

1 STATE OF NEW MEXICO

2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

3 OIL CONSERVATION DIVISION

4 IN THE MATTER OF THE HEARING)
5 CALLED BY THE OIL CONSERVATION)
6 DIVISION FOR THE PURPOSE OF)
7 CONSIDERING:)
8) CASE NO. 10202
9 APPLICATION OF SEAY EXPLORATION,)
10 INC.)
11 _____)

12 REPORTER'S TRANSCRIPT OF PROCEEDINGS13 EXAMINER HEARING

14 BEFORE: JIM MORROW, Hearing Examiner

15 March 7, 1991

16 Santa Fe, New Mexico

17 This matter came on for hearing before the Oil
18 Conservation Division on March 7, 1991, at 8:58 a.m. at Oil
19 Conservation Division Conference Room, State Land Office
20 Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico,
21 before Freda Donica, RPR, Certified Court Reporter No. 417,
22 for the State of New Mexico.

23 FOR: OIL CONSERVATION
24 DIVISION

25 BY: FRED DONICA, RPR
Certified Court Reporter
CCR No. 417

I N D E X

March 7, 1991
Examiner Hearing
CASE NO. 10202

PAGE

APPEARANCES

3

SEAY'S WITNESSES:

DAN LEONARD

Direct Examination by Mr. Cavin

4, 30

Examination by Mr. Stovall

31

JOHN G. SEAY

Direct Examination by Mr. Pearce

16

Examination by Mr Stovall

27

REPORTER'S CERTIFICATE

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E X H I B I T S

Applicant's 1-3

ID ADMTD

15 16

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A P P E A R A N C E S

FOR THE DIVISION:

ROBERT G. STOVALL, ESQ.
General Counsel
Oil Conservation Commission
State Land Office Building
310 Old Santa Fe Trail
Santa Fe, New Mexico 87501

FOR THE APPLICANT:

SHERMAN & HOWARD
500 Marquette N.W. Suite 500
Albuquerque, New Mexico 87103
BY: SEALY H. CAVIN, JR., ESQ.

1 HEARING EXAMINER: Call case 10202.

2 MR. STOVALL: Application of Seay Exploration, Inc. for
3 compulsory pooling, Lea County, New Mexico.

4 HEARING EXAMINER: Call for appearances.

5 MR. CAVIN: Mr. Examiner, my name is Sealy Cavin. I'm
6 an attorney with the Sherman & Howard law firm in
7 Albuquerque. I'm here today to represent Seay Exploration,
8 and I have two witnesses to call.

9 HEARING EXAMINER: Would you spell your first name for
10 me?

11 MR. CAVIN: Yes, sir. S-e-a-l-y.

12 HEARING EXAMINER: C-a-v-i-n?

13 MR. CAVIN: Yes, sir.

14 HEARING EXAMINER: The witnesses will please stand and
15 be sworn.

16 (Witnesses sworn.)

17 MR. CAVIN: Mr. Examiner, our first witness is Mr. Dan
18 Leonard.

19 DAN LEONARD

20 the Witness herein, having been first duly sworn, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. CAVIN:

24 Q. Mr. Leonard, would you please state you name,
25 address, employer and occupation?

1 A. My name is Dan Leonard. I'm president of Leonard
2 Resource Investment Corporation, which is an oil and gas
3 leasing and exploration company in Midland, Texas.

4 Q. Mr. Leonard, have your qualifications as a
5 landman been made a matter of record with the division?

6 A. I believe so.

7 Q. Mr. Leonard, are you familiar with the land
8 matters involved in this case?

9 A. Yes.

10 MR. CAVIN: Mr. Examiner, are Mr. Leonard's
11 qualifications as a landman acceptable?

12 HEARING EXAMINER: Yes, sir, they are.

13 Q. (By Mr. Cavin) Mr. Leonard, would you briefly
14 state what applicant seeks by this application?

15 A. The applicant, Seay Exploration, Inc., seeks to
16 force pool certain unleased mineral interests from the
17 surface of the earth to the base of the Abo formation at
18 approximately 7,800 feet subsurface for the formation of a
19 160-acre gas proration unit comprising the northeast quarter
20 of Section 6, Township 20 South, Range 39 East, Lea County,
21 and from the surface of the earth to the base of the Abo
22 formation at approximately 7,800 feet subsurface for
23 formation of 40-acre spacing for oil, comprising the
24 southwest quarter of the northeast quarter of that same
25 Section 6, 20 South, 39 East.

1 Q. Have you prepared or directed the preparation of
2 any exhibits for this hearing?

3 A. Yes, Exhibits 1 through 3.

4 Q. I'd refer you to Exhibit 1 and ask that you
5 review and identify it for the Examiner.

6 A. The section outlined in yellow on that land plat
7 is the Section 6 and 20 South 39 East. The outline in red
8 is the northeast quarter of Section 6, being a 160-acre gas
9 proration unit that we're seeking to force pool. And the
10 40-acre unit outlined in blue is the 40-acre proration unit
11 that we're seeking to force pool for oil.

