

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. 13,017  
 )  
 APPLICATION OF OXY USA WTP LIMITED )  
 PARTNERSHIP FOR COMPULSORY POOLING, )  
 LEA COUNTY, NEW MEXICO )

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ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

**RECEIVED**

MAR 27 2003

BEFORE: DAVID K. BROOKS, JR., Hearing Examiner, Oil Conservation Division

March 13th, 2003

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, JR., Hearing Examiner, on Thursday, March 13th, 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.

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## I N D E X

March 13th, 2003  
 Examiner Hearing  
 CASE NO. 13,017

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

## FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
110 N. Guadalupe, Suite 1  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: WILLIAM F. CARR

\* \* \*

## ALSO PRESENT:

MICHAEL E. STOGNER  
Hearing Examiner  
New Mexico Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:40 a.m.:

3 EXAMINER BROOKS: Back on the record. At this  
4 time we'll call Case 13,017, the Application of OXY USA WTP  
5 Limited Partnership for compulsory pooling, Lea County, New  
6 Mexico.

7 Call for appearances.

8 MR. CARR: May it please the Examiner, my name is  
9 William F. Carr with the Santa Fe office of Holland and  
10 Hart, L.L.P. We represent OXY USA WTP Limited Partnership,  
11 and I have two witnesses.

12 EXAMINER BROOKS: Other appearances?

13 Witnesses please stand to be sworn.

14 (Thereupon, the witnesses were sworn.)

15 EXAMINER BROOKS: You may proceed.

16 MR. CARR: Thank you, Mr. Brooks. Our first  
17 witness will be Patrick Sparks.

18 PATRICK S. SPARKS,  
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. CARR:

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

25 A. Patrick Stephen Sparks.

1 Q. Mr. Sparks, where do you reside?

2 A. Midland, Texas.

3 Q. By whom are you employed?

4 A. OXY USA WTP Limited Partnership.

5 Q. And what is your position with OXY?

6 A. I'm a senior landman.

7 Q. Have you previously testified before the New  
8 Mexico Oil Conservation Division?

9 A. No, sir.

10 Q. Could you briefly review for the Examiner your  
11 educational background and then summarize your work  
12 experience?

13 A. I've got a bachelor's degree from the University  
14 of Tulsa in business management, 1976. I've been in the  
15 oil industry for 32 years, the last 22 doing land work.

16 Q. And the area in which you've worked is southeast  
17 New Mexico/Permian Basin?

18 A. Yes, sir.

19 Q. Are you familiar with the Application filed in  
20 this case on behalf of OXY?

21 A. Yes, sir.

22 Q. Are you familiar with the status of the lands and  
23 the ownership of those lands in the areas which are the  
24 subject of this pooling Application?

25 A. Yes, sir.

1 MR. CARR: Are the witness's qualifications  
2 acceptable?

3 EXAMINER BROOKS: He is so qualified.

4 Q. (By Mr. Carr) Mr. Sparks, would you briefly  
5 state what OXY seeks with this Application?

6 A. Yes, sir, we seek a force pooling on a 320-acre  
7 deep gas, being the north half of Section 8, 22 South, 38  
8 East, the northeast quarter for 160-acre gas and the  
9 southwest of the northeast for 40-acre oil.

10 Q. The primary objective in this Application is  
11 actually Ellenburger oil, is it not?

12 A. Yes, sir.

13 Q. But you -- also there is a potential in the area  
14 for deep gas which would be developed on 160-acre spacing?

15 A. That's correct.

16 Q. And what is the name of the well to which you  
17 propose to dedicate these pooled units?

18 A. The Brabant Number 1.

19 Q. And where is the Brabant Number 1 located?

20 A. It will be 1980 from the north line and 1980 from  
21 the east line.

22 Q. And that's of Section 8?

23 A. Eight.

24 Q. Let's go to what has been marked for  
25 identification as OXY Exhibit Number 1. Would you identify

1 that for Mr. Brooks and review the information on this  
2 exhibit?

