

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. 12,957  
 )  
 APPLICATION OF NADEL AND GUSSMAN )  
 PERMIAN, L.L.C., FOR COMPULSORY POOLING, )  
 EDDY COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

November 14th, 2002

Santa Fe, New Mexico

NOV 26 PM 2:05

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, November 14th, 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.

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## I N D E X

November 14th, 2002  
 Examiner Hearing  
 CASE NO. 12,957

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

## FOR THE DIVISION:

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Assistant General Counsel  
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Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

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

\* \* \*

## ALSO PRESENT:

WILLIAM V. JONES, JR.  
Petroleum Engineer  
New Mexico Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:19 a.m.:

3           EXAMINER CATANACH: Okay, we'll call the hearing  
4   to order this morning for Docket Number 36-02.

5           Let me go ahead and call the continuances.

6           (Off the record)

7           EXAMINER CATANACH: At this time we'll call Case  
8   12,957, the Application of Nadel and Gussman Permian,  
9   L.L.C., for 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 two witnesses to be  
13   sworn.

14          EXAMINER CATANACH: Call for additional  
15   appearances?

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

18          (Thereupon, the witnesses were sworn.)

19                 SAM H. JOLLIFFE, IV,  
20   the witness herein, after having been first duly sworn upon  
21   his oath, was examined and testified as follows:

22                         DIRECT EXAMINATION

23   BY MR. BRUCE:

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

25           A.    I'm Sam Jolliffe.

1 Q. Would you spell your last name for the court  
2 reporter, please?

3 A. Yes, sir, J-o-l-l-i-f-f-e.

4 Q. Where do you reside?

5 A. Midland, Texas.

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

7 A. Nadel and Gussman Permian, as land manager.

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

10 A. Yes, I have.

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

13 A. Yes.

14 Q. And are you familiar with the land matters  
15 involved in this Application?

16 A. Yes, I am.

17 MR. BRUCE: Mr. Examiner, I'd tender Mr. Jolliffe  
18 as an expert petroleum landman.

19 EXAMINER CATANACH: Mr. Jolliffe is so qualified.

20 Q. (By Mr. Bruce) Mr. Jolliffe, would you identify  
21 Exhibit 1 and describe what Nadel and Gussman seeks in this  
22 case?

23 A. Yes, Exhibit 1 is a land plat highlighting the  
24 east half of Section 35, Township 23 South, Range 27 East  
25 in Eddy County. We seek an order pooling the east half

1 from the surface to the base of the Morrow formation for  
2 pools spaced on 320 acres.

3 Q. What is the ownership in the well unit? And I  
4 refer you to Exhibit 2.

5 A. Okay, pursuant to Exhibit 2, the current  
6 ownership in the well unit, Yates Petroleum and some of  
7 their subsidiaries, they have approximately 50 percent;  
8 Nadel and Gussman Permian has approximately 40 percent; and  
9 our unlocatable mineral owners, approximately 10 percent.

10 Q. And in this hearing we only seek to pool the  
11 unlocatable mineral owners?

12 A. Yes, that's correct.

13 Q. Okay. What is the well's proposed location?

14 A. An orthodox gas well location in the southeast  
15 quarter of Section 35.

16 Q. Okay. Now, you mentioned that the -- all of  
17 these unlocatable mineral owners are unleased at this time?

18 A. Right, that's correct.

19 Q. And could you describe what efforts Nadel and  
20 Gussman made to locate these mineral owners? And I'd refer  
21 you to your Exhibit 3.

22 A. Okay, we basically did a very -- detailed as  
23 possible mineral takeoff in the Eddy County records. The  
24 chain of title --

25 Q. These are fee mineral owners?

1           A.    This is all fee in this 160-acre tract, and we've  
2    been leasing in the northeast quarter of that section.

3                   Basically the 160-acre-tract land was patented to  
4    a Mr. Latimer E. Taylor, we've got recording Volume 3, page  
5    164 in Eddy County. He died intestate in Eddy County in  
6    1940. We did find a probate on them, on Mr. Taylor, and  
7    then there was a decree that ordered that his estate be  
8    distributed to 17 different heirs. Most of these heirs are  
9    now deceased, and probably some of their direct descendants  
10   are also deceased.

11                   After that point, we could not find really any  
12   other, further documentation in the Eddy County records.  
13   We did come across some oil and gas leases taken in 1990,  
14   for which we got quite a few addresses. At that point we  
15   started calling those people, and by doing that we were  
16   able to get other addresses and -- refers to other  
17   relatives.