12 Q. Can you describe the name and location of the
13 well for which this application relates?

14 A. Yes. It's the Seay Exploration, Inc. Bilberry
15 Number 1, which is located 1,980 feet from the north and
16 east lines of Section 6, right in the center of that 40-acre
17 location.

18 Q. So this is an orthodox location?

19 A. Yes.

20 Q. Has this well been drilled, and if it has, can
21 you tell me the status?

22 A. This well has been drilled, just been drilled,
23 and it's currently shut in, waiting on a completion attempt
24 in San Andres and Yates formations.

25 Q. So you plugged back from the Abo?

1 A. Yes.

2 Q. Now I'd refer you to Exhibit 2, Mr. Leonard. And
3 I would ask that you identify it and review it for the
4 Examiner.

5 A. Exhibit 2 is a -- sets forth the unleased mineral
6 interests in this tract. And I divided it, as far as the 40
7 acres that we're seeking to pool in the southwest northeast
8 quarter. And then item number 2 is the interest broken down
9 for the entire 160 acres. The title in this 160 acres is
10 quite complex. We've got a chain of title that's very
11 broken up. It's not ever been cured before. We've got a
12 hundred page title opinion in 85 leases that we've taken
13 covering acreage in the northeast quarter of that section.
14 These interests are quite small.

15 As you can see, they're -- the Herndon interest
16 is in the 40-acre unit, being the southwest northeast. The
17 Herndon interest is less than two-tenths of an acre. The
18 Wright interest is an eighth of an acre. The Johnansen
19 interest is a quarter of an acre, totally comprising less
20 than a one-and-a-half interest in the 40-acre unit.

21 In the 160-acre unit, approximately a third of an
22 acre for the Herndon interest, half an acre for the Wright
23 interest and one acre for the Johnansen interest, or just
24 less than 1.2 percent interest in the entire 160-acre unit.
25 Those interests are not unusual for that tract of land. We

1 took a mess of leases that covered less than a quarter of an
2 acre.

3 Q. Are you pretty confident of these interests? Do
4 you have a title opinion that reflects these various
5 interests?

6 A. We have title opinions setting forth those chains
7 of title, those families.

8 Q. Can you tell me, are these presently all the
9 uncommitted interests, these units?

10 A. Yes, thank heavens, they are.

11 Q. Are all of these uncommitted interests mineral
12 interests?

13 A. They are, undivided under the entire northeast
14 quarter.

15 Q. We're jumping ahead of ourselves a little bit,
16 but would you tell me on what basis you would propose the
17 penalty, that is, on the basis of the 40-acre ownership or
18 on the 160-acre ownership?

19 A. We're proposing that the penalty be based --
20 there's very little difference between the two interests, to
21 begin with, but we're proposing that the penalty be based on
22 the 1.4 percent interest under the 40-acre units since we're
23 in the process of completing a San Andres well on that 40.

24 MR. CAVIN: Mr. Examiner, if you and the commission
25 agrees with us, we would ask that that be addressed in the

1 application, and it would greatly simplify what's already a
2 tremendous mess in the title situation.

3 HEARING EXAMINER: I don't really understand what
4 you're asking me.

5 MR. CAVIN: What we are asking, sir, is that the
6 penalty, whatever penalty you come up with, be applied on
7 the 40-acre basis, which is slightly different from the
8 160-acre basis.

9 HEARING EXAMINER: The interest is different, but the
10 penalty applied to the interest wouldn't be different.

11 MR. CAVIN: I think that would be within your
12 discretion. We feel like this could solve some problems for
13 the title examiner, and I'm sure he's going to have a
14 question as to how that penalty is applied when he's trying
15 to figure out at what point payout occurs.

16 THE WITNESS: Whether it's based on the 1.17 percent
17 interest or the 1.4 percent interest. But you're right, the
18 penalty would be the same.

19 HEARING EXAMINER: It would be a percentage of the
20 cost.

21 THE WITNESS: Yes, sir. And we're asking that the --
22 that that be applied for the 1.4 percent interest rather
23 than the 1.2 percent interest.

24 HEARING EXAMINER: Make our decision based on the 40
25 acres and let it apply to the 160.

1 THE WITNESS: Yes, sir, would simplify things for us.
2 There's not a great deal of difference between the two
3 anyway. And trying to apportion them between the -- there's
4 a little bit different -- the reason that the ownership is
5 different is that the Herndon interest is -- there's a lease
6 covering the Herndon interest before a death occurred
7 covering the north half of the northeast quarter, did not
8 cover the south half of the northeast quarter. So that's
9 the reason that only part of it is unleased. The
10 disappearance of these people has occurred since that
11 original lease was taken.