3 A. Yes, sir. We have a map showing Section 8, the  
4 north half being divided into three separate lease  
5 interests. The western third we're calling -- for this  
6 purpose we're calling Lease A, the center third Lease B and  
7 the eastern third Lease C. We in OXY USA secured leases on  
8 all of Lease A. We have eight owners we've been unable to  
9 reach agreement with or to find in Lease B, and two owners  
10 in Lease C. And their tabulation of their interest is  
11 listed on the bottom part.

12 Q. And you have indicated with various colored  
13 blocks the three spacing units which are the subject of  
14 this hearing?

15 A. Correct.

16 Q. The well location is also shown?

17 A. Yes, sir.

18 Q. Mr. Sparks, we're actually in an area that has  
19 not been leased for many years; is that right?

20 A. That's correct.

21 Q. How long do you think it's been since any of this  
22 acreage was actually under lease?

23 A. the last activity out there was in 1970, and I  
24 believe the leases were taken in the 1960s for that  
25 activity.

1 Q. Are there any special pool rules which apply to  
2 any of the acreage?

3 A. Yes, sir.

4 Q. And what would that be?

5 A. We've got the South Brunson-Drinkard-Abo Pool and  
6 then the special Tubb Gas Pool.

7 Q. And those rules were approved by Order Number  
8 R-8170-H; is that correct?

9 A. Yes, sir, for the Tubb.

10 Q. And do you have the number of the other pool  
11 rules?

12 A. It was R-8593.

13 Q. Otherwise, we're looking at acreage which is  
14 developed under the general Rules of the Oil Conservation  
15 Division?

16 A. That's correct.

17 Q. Would you identify what has been marked as OXY  
18 Exhibit Number 2?

19 A. Yes, sir, this is a tabulation spreadsheet  
20 showing the uncommitted interest by their lease, and the  
21 calculations on 40 acres, 160 acres and 320 acres.

22 Q. And these are the interests in this acreage. Is  
23 everyone other than OXY that is shown on this exhibit  
24 subject to a force pooling order?

25 A. Yes, sir.



1           Q.    Okay.  Let's go to what has been marked as OXY  
2   Exhibit Number 3.  Would you first just identify what this  
3   is?

4           A.    This is just a summary of our attempts on the  
5   uncommitted owners to secure agreements with them.

6           Q.    Are there any interest owners that you have in  
7   fact been unable to locate?

8           A.    Yes, sir.

9           Q.    And would you identify them?

10          A.    Fred Tankersley.

11          Q.    And you have in this exhibit sheets on each of  
12   these individual owners, do you not?

13          A.    Yes, sir.

14          Q.    Is the third sheet the page that addresses your  
15   efforts to find Mr. Tankersley?

16          A.    That's correct.

17          Q.    Could you review for Mr. Brooks your efforts to  
18   locate this individual?

19          A.    We searched, of course, the records of Lea  
20   County, New Mexico.

21                   We did Internet searches to find him.  We located  
22   his brother Drury Tankersley and his sister Ruby Ramsey,  
23   but we were informed by them that he died some 25 years  
24   ago.  He was married to Veleta Tankersley.  They had no  
25   idea -- They did not think she was still alive either, they

1 had no children.

2 Q. How will the production proceeds that are  
3 attributable to Mr. Tankersley's interest be handled by  
4 OXY?

5 A. They will be escrowed in a banking institution in  
6 Lea County and then escheated to the State in accordance  
7 with rules.

8 Q. Does Exhibit 3 contain a page that summarizes  
9 your contacts and efforts to reach a voluntary unit with  
10 each of the mineral owners that are subject to pooling?

11 A. Yes, it does.

12 Q. In your opinion, have you made a good-faith  
13 effort to obtain the voluntary participation of each of  
14 these owners?