18                   Basically, we came up with about 80 different  
19   mineral owners. We located 60 of them. None of them live  
20   in the Carlsbad area or on the land. They're all back  
21   east. Most of them are in Indiana, Kentucky -- Most of  
22   them are in Indiana, quite a few in Kentucky and Michigan.  
23   Many of the owners we did find and did secure leases from  
24   are very old, many of them in their nineties.

25                   Our initial efforts -- Really all our efforts in

1     locating these mineral owners concentrated initially with  
2     mailouts, letters if you will, to the people we did have  
3     addresses for. We used, of course, telephone directory  
4     assistance. Many letters, as you can imagine, did come  
5     back. At that point we went to the Internet, on the  
6     letters that came back.

7             And then like I mentioned earlier, we received  
8     considerable assistance from the people we did locate.  
9     That was probably the most helpful tool, if you will, in  
10    locating -- and they're all related but many of them have  
11    not spoken, talked to each other, in years. We've pretty  
12    much gone as far as we can.

13            We leased from about 54 different mineral owners,  
14    representing, we figure, around 131 net acres out of that  
15    160-acre tract, representing approximately about 81 percent  
16    of the mineral ownership. The effort took about four to  
17    four and a half months.

18            We have also sent offers to five people that we  
19    had addresses for. We have received no response from these  
20    owners, however, after several different mailouts and  
21    leaving messages with what we believe we had a current  
22    phone number. One mineral owner that we've talked to many  
23    times said he'll get his lease to us, but after three or  
24    four conversations he has yet to lease.

25            And as I mentioned earlier, the last lease is



1 taken, we figure about on 65 acres under this tract were  
2 taken in 1990.

3 Q. Okay, and does Exhibit 4 list the mineral owners  
4 who you desire to force pool in this case?

5 A. Yes.

6 Q. And what is attached to Exhibit 4?

7 A. Basically Exhibit 4 is a list of the owners.  
8 I've also listed the five people that I just mentioned  
9 earlier, the one gentleman who said he would lease who  
10 would not, and there's four others that we've contacted by  
11 phone, left messages, and they have not returned the lease.  
12 And a couple of them didn't even have phone numbers.

13 And then Exhibit 4 also contains copies of the  
14 envelopes for the returned letters.

15 Q. These were where you had maybe an old address and  
16 you did mail out --

17 A. Right.

18 Q. -- send letters to them, but they came back?

19 A. Yes. Yes, and we copied those in Exhibit 4.

20 Q. And what is Exhibit 4-A?

21 A. 4-A is a sample letter that we sent out to  
22 everybody.

23 Q. Okay, and you have many of these letters, this is  
24 just a sample of what was --

25 A. Yes, it's just the same letter, with just

1 different net acres.

2 Q. Okay. In your opinion, has Nadel and Gussman  
3 made a good-faith effort to locate and lease the parties  
4 that we seek to pool?

5 A. Yes.

6 Q. Would you please identify Exhibit 5 and discuss  
7 the cost of the proposed well?

8 A. Okay, Exhibit 5 is a copy of the AFE for the  
9 well. The well's proposed depth is approximately 12,800  
10 feet. It has an estimated dryhole cost of \$941,889 and a  
11 completed well cost of \$358,510.

12 Q. And is this cost in line with the cost of other  
13 wells drilled to this depth in this area of the State?

14 A. Yes, sir.

15 Q. Does Nadel and Gussman request that it be made  
16 operator of the well?

17 A. Yes.

18 Q. And do you have a recommendation for the amounts  
19 which Nadel and Gussman should be paid for supervision and  
20 administrative expenses?

21 A. Yes, we request \$6500 a month for drilling and  
22 \$650 a month for a producing well rate.

23 Q. And are these amounts equivalent to those charged  
24 by Nadel and Gussman and other operators in this area?

25 A. Yes.

1 Q. And do you request that this rate be adjusted  
2 periodically as provided by the COPAS accounting procedure?

3 A. Yes.

4 Q. Were Exhibits 1 through 5 prepared by you or  
5 under your supervision?

6 A. Yes.

7 Q. And in your opinion is the granting of Nadel and  
8 Gussman's Application in the interests of conservation and  
9 the prevention of waste?