12 MR. STOVALL: I might point out, Mr. Cavin, that the
13 lease -- or that the order force pools the interest and
14 applies the penalty to non-consenting interests that don't
15 prepay. I think the accounting function really is an
16 internal function. I would suggest, however, if you do want
17 any special provision in the order that you submit draft
18 language to us, if you feel that that's necessary.

19 MR. CAVIN: Sure, I'd be happy to do that. I was just
20 suggesting it would help -- the title examiner is just going
21 to throw it back to the operator. If the division doesn't
22 feel comfortable making that sort of order, that's fine.
23 We'll just have to live with it.

24 MR. STOVALL: I'm not sure I exactly understand what
25 you're asking for, so -- if you should produce some draft

1 language, that might -- I understand what you're saying
2 about the difference in interests.

3 MR. CAVIN: Would you automatically apply it then to
4 the 1.4 percent as opposed to the 1.17 percent?

5 HEARING EXAMINER: What would normally be done, I
6 think, would be that the percentage would be set out there,
7 and then it would be your -- within your accounting
8 procedures to apply that percentage to whatever interest
9 needed to be penalized.

10 MR. STOVALL: We don't find the percentages in the
11 forced pooling order. We simply force pool interests,
12 without naming or allocating -- this is not a title-clearing
13 proceeding.

14 THE WITNESS: What you're saying is that's an internal
15 problem that -- we can sure handle that.

16 MR. STOVALL: I'm just not sure how we would do it for
17 you. We wouldn't determine the actual percentage of
18 interest anyway.

19 MR. CAVIN: I was asking if the penalty would be
20 applied on the basis of 40-acre ownership. And that would
21 be the only kind of direction or order we would be asking
22 for.

23 HEARING EXAMINER: Go ahead.

24 Q. (By Mr. Cavin) I would now refer you to Exhibit
25 3, Mr. Leonard, and ask that you review and describe it.

1 A. Exhibit 3 is a summary of the attempts that we've
2 made to locate these people. I might preface this by
3 stating that the first thing we did was make a diligent
4 search of all the available records in Lea County, not just
5 the deed records and oil and gas records, but the probate
6 records, and found no leads on these people at all, no
7 current addresses. And this letter from Clay Johnson --
8 it's on the top of this Exhibit Number 3 -- summarizes the
9 attempts that we've made to find each one of these folks.

10 Harold Herndon, Jr., which is the first person on
11 there, we have located his sister who lives in Levelland.
12 We've taken a lease covering her half interest in the family
13 minerals. She has represented to us that her brother has
14 died within the last five or six years. He lived in Fort
15 Worth. He had family, he had a wife and kids. We've not
16 been able to locate those people, after making a pretty
17 diligent search in Fort Worth for them. She's indicated to
18 us that the wife has moved and probably taken the kids with
19 her to old Mexico. She has absolutely no idea where they
20 are or who we might locate to find them. They weren't very
21 close. She just has not been any help in locating them at
22 all.

23 The Libby Wright interest is an old mineral
24 interest that has basically not been in the record since
25 1940. She bought this interest in 1931, signed a lease in

1 1940 listing her address in Alameda County, California.
2 We've been all over that county looking for some lead for
3 this lady. We've searched the vital statistics in
4 California for a 40-year period and turned up nothing on her
5 at all. So we have not had any success in locating her.

6 Jean Marie Johnansen is one of the apparent heirs
7 to just in excess of a half a percent mineral interest under
8 the northeast quarter. She's the only heir to ever appear
9 of record, having signed an oil and gas lease in 1949,
10 listing her address in Weston County, Wyoming. We have
11 contacted Weston County, we've written up there, had no luck
12 in locating them. We've been to the district clerk's
13 office, done a probate search on them and not turned up any
14 leads on these people. We've chased some blind alleys with
15 this family to Stockholm, Sweden, and got no results from
16 that, so we have turned up nothing but blind alleys with all
17 three of them.

18 Q. Mr. Leonard, do you feel that you've made a
19 good-faith, diligent effort to find the correct address of
20 all of these uncommitted interests?

21 A. I certainly believe we have.

22 Q. Can you tell us approximately how much you've
23 expended trying to locate these folks, just an estimate?

24 A. I'd guess in broker's time in trying to locate
25 them we've probably got a thousand, \$1,500.00 invested in

1 it.

2 Q. Do you have any ideas of how long -- of course,
3 it would be very difficult to locate these folks -- how much
4 additional it would cost?

5 A. I'm not sure they can be found. But we'd have to
6 hire a head hunter and probably go locate them. And with
7 the size of these mineral interests involved, I think the
8 effort that we've made is certainly diligent, sufficiently
9 diligent to go ahead and force pool.