15 A. Yes, sir.

16 Q. How long have you been working on this prospect,  
17 Mr. Sparks?

18 A. A little over six months.

19 Q. Let's go to what's been marked as OXY Exhibit  
20 Number 4. Would you identify that, please? This is just a  
21 packet of correspondence.

22 A. Correspondence from the various owners and what  
23 we have sent, you know, our -- summarizing the  
24 correspondence and efforts to secure a commitment from  
25 these owners.

1 Q. And these are the communications that simply back  
2 up and supplement the summaries contained in Exhibit Number  
3 3?

4 A. That's correct.

5 Q. Let's go to what has been marked for  
6 identification as Exhibit Number 5. Would you identify  
7 this, please?

8 A. That's the AFE to drill and equip the Brabant  
9 Number 1 well.

10 Q. Has this been provided to the uncommitted mineral  
11 owners?

12 A. Yes, sir.

13 Q. Would you review the totals reflected on this  
14 AFE?

15 A. The total -- and I don't see where they got the  
16 second page showing the actual cost, but the totals to  
17 drill and equip and complete the well was \$950,000, dryhole  
18 expense would be \$455,000.

19 MR. CARR: May it please the Examiner, we'll  
20 supplement with the second page of the AFE that contains  
21 these totals with your permission.

22 EXAMINER BROOKS: That will be acceptable.

23 Q. (By Mr. Carr) Mr. Sparks, do the figures that  
24 you've just quoted -- are those in line with what has been  
25 charged by OXY and other operators in this area for similar

1 wells?

2 A. Yes, sir.

3 Q. Have you made an estimate of the overhead and  
4 administrative costs to be incurred while drilling this  
5 well and also while producing it if, in fact, it is a  
6 successful well?

7 A. Yes, sir.

8 Q. And what are those costs?

9 A. \$6000 for drilling overhead and \$600 a month for  
10 operating overhead.

11 Q. And these are the rates that would be included  
12 for a joint operating agreement on this property; is that  
13 right?

14 A. That is correct.

15 Q. And how do they compare to the most recent Ernst  
16 and Young figures?

17 A. They're slightly below the average in the area.

18 Q. And do you recommend that these figures be  
19 incorporated into any order that results from this hearing?

20 A. Yes, sir.

21 Q. What is OXY Exhibit Number 6?

22 A. An accounting procedure, our standard accounting  
23 procedure that we attach to joint operating agreements.

24 Q. And does this form provide for the periodic  
25 adjustment of overhead and administrative charges?

1 A. Yes, sir.

2 Q. And are these consistent with the COPAS forms, or  
3 is this the COPAS form?

4 A. This is the COPAS form.

5 Q. Does OXY request that the Division order that  
6 results from this hearing provide that these overhead and  
7 administrative costs be adjusted in accordance with these  
8 COPAS procedures?

9 A. Yes, sir.

10 Q. Does OXY seek to be designated operator of the  
11 well?

12 A. Yes, sir.

13 Q. Is OXY Exhibit Number 7 an affidavit confirming  
14 that notice of this hearing has been provided to the  
15 mineral owners subject to this case in accordance with the  
16 Rules of the Division?

17 A. Yes, sir.

18 Q. Were Exhibits 1 through 7 either prepared by you  
19 or compiled at your direction?

20 A. Yes, sir.

21 MR. CARR: At this time, Mr. Brooks, we'd move  
22 the admission of OXY Exhibits 1 through 7.

23 EXAMINER BROOKS: One through 7 are admitted.

24 MR. CARR: And that concludes my direct  
25 examination of Mr. Sparks.

## EXAMINATION

BY EXAMINER BROOKS:

Q. Have you got pool names for the pools that this will affect, if any?

A. Yes, sir.

Q. And what are those?

A. The -- Get my notes back out here. That would be the South Brunson-Drinkard-Abo Pool.

Q. South Brunson- --

A. -- -Drinkard-Abo.

Q. -- -Drinkard-Abo.

A. And the Tubb Oil and Gas Pool.

Q. And what are the spacing in those pools?

A. The spacing for the South Brunson-Drinkard-Abo Pool is 160 on -- if it calculates as a gas well.

Q. Okay.

A. And so is the Tubb.

Q. And you're dealing with this for gas and an oil unit. Is it a standard location for either one?

A. Yes, sir.

Q. Okay. You list one of the owners here as the Fasken Foundation, and I notice you have an address of 500 West Texas, from which -- since that used to be the Midland National Bank Building, that would infer that that's probably the Murray Fasken family.

1           A.    Yes, I was actually dealing with Stephen Fasken,  
2           and he has an office there in Midland, one in Austin, one  
3           in Colorado Springs, and I've contacted him all three  
4           places.

5           Q.    He's about two years younger than me. I thought  
6           he was a really little kid when I was a -- They lived about  
7           a block and a half from us.

8                    Okay. Well, I know who that is and that doesn't  
9           create a problem. I of course have some connections with  
10          the David Fasken family, and I want to be sure I'm not in a  
11          conflict of interest here.

12                   I think that's all my questions, Mr. Carr.

13                  MR. CARR: Mr. Brooks, as to the subject pools, I  
14          think they're set forth on the form, but if they're not  
15          they're also in the Application.

16                  EXAMINER BROOKS: Okay.

17                  MR. CARR: And the Tubb Oil and Gas Pool would be  
18          160-acre spacing for gas and 40-acre for oil.

19                  EXAMINER BROOKS: Okay.

20                  MR. CARR: There are a number of oil pools that  
21          are in this immediate area. They're set forth in the  
22          Application, but they include the Undesignated Granite Wash  
23          Pool, the Undesignated South Brunson-Drinkard-Abo Pool, the  
24          Undesignated Blinebry Oil and Gas Pool and the Undesignated  
25          Paddock Pool. We have a number of 40-acre pools in

1 different horizons in the subject acreage.

2 EXAMINER BROOKS: So do you have a list of all  
3 those pools?

4 MR. CARR: They're in the Application --

5 EXAMINER BROOKS: Okay.

6 MR. CARR: -- and they're supposed to be on the  
7 compulsory pooling form.

8 EXAMINER BROOKS: Yes, I know --

9 MR. CARR: I hope they are.

10 EXAMINER BROOKS: That's good, I just wanted to  
11 be sure.

12 MR. CARR: All right.

13 EXAMINER BROOKS: Thank you.

14 Mr. Stogner?

15 EXAMINER STOGNER: Yes, I do have a question.

16 EXAMINATION

17 BY EXAMINER STOGNER:

18 Q. Just for clarification in this Exhibit Number 3,  
19 this is the first time I've run across this. The lease is  
20 set up as the top of the north half, a third each. Is this  
21 the first time you've ever run into this?

22 A. No, sir, I've had -- It can even get worse than  
23 that on occasion, but when it was split out it was split  
24 where the ownership was split out in three separate  
25 parcels.



1 Q. Also, in looking at -- Let's see, Exhibit 4, is  
2 that the thick --

3 A. Yes, sir.

4 Q. Okay. This is something new for me also. Did  
5 you prepare the oil and gas lease?

6 A. Which one?

7 Q. Looking at the third page, starting with the  
8 first page of the --

9 A. Okay.

10 Q. -- lease.

11 A. That is a -- No, that is actually Republic  
12 Royalty's oil and gas lease form. The comments on the side  
13 are our proposed changes.

14 Q. Yeah, that's what I was getting at. I've never  
15 seen this format. Is this -- Am I going to see more of  
16 these?

17 A. I don't know. It's easier to negotiate when  
18 you're -- you know, over by e-mailing them back and forth  
19 and then just highlighting the changes to them that you  
20 want them to make, and then they can accept or reject the  
21 changes, rather than trying to take a pencil and mark it  
22 all up.

