruce) Especially with respect to the
8 first pooling, Mr. Bell, there were very few good addresses
9 that you had; is that correct?

10 A. Yes, that's correct.

11 Q. And --

12 A. In some cases I never had an address at all.

13 Q. And the notices that were mailed out, or letters,
14 were mailed to the last or best address that you had for
15 these parties?

16 A. That's correct.

17 Q. In each case, were Exhibits 1 through 5 in each
18 matter prepared by you or under your supervision or
19 compiled from company business records?

20 A. Yes, sir, they were.

21 Q. And in your opinion, are the granting of Chi
22 Energy's Applications in the interest of conservation and
23 the prevention of waste?

24 A. Yes, sir.

25 MR. BRUCE: Mr. Examiner, I would move the

1 admission of Exhibits 1 through 5 in each of these three
2 matters.

3 EXAMINER BROOKS: Okay, Exhibits 1 through 5 as
4 tendered and marked for Case Number 12,879 are admitted in
5 Case Number 12,879; Exhibits 1 through 5 as marked for Case
6 Number 12,880 are admitted in Case Number 12,880; Exhibits
7 1 through 5 as marked for Case Number 12,881 are admitted
8 in Case Number 12,881.

9 MR. BRUCE: And at this point, Mr. Examiner, I
10 would pass the witness.

11 EXAMINER BROOKS: Very good.

12 EXAMINATION

13 BY EXAMINER BROOKS:

14 Q. Let's see, in the first, 12,879, the west half of
15 Section 4, there are two wells, the Heavy Harry State Com
16 Number 1 and the Heavy Harry State Com Number 2; is that
17 correct?

18 A. Yes, sir, that's correct.

19 Q. Are those both completed in the Morrow?

20 A. I believe that they are, yes, sir.

21 Q. And what is --

22 A. Well, you know, I don't know that for a fact. I
23 know that the Heavy Harry Com Number 2 was a Morrow well.

24 EXAMINER BROOKS: Right.

25 MR. BRUCE: Mr. Examiner, I did look at the well

1 files, and they are completed in the Morrow.

2 Q. (By Examiner Brooks) Okay. Well, my question
3 here -- Well, let me go on, then, to the next one. The
4 north half of Section 10, that well is -- I think I got the
5 name of that well from the com agreement here.

6 A. It's called the Hiawatha Federal Com Number 1.

7 Q. Okay, hold on a second. Let me get my paperwork
8 complete here. Hiawatha 10 Federal Com Number 10, correct?

9 A. That's correct.

10 Q. And is that also a Morrow well?

11 A. Yes, sir.

12 Q. Are there any plans to drill an infill well in
13 that unit?

14 A. I can't answer that, sir, I don't --

15 Q. Okay. And the third one, then, is -- in 12,881,
16 what is the name of that well?

17 A. That is the Coal Train 10 Federal Com Number 1.

18 Q. Coal Train 10 Federal Com Number 1?

19 A. Yes, sir.

20 Q. And that is also a Morrow completion?

21 A. Yes, sir, I believe so.

22 Q. And I assume you again do not know if there's any
23 plans to drill an infill well in that unit?

24 A. I do not know, no.

25 EXAMINER BROOKS: Okay. I think that's all I

1 have.

2 MR. BRUCE: I have nothing further in this
3 matter, Mr. Examiner.

4 EXAMINER BROOKS: Very good. Cases Numbers
5 12,879, 12,880 and 12,881 will be taken under advisement.

6 THE WITNESS: Thank you.

7 (Thereupon, these proceedings were concluded at
8 10:45 a.m.)

9 * * *

10
11
12
13
14
15 I do hereby certify that the foregoing is a correct
16 transcription of the testimony of the Examiner, and that the cases 12879, 12880 and 12881
17 heard by me on Aug 1, 2002

18 David K. Brooks
19 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 August 3rd, 2002.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002