10 MR. CAVIN: Mr. Examiner, we provided an affidavit also
11 regarding notice. It's in your file there.

12 MR. STOVALL: Mr. Cavin, the copy of the affidavit I
13 have refers to Exhibit A but does not have an Exhibit A. I
14 don't know if the Examiner's copy has an Exhibit A.

15 MR. CAVIN: We can certainly provide you Exhibit A.

16 Q. (By Mr. Cavin) Mr. Leonard, do you have an
17 operating agreement which governs the operations on the
18 subject well?

19 A. We do.

20 Q. Is this a standard form operating agreement?

21 A. Yes, it's an AAPL 610 1989 form.

22 Q. Are there any unusual provisions in the operating
23 agreement?

24 A. No, not really.

25 Q. Can you describe for the commission what the

1 overhead rate is?

2 A. The county procedures provide for a drilling well
3 rate of \$3,500.00 per month and a producing well rate of
4 \$350.00 per month.

5 Q. How does this overhead rate charge compare with
6 other operators in the area?

7 A. I think it's fairly average. My experience is,
8 if anything, it's on the low end of average.

9 Q. Mr. Leonard, do you have any other matters you'd
10 like to raise for the commission before we proceed with Mr.
11 Seay?

12 A. No.

13 Q. Before I conclude, Mr. Leonard, is it your
14 opinion that the granting of this application will be in the
15 interest of conservation, the prevention of waste and the
16 protection of correlative rights?

17 A. Yes.

18 Q. Mr. Leonard, were Exhibits 1 through 3 prepared
19 by you or under your supervision or direction?

20 A. Yes.

21 Q. Can you testify as to the accuracy of such
22 exhibits?

23 A. I believe them to be accurate.

24 MR. CAVIN: Mr. Examiner, I would move for the
25 admission of Exhibits 1 through 3.

1 HEARING EXAMINER: Exhibits 1 through 3 are admitted.

2 MR. CAVIN: That concludes my examination of Mr.
3 Leonard, Mr. Examiner.

4 HEARING EXAMINER: Mr. Leonard, these interests that
5 are set out on Exhibit Number 2, are those the only
6 interests that are not controlled by Seay?

7 THE WITNESS: Yes, sir.

8 HEARING EXAMINER: I don't have any other questions.
9 The witness may be excused.

10 THE WITNESS: To answer that -- make sure I answer that
11 clearly, there is a -- we've got 40 or 50 leases that we
12 own, we've got farmouts on the rest of the leases, and we've
13 got one company that owns a relatively minor interest that's
14 joined their interest in the drilling of the well, so
15 everything is committed to the unit with the exception of
16 these three.

17 HEARING EXAMINER: Thank you, sir.

18 MR. CAVIN: Mr. Examiner, we'd now call John Seay as a
19 witness.

20 JOHN G. SEAY

21 the Witness herein, having been first duly sworn, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CAVIN:

25 Q. Mr. Seay, would you please state your name,

1 address and occupation?

2 A. John G. Seay, president and owner of Seay
3 Exploration Company in Midland, Texas. I have a geologist
4 background.

5 Q. Have you previously testified before the division
6 in your capacity as a geologist or otherwise?

7 A. No, sir.

8 Q. Would you state your educational background as it
9 relates to petroleum geology?

10 A. I have a bachelor of science degree from
11 Southeast Missouri University, a master's degree in geology
12 from Ohio University and partial work toward a Ph.D. My
13 background is in oil shale research. I was a geologist with
14 Superior Oil Company and have been an independent since
15 1975, primarily in Midland, Texas, a one-year stint in
16 Oklahoma City. For the past -- well, for ten years, 1980 to
17 1990, I handled the business for Martin D. and Joseph S.
18 Gruss in New York City. I have been an independent, owned
19 my own company during that period of time, but it was
20 semi-dormant. We just started exploration and production
21 operations in July of 1990.

22 Q. Are you familiar with the portion of the Permian
23 Basin which is located in southeastern New Mexico?

24 A. Yes.

25 Q. Mr. Seay, are you familiar with the geology of

1 the well drilled in the area surrounding this well?

2 A. Yes, sir.

3 MR. CAVIN: Mr. Examiner, we would tender Mr. Seay as
4 an expert witness in petroleum geology.

5 HEARING EXAMINER: His qualifications are acceptable as
6 an expert witness.

7 Q. (By Mr. Cavin) Mr. Seay, have you prepared or
8 directed the preparation of any exhibits?

9 A. Yes, sir, I have.

10 Q. I would refer you to what is marked as Exhibit 4
11 and ask that you identify that and describe it for the
12 division.