23 Q. Actually, that was very clear, and I -- those  
24 comments on the side were very clear. I just wanted to  
25 double-check that.

1           Also, just for the record, the Tubb Oil and Gas  
2           and the Blinebry Oil and Gas Pool, those are essentially  
3           treated as associated and --

4           MR. CARR: Right.

5           EXAMINER STOGNER: -- correct me if I'm wrong,  
6           Mr. Carr.

7           MR. CARR: You're right.

8           EXAMINER STOGNER: 160 if it's gas and 40 if --

9           MR. CARR: -- 40 if it's oil.

10          EXAMINER STOGNER: -- 40 if it's oil. Okay, I  
11          have nothing further. Thank you, sir.

12          MR. CARR: May it please the Examiner, at this  
13          time we call Mr. Scott Gengler.

14          EXAMINER BROOKS: Proceed.

15                       SCOTT E. GENGLER,  
16          the witness herein, after having been first duly sworn upon  
17          his oath, was examined and testified as follows:

18                       DIRECT EXAMINATION

19          BY MR. CARR:

20           Q.    State your name for the record, please.

21           A.    My name is Scott Edward Gengler.

22           Q.    Mr. Gengler, where do you reside?

23           A.    Midland, Texas.

24           Q.    By whom are you employed?

25           A.    OXY USA WTP Limited Partnership.

1 Q. And what is your position with OXY?

2 A. I'm a petroleum engineer.

3 Q. Have you previously testified before this  
4 Division and had your credentials as an expert in petroleum  
5 engineering accepted and made a matter of record?

6 A. Yes, I have.

7 Q. Are you familiar with the Application filed on  
8 behalf of OXY in this case?

9 A. Yes, I am.

10 Q. Have you made an engineering study of the area  
11 which is the subject of this Application?

12 A. Yes, I have.

13 Q. Are you prepared to share the results of that  
14 work with Mr. Brooks?

15 A. Yes, I am.

16 MR. CARR: Are the witness's qualifications  
17 acceptable?

18 EXAMINER BROOKS: They are accepted.

19 Q. (By Mr. Carr) Mr. Gengler, what is the primary  
20 objective in this well?

21 A. The Ellenburger formation.

22 Q. Let's go to OXY Exhibit Number 8. Would you  
23 identify what that is and then review the information shown  
24 on this exhibit?

25 A. Exhibit Number 8 is a structure map on top of the

1 Ellenburger formation, based off seismic data. What we  
2 have in this structure map is two faults coming together up  
3 in the northwest corner of the map. To the east fault --  
4 or west fault, excuse me. To the west of that we have an  
5 unconformity which has eroded off the Ellenburger, and  
6 there's no Ellenburger present in that area. You go  
7 straight from the Abo into the Granite Wash.

8 On the east fault, when you head off to the  
9 northeast of that you go downdip, and there's been only one  
10 test over there and it has been wet.

11 In between the two faults there's only been one  
12 Ellenburger test, in Section 6. It was drilled down to the  
13 Ellenburger, had a drill stem test of over 4000 feet of  
14 salt water and was a dry hole. We have identified an  
15 Ellenburger high in Section 8 where we propose to drill the  
16 well.

17 Q. We've used seismic to identify and map the  
18 Ellenburger?

19 A. That is correct.

20 Q. How long has it been since there's been any  
21 development in this area?

22 A. There has not been really any new wells drilled  
23 in probably 30, 40 years.

24 Q. If we look at the well in Section 6, that well  
25 was wet?

1 A. That is correct.

2 Q. Have you been able to establish an oil-water  
3 contact in this reservoir?

4 A. We know that it is above that point. Since there  
5 are no other wells that penetrate the Ellenburger in this  
6 fault block, we are not able to determine exactly what the  
7 oil-water contact is.

