

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. 12,985
)
 APPLICATION OF CHESAPEAKE OPERATING,)
 INCORPORATED, FOR COMPULSORY POOLING,)
 EDDY COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

January 9th, 2003

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, January 9th, 2003, 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

January 9th, 2003,
 Examiner Hearing
 CASE NO. 12,985

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E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	4	-
Exhibit 2	6	-
Exhibit 3	5, 6	-
Exhibit 4	7	-
Exhibit 5	7	-
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Exhibit 8	7	-

* * *

A P P E A R A N C E S

FOR THE APPLICANT:

KELLAHIN & KELLAHIN
117 N. Guadalupe
P.O. Box 2265
Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

* * *

ALSO PRESENT:

DAVID R. CATANACH
Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

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

1 WHEREUPON, the following proceedings were had at
2 8:18 a.m.:

3 EXAMINER CATANACH: Okay, we're going to go a
4 little bit out of order this morning. We're going to skip
5 the Seely cases for now and go directly to Chesapeake case,
6 Case 12,985, which is the Application of Chesapeake
7 Operating, Incorporated, for compulsory pooling, Eddy
8 County, New Mexico.

9 I'll call for appearances in this case.

10 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
11 the Santa Fe law firm of Kellahin and Kellahin, appearing
12 on behalf of the Applicant. With your permission, we are
13 submitting this pursuant to the Division Rules that allow
14 us to provide the testimony by affidavit.

15 EXAMINER CATANACH: Okay, that's correct. This
16 case is styled such that in the absence of objection this
17 matter will be taken under advisement, so proceed from
18 there, Mr. Kellahin.

19 (Off the record)

20 EXAMINER BROOKS: This being a compulsory pooling
21 case, I'll probably write it, so I invite you to go ahead
22 and proceed.

23 MR. KELLAHIN: Thank you, Mr. Brooks. If you'll
24 open the exhibit book and turn past Exhibit 1, which is the
25 composite affidavit of the landman, the geologist and

1 engineer, and turn to Exhibit 3, there's a plat that I can
2 orient you as to what we're attempting to accomplish.

3 That is all of Section 7, and we're dealing with
4 the north half of Section 7. The well is the Will 7A Fee
5 Number 1 well. You'll see it over there in the northeast
6 portion of the north half. That well has already been
7 drilled. It's producing out of the Morrow. And we're
8 attempting to pool all formations on 320-acre spacing.
9 There's some potential in the Atoka.

10 The problem is this: You can see on the plat
11 that there's a railroad right of way and a highway. And as
12 a result of a condemnation suit by the State Highway
13 Department, there was about seven acres of the north half
14 that were condemned for use of the surface for the right of
15 way. The judgment in that case also condemned the
16 minerals, for reasons you can't figure out. The judgment
17 in here and the title opinions we'll submit demonstrate
18 that the Highway Department has those minerals. And they
19 have 25 percent of the seven-plus acres. The rest of it is
20 held by people that already committed into the tract.

21 So what we've done is approach the Highway
22 Department, asked them to lease us the interest. They have
23 said they had no procedure, no method to do it. We
24 suggested that they deed the interest to the State Land
25 Office and let us obtain a State Land Office lease and

1 allow it to be administered that way. They couldn't make
2 up their mind.

3 They hired Mr. Hugh Perry, who's a landman --
4 he's appeared before the Division on occasion -- and Mr.
5 Perry in conversations with us finally said, Force pool us.
6 And so that's where we are, and that's what the documents
7 demonstrate to you.

8 This property was originally held by Devon, and
9 Devon obtained the original permit which you'll see behind
10 Exhibit Tab 2. It's an application for permit to drill for
11 Devon.

12 And then before the well is drilled, Chesapeake
13 obtains an interest, and so the subsequent documents that
14 you see behind Exhibit Tab 2 are going to show a change
15 where the completion reports and the requests for allowable
16 are filed by Chesapeake. So Chesapeake is the operator.

17 And behind Exhibit Tab 3, we've talked about the
18 first plat. Behind the first plat is a copy of the
19 judgment. And when you turn to the end of the judgment,
20 they have by description identified the portions of the
21 north half. In fact, that description identifies the right
22 of way through all of Section 7. So the survey you're
23 looking at has excluded that portion of the judgment in the
24 south half. So the calculation you're seeing on Exhibit 3
25 represents the net acres in the north half, which are 7.88,

1 and they have 25 percent of that.

2 Exhibit 4 is the formal well proposal letter to
3 the Highway Department to lease, farm out or execute
4 participation. Following that is a copy of the AFE, other
5 correspondence with the Highway Department.

6 And behind Exhibit Tab 5 are the various title
7 opinions. And contained in this are a number of pages that
8 specifically outline the ownership and how the title
9 attorneys concluded that the interest was held by the
10 Highway Department, including the mineral interest.

11 Exhibit 6 contains the geologic summaries. The
12 testimony by the geologist is that prior to drilling the
13 well this well location, in his opinion, justified the
14 maximum 200-percent risk factor. We recognize that
15 Division practice is to reduce that because the well is,
16 and we would expect that you would expect that you would do
17 that.

18 For further information, behind Exhibit Tab 7 is
19 a copy of the actual costs of the well. And they're
20 slightly more than the AFE costs, but these are the costs
21 -- actual costs testified to in the affidavit, and
22 Chesapeake concludes that they are fair and reasonable.

23 Exhibit 8 is my affidavit of notice to the
24 Highway Department. We've talked to them on occasion,
25 we've talked to Mr. Perry, they have chosen not to

1 participate, and they have simply told us to force pool
2 them.

3 That concludes our presentation.

4 EXAMINER BROOKS: Very good. Thank you very
5 much, Mr. Kellahin.

6 MR. KELLAHIN: Thank you.

7 EXAMINER BROOKS: If there's nothing further,
8 then Case Number 12,985 will be taken under advisement.

9 (Thereupon, these proceedings were concluded at
10 8:28 a.m.)

11 * * *

12
13
14
15 I do hereby certify that the foregoing is
16 a complete record of the proceeding in
17 the examiner hearing of Case No. _____,
and by me on _____ 19____.

18 _____, Examiner
19 Of Conservation Division
20
21
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23
24
25


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 January 9th, 2003.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006

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