13 A. This is an AFE on the Seay Exploration Bilberry
14 Number 1 which was projected as a 7,800 foot Abo test.

15 Q. Can you tell me how your actual costs on this
16 project have compared to the AFE-estimated costs?

17 A. We have drilled this well to a total depth of
18 7,760. We incurred an expense of about 24 percent higher
19 than the estimated cost. This is because we had two extra
20 drill stem tests and did quite a bit of circulating for
21 samples, causing a considerable increase in the day rate
22 when we were doing this.

23 Q. How much additional cost do you estimate will be
24 required to complete this well?

25 A. We currently have four-and-a-half inch casing set

1 at approximately 4,800 feet, and it will take a maximum of
2 \$150,000.00 to complete in the San Andres and the Seven
3 Rivers, an estimate.

4 Q. Mr. Seay, I would now refer you to what's marked
5 as Exhibit 5, and ask that you describe that for the
6 Examiner.

7 A. This is a -- Exhibit 5 is a structure map on the
8 top of the Yates formation. This is revised to reflect the
9 current data from the well drilled. It indicates that we
10 are on a northeast-southwest structural trend, very similar
11 to what we had anticipated prior to drilling the well.

12 Q. I'd refer you now to what's marked as Exhibit 6
13 and ask if you'd describe that.

14 A. Exhibit 6 is another structure map on the top of
15 the San Andres. This is a second pay zone that we had
16 anticipated in the area. It also depicts a
17 northeast-southwest trend. Structurally came in almost
18 perfect to what we'd anticipated.

19 Q. Now I'd refer you to Exhibit Number 7 and ask you
20 to describe that.

21 A. Exhibit 7, the structure map on top of the Abo
22 formation. It is also called Wichita Albany, since we are
23 right on the Texas/New Mexico state line. This is a little
24 bit more of a defined structure, separated from the feature
25 to the west, but still indicates a specific, separate

1 feature. Structurally we came in identical to where we'd
2 anticipated.

3 Q. Now, Mr. Seay, I'd refer you to Exhibit 8, which
4 is the well log, and ask you to describe that.

5 A. I have included for your examination the
6 compensated neutron-litho-density log on the Seay
7 Exploration Bilberry Number 1. I have broken it down into
8 pages for the various potential horizons. Page two is the
9 Yates/Seven Rivers section, which is productive in the
10 area. The San Andres is page three. There are two zones
11 here, one is the Littman, which is marked on your log. The
12 drill stem test number 1 is over a new pay zone that we'll
13 be looking at in this well. It is what we call the
14 4,500-foot San Andres. It is productive in Texas across the
15 state line and in the Fullerton field farther to the east.
16 It is not productive, to my knowledge, in the area in New
17 Mexico.

18 Page four is the section covering the lower
19 Drinkard. We had had high hopes for this section.
20 Unfortunately, the reservoir -- the pay zone was tight.
21 That is by test samples and drill stem tests, drilling time,
22 that type of thing.

23 Page five is a section -- over to page five and
24 actually page six is over the Abo dolomite, the Wichita
25 Albany section. That was another primary zone that we'd

1 hoped for. We did have excellent shows, we had good
2 drilling breaks. Unfortunately, anhydrites limited the
3 porosity, and this was determined by electric log evaluation
4 and by drill stem testing.

5 Q. At this time, Mr. Seay, I'd refer you to what's
6 marked as Exhibit 9, Reserves and Economics Evaluation, that
7 you prepared.

8 A. This is a David P. Cook O-G-R-E -- what we call
9 OGRE economics reserve estimate for the various zones.
10 There are three cases built here for your examination. This
11 is to give you -- or give the investor and myself some idea
12 as to the reserves and economics based on various pay zones
13 and various -- that we have as backup zones in the Bilberry
14 Number 1.

15 If you'll thumb through this, you'll see the
16 first is a San Andres completion. It gives a 29 point rate
17 of return, about a 2.4 year payout, based on \$100,000.00
18 capital investment to recomplete the well. It's based on
19 \$20.00 oil. The well does not make any gas, and it is
20 unescalated.

21 Thumbing through --

22 HEARING EXAMINER: Is that based on the full cost of
23 the well?

24 THE WITNESS: No, sir. The hundred thousand is only on
25 the completion. We decided that since our main pay zones

1 were tight and unproductive that that was a cost already
2 incurred and we should look at what it would take the return
3 on the investment as to what we were completing at that
4 time.

5 HEARING EXAMINER: Just the completion.

6 THE WITNESS: Just the completion process, sir.

7 If you'll go through and pass the curve, reserve
8 curve, the next set of economics is a dual completion of the
9 San Andres, 4,500-foot zone, coming through the tubing and
10 bringing the Yates up the back side. That's a cost of
11 \$150,000.00. That gives about a 50 percent rate of return
12 and about a two-year payout, 1.9 year payout.