10 A. Yes, sir.

11 MR. BRUCE: Mr. Examiner, I'd move the admission  
12 of Nadel and Gussman Exhibits 1 through 5.

13 EXAMINER CATANACH: Exhibits 1 through 5 will be  
14 admitted.

15 EXAMINATION

16 BY EXAMINER CATANACH:

17 Q. Mr. Jolliffe, I missed the overhead rates. Can  
18 you repeat those for me, please?

19 A. Oh, yes, sir. \$6500 a month for drilling and  
20 \$650 a month for a producing well.

21 Q. Are those rates in line with the current rates  
22 being charged in this area?

23 A. Yes, yes.

24 Q. And have you compared those to the Ernst and  
25 Young rates?

1 A. Uh-huh.

2 Q. Are they --

3 A. Yeah, we've got some, Mr. Examiner, that -- We're  
4 in a couple wells on a non-operated basis that actually --  
5 Morrow wells that have around \$7000 and \$700 rates. And  
6 we've also used the index that the American Association of  
7 Professional Landmen use. They've got a rate schedule in  
8 the back of that, that we've used. And basically, just  
9 based on the wells that we operate and the wells that we're  
10 in as a nonoperator.

11 Q. Okay. Now, do you guys seek authority to raise  
12 those rates annually or adjust them?

13 A. Probably so, Mr. Examiner. I really couldn't  
14 tell you how much. It would probably be very limited  
15 amount, maybe on a yearly or every-other-year basis.

16 Q. Now, all you guys are -- You're just pooling the  
17 320 at this point; is that correct?

18 A. Correct.

19 Q. You're not doing anything with the -- the 160  
20 that you're actually drilling on is all voluntarily  
21 committed to the well?

22 A. The southeast quarter is all owned by Yates.  
23 We're not choosing to pool Yates at this time because we're  
24 in negotiations with them and we're very close to working  
25 out a deal with Yates. So we -- Yates has been sent an

1 AFE, and like I say, we're very, very close to working out  
2 something with them, so we did not list them in the pooling  
3 order.

4 But we do want to pool the unlocatable mineral  
5 owners in that northeast quarter into our east-half spacing  
6 unit.

7 Q. And your company owns no interest in the  
8 southeast quarter?

9 A. That's correct, that's all Yates. Well, like I  
10 say, we probably have 80 percent of the interest in the  
11 northeast quarter now, based on the fee mineral owners that  
12 we've leased.

13 Q. Okay. Now on Exhibit Number 4, the interest  
14 owners that you cannot locate, those are the interest  
15 owners -- is that right? -- that you cannot locate?

16 A. Correct, correct.

17 Q. And generally where did you get the information  
18 from -- on where to try and locate these people? Was that  
19 generally from talking to the other relatives?

20 A. Absolutely, right, right. And that's -- If you  
21 notice on Exhibit 4, we basically have states. It was even  
22 hard to narrow down towns in the states because one of the  
23 relatives would say, Well, I believe he was in the  
24 Louisville, Kentucky, area, or somewhere, you know, in  
25 southeast Kentucky, something like that.

1 Q. Uh-huh.

2 A. And now, some of these names we did not even have  
3 addresses for to initially send them letters. This list  
4 consists, really, of two things.

5 It consists of the people who the letters came  
6 back with an incorrect address, but it also consists of the  
7 people that we really didn't have any addresses to begin  
8 with.

9 After searching Eddy County records and talking  
10 to other people -- we had, really, nothing to go by on  
11 several of these people initially.

12 Q. Okay. Does it do any good -- Do Internet  
13 searches do any good, or do you guys utilize that?

14 A. Yeah, yeah. In fact, we did find a few off the  
15 Internet, after some of the letters came back, on the 54  
16 that we leased. I think three, four, five, something like  
17 that, actually came off the Internet. So it was helpful.

18 Q. And I suspect you'll attempt to locate some of  
19 these parties?

20 A. Yes, we -- Yeah, we are currently making efforts  
21 to do that. I do believe, other than the five that I  
22 mentioned -- still make efforts, but I kind of doubt we're  
23 going to get any farther than we are right now.