8 Q. And the proposed location is hopefully high  
9 enough to be above the oil-water contact?

10 A. That is correct.

11 Q. But there is some risk that it might not be?

12 A. Right, you need at least some oil column within  
13 the well to make it commercial. We've identified what we  
14 think is a structure. There's some risk that that  
15 structure isn't as high as what it is based on our  
16 interpretation of the geophysics.

17 Q. Are you prepared to make a recommendation to the  
18 Examiner as to the risk penalty that should be assessed  
19 against any nonparticipating interests in this well?

20 A. Yes, I am.

21 Q. And what is that?

22 A. I propose that there be a 200-percent risk  
23 penalty.

24 Q. And can you just summarize for Mr. Brooks your  
25 reason behind that recommendation?

1           A.    The reason behind that is the high risk of this  
2   Ellenburger, not knowing what the oil-water contact is or  
3   for sure what kind of column that we're going to have  
4   presents a fairly high risk.

5           Q.    In your opinion, will granting this Application  
6   be in the best interests of conservation, the prevention of  
7   waste and the protection of correlative rights?

8           A.    Yes, I do.

9           Q.    How soon does OXY hope to spud this well?

10          A.    We hope to spud this well in about 30 days.

11          Q.    Was OXY Exhibit Number 8 prepared by you?

12          A.    It was under my direction.

13          Q.    And can you testify as to its accuracy?

14          A.    Yes, I can.

15               MR. CARR:  At this time, Mr. Examiner, we move  
16   the admission into evidence of OXY Exhibit Number 8.

17               EXAMINER BROOKS:  Number 8 is admitted.

18               MR. CARR:  That concludes my direct examination  
19   of Mr. Gengler.

20               EXAMINER BROOKS:  Okay.  Well, I don't have any  
21   questions.  Mr. Stogner?

22                               EXAMINATION

23   BY EXAMINER STOGNER:

24           Q.    Yes, sir.  Where is the nearest Ellenburger  
25   production around this area?

1           A.    The nearest Ellenburger production is to the  
2 southeast of this area, over in Andrews County, Texas, in  
3 the Nelson-Ellenburger field, which is about five to eight  
4 miles southeast of here.

5           Q.    And what depth is that production? And is it  
6 still producing?

7           A.    I think there's one well left, making very little  
8 oil. It was discovered in the 1940s. It's at about 11,000  
9 feet.

10          Q.    Have you investigation of wells -- well, within  
11 the area of this map actually there doesn't show to be too  
12 many, is there?

13          A.    This particular map is actually wells that were  
14 deeper than 7500 feet.

15          Q.    Okay, did they necessarily penetrate the  
16 Ellenburger?

17          A.    There's only two Ellenburger penetrations, the  
18 well in Section 6 and the well in Section 5. Both of them  
19 were dry holes.

20          Q.    So you derived this map from a 3-D seismic?

21          A.    That is correct.

22                EXAMINER STOGNER: Okay, I have no other  
23 questions. Thank you, sir.

24                MR. CARR: That concludes or presentation in this  
25 case.

1 EXAMINER BROOKS: Thank you. There being nothing  
2 further, then Case Number 13,107 will be taken under  
3 advisement.

4 MR. CARR: Mr. Brooks, the second page of the AFE  
5 is included in the large correspondence document, so that  
6 it is included in the record.

7 EXAMINER BROOKS: It's in Exhibit 4?

8 MR. CARR: Yes, it is.

9 EXAMINER BROOKS: Okay, thank you.

10 (Thereupon, these proceedings were concluded at  
11 9:02 a.m.)

12 \* \* \*

13  
14  
15  
16 I do hereby certify that the foregoing is  
17 a true and correct copy of the proceedings  
18 taken at the hearing of Case No. 13017  
19 heard by me on March 13, 2003.  
20 David K. Brooks Examiner  
21 Oil Conservation Division  
22  
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 March 14th, 2003.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006