13 The page -- skip one extra page after that and
14 come to the Yates. By the way, I will refer to that, I did
15 say \$150,000.00 for that type of completion.

16 HEARING EXAMINER: One hundred fifty instead of a
17 hundred?

18 THE WITNESS: Yes, a hundred thousand for the first
19 one, a hundred fifty for the second because we're dually
20 completed.

21 A. The last example is the Yates/Seven Rivers
22 completion, which would be the cheapest. It is a \$50,000.00
23 completion. That gives an 86 percent rate of return, about
24 a one-and-a-half year payout.

25 The reason why we would like to do the dual is

1 that even though this one gives a better rate of return, is
2 we would like to evaluate the productive capability --
3 capacity of this new reservoir section of the San Andres,
4 the 4,500-foot zone.

5 Q. (By Mr. Cavin) Mr. Seay, based on your assessment
6 of the risks and the economics involved, what penalty would
7 you recommend with respect to the uncommitted interests?

8 A. I would recommend that we go for the 200 percent
9 penalty.

10 HEARING EXAMINER: I didn't understand what you said.

11 THE WITNESS: The 200 percent penalty.

12 Q. (By Mr. Cavin) That would be in addition to the
13 costs?

14 A. The costs plus 200 percent.

15 Q. Did you summarize your reasoning for recommending
16 this penalty?

17 A. We have taken the risk of drilling this well to a
18 depth of 77,160 feet. We have spent in excess of
19 \$230,000.00. We are plugging back and testing a reservoir
20 that is not productive in the area. It's pioneering new
21 ground, so to speak. These are back-up zones, not primary
22 zones, not initial higher volume wells. I think we would
23 need the penalty on this mineral interest to help us on our
24 economics.

25 Q. What are the chances of drilling a dry hole or a

1 marginal producer in this area?

2 A. It's interesting that we hit everything
3 structurally correct and in the deep zones tight, so it's
4 been rather high, very high.

5 Q. Mr. Seay, is it your opinion that the granting of
6 this application would be in the interest of conservation,
7 the prevention of waste and the protection of correlative
8 rights?

9 A. Yes, sir, I do.

10 Q. Mr. Seay, were Exhibits 4 through 9 prepared by
11 you or under your supervision or direction?

12 A. Yes, sir.

13 Q. Mr. Seay, are there any other matters you'd like
14 to raise for the Examiner?

15 A. No, sir.

16 MR. CAVIN: Mr. Examiner, I'd move that Exhibits 4
17 through 9 be admitted.

18 HEARING EXAMINER: Exhibits 4 through 9 are admitted.

19 MR. CAVIN: And I have no further questions of Mr. Seay
20 at this time and defer to you, Mr. Examiner, and counsel.

21 HEARING EXAMINER: On Exhibit 4, Mr. Seay, I needed for
22 you to explain that for me better than you did. I didn't
23 quite pick up on everything you said.

24 THE WITNESS: All right. That is -- you're referring
25 to the AFE for the Bilberry well.

1 HEARING EXAMINER: Right.

2 THE WITNESS: The dry hole cost was estimated to be
3 \$204,900.00 for a depth of 7,800 feet. That is based on --
4 I've been involved over many years, since 1980, of drilling
5 about 70 or 80 of this type of wells, so that is -- for
6 today's costs, that's a very good figure. The well actually
7 cost in excess of \$230,000.00 to the casing point.

8 HEARING EXAMINER: Is that shown on here anywhere?

9 THE WITNESS: No, sir.

10 HEARING EXAMINER: These are all your estimates.

11 THE WITNESS: Yes, sir, to show you what we originally
12 went to. The 220 includes the PNA costs, if the well were
13 to be concluded, PNA.

14 HEARING EXAMINER: The 261,600, that's your estimate of
15 what, intangible cost for a producer?

16 THE WITNESS: Yes, sir.

17 HEARING EXAMINER: Then your completion costs are
18 included in the 416?

19 THE WITNESS: Right, that would be for an Abo or a
20 Drinkard well.

21 HEARING EXAMINER: And the actual cost was -- tell me
22 again what the actual cost was.

23 THE WITNESS: As of yesterday, and we still have a few
24 bills coming in, it's \$231,500.00.

25 HEARING EXAMINER: And that includes the

1 five-and-a-half or four-and-a-half.

2 THE WITNESS: No, it does not. It does not include the
3 four-and-a-half. The four-and-a-half will be in the
4 additional completion costs, the AFE we will make.

5 HEARING EXAMINER: All right, on Exhibit 9 then, what
6 you're proposing to do is dual complete the San Andres and
7 the Yates.