24 EXAMINER CATANACH: Okay. Anything else for this  
25 witness?

## EXAMINATION

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BY MR. BROOKS:

Q. Well, there's a little interesting situation here. If I understood you correctly --

A. Yes, sir.

Q. -- you're saying that Yates, which owns -- is it 40 or 50 percent? --

A. Fifty percent, right.

Q. Yeah. -- that you're not -- you plan to have voluntary agreement with them?

A. Yes, sir, that is our current plan.

Q. You have not asked us to force pool their interest?

A. Not at this time.

Q. Which of course our typical order is that we force pool all interests, whatever they are, in the unit, and --

A. We've had several conversations with Yates.

Q. Yeah.

A. As a matter of fact, they are aware today that we were coming up here on the unlocatable people. And we feel pretty confident we can work an agreement with Yates. You know, we're not a hundred percent there, but if I had to give you a guess I'd say we're hopefully 90 percent there.

MR. BROOKS: Well, so would you -- if you get

1 this worked out with Yates while this case is under  
2 advisement, would you advise the Division of that fact?  
3 That would make us able to issue a cleaner order on this.

4 MR. BRUCE: Yes, we will.

5 MR. BROOKS: I appreciate that, thank you.

6 EXAMINER CATANACH: This witness may be excused,  
7 Mr. Bruce.

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

11 DIRECT EXAMINATION

12 BY MR. BRUCE:

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

15 A. Keith Logan, I reside in Midland, Texas.

16 Q. Who do you work for?

17 A. I work for Nadel and Gussman Permian.

18 Q. And what's your job with Nadel and Gussman?

19 A. I'm an exploration geologist.

20 Q. Have you previously testified before the  
21 Division?

22 A. Yes, I have.

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

25 A. Yes, they were.



1 Q. And are you familiar with the geology involved in  
2 this Application?

3 A. Yes, I am.

4 MR. BRUCE: Mr. Examiner, I'd tender Mr. Logan as  
5 an expert petroleum geologist.

6 EXAMINER CATANACH: Mr. Logan is so qualified.

7 Q. (By Mr. Bruce) Mr. Logan, would you identify  
8 Exhibit 6 and describe for the Examiner what the main zone  
9 is in your proposed well?

10 A. Well, this exhibit is a production map showing,  
11 really, only the deeper production in this area, since the  
12 Morrow is the main objective in this area. Earlier this  
13 year we drilled the well to the south of the proposed  
14 pooling proration unit in Section 2. It's called our El  
15 Presidente State Number 1. We drilled it and completed it,  
16 and as you can see, it's a new well and it's making about  
17 6.5 million a day.

18 Off to the east there's two other Morrow wells in  
19 Section 1 that -- both are operated by Samson. The north  
20 well has made 12.3 BCF and is still making about 550 MCF  
21 per day. The south well is also operated by Samson and has  
22 made 2.9 BCF and is making about 240 MCF per day. And the  
23 triangle to the east of our location is a current Samson  
24 well drilling.

25 The only other production in this area from the

1 deeper wells is in Section 36. The south-half well made  
2 about .3 of a BCF out of the Atoka and recompleted to the  
3 Delaware.

4 So the main objective in here is the Morrow.

5 Q. Would you identify your Exhibit 7?

6 A. Exhibit 7 is a structure map on the top of the  
7 lower Morrow. In fact, that's the interval that's  
8 essentially where our pay zone is in Section 2. Structure  
9 has some -- There's some importance in structure, but not a  
10 lot. The wells typically do make some water. I feel that  
11 at the proposed location we will be in a favorable  
12 position.

13 Q. Okay, there's a cross-section line drawn onto  
14 that map. Could you move on to that --

15 A. Yes.

16 Q. -- and discuss in more detail what you aim is in  
17 this well?

18 A. Have you got it? Okay, the well on the left  
19 side of the cross-section is this dry hole up in Section  
20 36, and what I've colored here in yellow is what I call the  
21 lower Morrow yellow. It's right at the top of the lower  
22 Morrow interval. It's the pay zone we're producing from in  
23 our well, which is the third from the left. You see a  
24 little bit of porosity in that dry hole, so it gives me  
25 some comfort that this channel runs north-south.

1           You come to the next well, it's the dry hole just  
2 to the northwest of our well in Section 2. Again, it has a  
3 little bit of lower Morrow yellow developed. They didn't  
4 complete that well, it was just drilled and abandoned.

5           The next well is ours, and as you can see we've  
6 got pretty good porosity in our lower Morrow yellow sand.  
7 We did attempt initially to complete in that orange sand  
8 below there and got -- we even frac'd it and got just gas  
9 and water, noncommercial, so we camp up and perforated the  
10 yellow sand.