8 THE WITNESS: That's correct.

9 HEARING EXAMINER: Show me on that portion of Exhibit 9
10 what the cost will be.

11 THE WITNESS: Come across the top line where you see
12 capital costs, 150,000, 150.00; that is the estimated cost
13 of producing both formations. The reason why we can do that
14 is the San Andres, this particular zone, does not produce
15 any gas. And we will not suffer any gas lock problems with
16 the pump in the San Andres, and we'll be able to bring the
17 Yates/Seven Rivers up the back side.

18 HEARING EXAMINER: And that's the cost that you propose
19 to have this forced pooling order apply to. You're not
20 proposing that the entire dry hole cost be included, but
21 only this; is that correct?

22 THE WITNESS: No. We're going after it all. We're
23 going to 231 plus the hundred and fifty.

24 HEARING EXAMINER: I misunderstood that earlier from
25 someone.

MR. CAVIN: That's always figured in on the economics, sir. That's all that's been figured in on the -- as far as the economics and the regular return. The rate of return would obviously be much lower if you figured in the entire cost.

THE WITNESS: The forced pooling would be the cost, the
231 that we spent to date, plus what -- this 150,000 for the
dual.

MR. CAVIN: Mr. Examiner, if I might explain, just so you understand. We weren't trying to come in after the fact. Our original hearing was put off because it was improperly advertised. They left out some material and felt it was necessary to readvertise it. And then Mr. Seay was on the well at the next available date. It's a fairly small operation, very difficult to get him up here for testimony.

MR. STOVALL: Let me go back and ask some questions to get this clarified.

EXAMINATION

BY MR. STOVALL:

Q. When did you originally propose this well, Mr. Seay?

A. It was --

Q. Please don't -- if you don't know the answer --

A. I know the answer. I'm just trying to think. We were finishing another well. It was the 1st of December.

1 Q. When did you begin the title search efforts on
2 the well?

3 A. We have been working this total area for almost
4 three years, of which this is one of two prospects we were
5 working on, and they were both simultaneous. So we've been
6 working on this almost three years.

7 Q. So you have known about these interests and have
8 been looking for them since prior to the 1st of December; is
9 that correct, sir?

10 A. Yes, sir; yes, sir.

11 MR. STOVALL: And when did you file the application in
12 this case, the original application?

13 MR. CAVIN: I think it was for the hearing January
14 7th. We filed it in the middle of December in a timely
15 manner.

16 Q. (By Mr. Stovall) When did you spud the well?

17 A. January the 28th.

18 MR. CAVIN: They didn't find out about the problem in
19 the advertisement until it was too late to get on the docket
20 for the 21st, I guess, and so we were right -- they were
21 right in the middle of drilling the well, and their feeling
22 was, well, no one will leave the well at this point.

23 MR. STOVALL: I understand that.

24 Q. (By Mr. Stovall) Do these parties whose interests
25 you seek to pool, do they own all the way to the Abo? Is

1 that your understanding?

2 A. I am not a landman. I defer that to Mr. Leonard.

3 Q. As I'm sure you can understand, Mr. Seay, the
4 division looks a little bit askance at getting a full
5 penalty on a well that's been drilled. However, it appears
6 there may be some circumstances here; with permanently lost
7 folks it's a little different situation.

8 A. The reason why we had to spud the well when we
9 did is that we were pushing the last three days of two
10 farmout agreements. We pushed it as far back as we possibly
11 could, and we could not get -- we did not feel we could get
12 a second shot at those farmout agreements. We actually had
13 three farmout agreements. We also had some -- we renewed
14 and extended a couple of leases, and we were at the
15 extension of those too. So it would cost more money, so we
16 had to go ahead and spud the well at that particular time.

17 HEARING EXAMINER: Anything else?

18 MR. STOVALL: I don't have any further questions for
19 Mr. Seay.

20 HEARING EXAMINER: The witness may be excused.

21 MR. STOVALL: Let's call Mr. Leonard back.

22 MR. CAVIN: All right.

23 DIRECT EXAMINATION (Continued)

24 BY MR. CAVIN:

25 Q. I think the question was whether there were any

1 limitations on the depth of these interests.

2 MR. STOVALL: Correct.

3 A. No. They're undivided mineral interests from the
4 surface to ground. And I think the point that you're trying
5 to make is well taken. I think that the -- I guess the
6 reason that we feel justified asking for the penalty on the
7 full cost of the well is that because of the nature of these
8 mineral interests, had -- we took the risk to drill the well
9 to 7,800 feet, and these mineral interests certainly would
10 have borne the fruits of that had we succeeded at it. We
11 didn't, and fortunately we have these back-up zones that
12 were developed in the well. But the risk was taken on the
13 Abo, the Drinkard and the Blinberry to deeper zones that we
14 hoped would prove to be worthwhile because the reserves in
15 those zones typically are much greater than what you will
16 find in the Yates and San Andres.

17 And so we understand for sure the dates of the
18 hearing, the hearing was originally set for the -- I think
19 it was set for the first week, the first ten days in
20 January. And we were notified. We were prepared to come to
21 that hearing, and that was prior to the date that we spudded
22 the well. We didn't intend to do this after the fact, but
23 we were -- Sealy called me and advertised me that it had
24 been improperly advertised in the paper here, I think in
25 Santa Fe, so we had to renotify, go through the notification

1 process and put it off for 30 days. And then that 30-day
2 period fell on February 7th when John was up testing a well,
3 so we weren't able to come up for that date. Certainly was
4 not our intention to put this hearing off until after the
5 fact.

6 HEARING EXAMINER: I had understood your earlier
7 testimony, Mr. Leonard, to be that you were only going after
8 the completion costs. Was that a misunderstanding on my
9 part or a misstatement on your part?

10 THE WITNESS: If I said that, it was a misstatement on
11 my part, and I apologize for it.

12 HEARING EXAMINER: I misheard you. Got anything more?

13 MR. STOVALL: I guess my only other question is on the
14 notice issue.

15 EXAMINATION

16 BY MR. STOVALL:

17 Q. We actually -- the lowest formation you talk
18 about is the Drinkard. I believe that you have actually
19 drilled into the Abo; is that correct?

20 A. Yes. Did the notice provide for the Drinkard or
21 the Abo?

22 Q. I'm looking at the docket. I don't know what the
23 actual --

24 A. The Abo zone, that -- we would go to seven or 800
25 feet below that field play in the house Drinkard pool. And

1 we did take it down and test that Abo formation, which had
2 some shows in previous wells drilled in that area, and
3 production established north and south of this prospect in
4 that zone. So we felt like it was -- on the structure that
5 we had to find, it was surely a worthwhile zone to look at.

6 Q. I don't question that. I just -- a little bit
7 concerned about the ad, and I hate to get too picky on a,
8 you know, a one percent totally lost folks.

9 A. You're talking about the notification?

10 Q. The notice issue on being able to include those
11 costs.

12 A. I see.

13 MR. CAVIN: I'm not sure what I can add. It was not
14 printed the way it was presented to the OCD, and it was the
15 fault of the paper, as best I can tell. And I've got the ad
16 here showing the original application.

17 Q. (By Mr. Stovall) It is essentially the same as
18 the docket notice?

19 A. What was printed?

20 Q. Yes.

21 A. No. What they left out was the 40-acre request.
22 They just did the 160 and somehow just left out the 40.

23 Q. If I understand correctly, you've drilled through
24 the Abo or into the Abo.

25 A. Into the Abo, yes, sir.

1 Q. And you did not case it or anything.

2 A. No. We tested it and logged it and found nothing
3 -- no reason to run pipe in the Drinkard or the Abo. The
4 Drinkard is at about 6,800, 7,000 feet, and the Abo was 72
5 to 7,600 feet right below the Drinkard. I guess I wasn't
6 aware of that failing in the notification, and we would
7 certainly ask your consideration for not having to figure
8 out the incremental costs of the --

9 Q. I understand.

10 A. -- of that additional five or 700 feet that we
11 drilled.

12 HEARING EXAMINER: The witness may be excused.

13 THE WITNESS: Thank you.

14 MR. CAVIN: Anything further?

15 HEARING EXAMINER: Not on our part. Case 10202 will be
16 taken under advisement.

17 We'll take a ten-minute recess before we call the
18 next case.

19 (The foregoing hearing was adjourned at the
20 approximate hour of 9:40 a.m.)

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1 STATE OF NEW MEXICO)


2 :

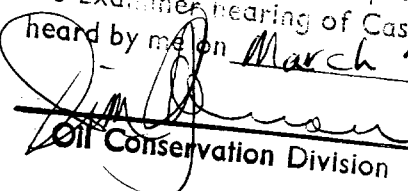
3 COUNTY OF SANTA FE)

4 I, FREDA DONICA, RPR, a Certified Court Reporter, DO
5 HEREBY CERTIFY that I stenographically reported these
6 proceedings before the Oil Conservation Division; and that
7 the foregoing is a true, complete and accurate transcript of
8 the proceedings of said hearing as appears from my
9 stenographic notes so taken and transcribed under my
10 personal supervision.

11 I FURTHER CERTIFY that I am not related to nor employed
12 by any of the parties hereto, and have no interest in the
13 outcome hereof.

14 DATED at Santa Fe, New Mexico, this 5th day of
15 April, 1991.

16 
17 Freda Donica
18 Certified Court Reporter
19 CCR No. 417

20 I do hereby certify that the foregoing is
21 a complete and true transcript of the proceedings in
22 the Examiner hearing of Case No. 10202
23 heard by me on March 7 1991.
24 
25 Oil Conservation Division, Examiner