11           And the well on the right-hand side of the cross-  
12 section is the well that's made 2.9 BCF in the south half  
13 of Section 1. It has some gross yellow pay, but it didn't  
14 have much porosity there. It's a good well, but it  
15 produced from several Morrow intervals, including the lower  
16 and the middle Morrow.

17           Q.    Okay. And finally, what does your Exhibit 9  
18 depict?

19           A.    Exhibit 9 is a map on the main pay interval,  
20 which is the lower Morrow yellow sand. As you can see, our  
21 well is the one that was best developed in Section 2. You  
22 had a remnant of it in the northwest of the northeast  
23 quarter of Section 2, and then a little bit of it in the  
24 northwest quarter of Section 36. So it gives me -- I mean,  
25 with -- you can see there's three dry holes -- well, really

1 four dry holes within this area, so there's definitely some  
2 risk involved. And I just feel like the orientation tells  
3 me that it's a north-south channel.

4 Q. Are there any other objectives in this well,  
5 besides the Morrow?

6 A. Well, there's other objectives within the Morrow,  
7 within the middle Morrow, but we didn't find anything very  
8 well developed in our well, and the wells in 36 make you  
9 wonder how much potential there is there. There is also  
10 some potential in the Atoka. But you know, on the  
11 production map the Atoka zone made .3 of a BCF in any well  
12 in this area.

13 Q. Okay. In your opinion, if the interest owners  
14 are nonconsent, should the maximum cost-plus-200-percent  
15 penalty be assessed against them?

16 A. Yes, it should.

17 Q. Were Exhibits 6 through 9 prepared by you or  
18 under your supervision?

19 A. Yes, they were.

20 Q. And in your opinion is the granting of Nadel and  
21 Gussman's Application in the interests of conservation and  
22 the prevention of waste?

23 A. Yes, it is.

24 MR. BRUCE: Mr. Examiner, I'd move the admission  
25 of Nadel and Gussman Exhibits 6 through 9.

1 EXAMINER CATANACH: Exhibits 6 through 9 are  
2 admitted.

3 EXAMINATION

4 BY EXAMINER CATANACH:

5 Q. Mr. Logan, where are the other Morrow intervals  
6 that are secondary targets? Are they above this?

7 A. Well, you can see in some of the wells they've  
8 produced out of that lower orange sand. I've only colored  
9 another one on this cross-section, but if you look at the  
10 well in the southwest quarter of Section 1, it produced out  
11 of the lower orange. It's perforated in the yellow, but I  
12 don't consider that being a pay interval in that well. It  
13 also produced out of some other stringers within the middle  
14 Morrow, above that -- the lower Morrow point I hung this  
15 cross-section on.

16 Q. So on the cross-section, this interval in purple  
17 above the lower Morrow, is that a potential pay interval?

18 A. It's a potential pay. You know, it wasn't very  
19 well developed in our well.

20 Q. So you encountered -- of this lower Morrow sand  
21 in your new well, you encountered nine feet?

22 A. Nine feet of net pay, yes. About 17 feet of  
23 gross sand.

24 Q. So you anticipate at your proposed location in 35  
25 you'll hit at least that much, or about that much?

1           A.    I'm saying about that much, yes.  Maybe a little  
2 bit more.  I mean, there's not any control on up, you know,  
3 north of Section 25 and 26 to tell me, you know, what could  
4 happen up there, so...

5           EXAMINER CATANACH:  Okay, I have nothing further.  
6           Do you have anything?

7           MR. JONES:  (Shakes head)

8           EXAMINER CATANACH:  Okay, nothing further.

9           MR. BRUCE:  I have nothing further in this  
10 matter, Mr. Examiner.

11           EXAMINER CATANACH:  Okay, Mr. Bruce, there being  
12 nothing further, Case 12,957 will be taken under  
13 advisement.

14           (Thereupon, these proceedings were concluded at  
15 8:48 a.m.)

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21                           *Hayden N.*  
                          *David J. Catnach*      12957  
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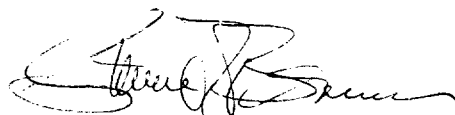
# CERTIFICATE OF REPORTER

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 November 20th, 2002.




---

STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006