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I N D E X

FRED WARD

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MARION E. SPITLER

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1 MR. STOGNER: Call next Case
2 8827.

3 MR. TAYLOR: The application of
4 The Petroleum Corporation of Delaware for compulsory pool-
5 ing, Eddy County, New Mexico.

6 MR. STOGNER: At this time
7 we'll call for appearances.

8 MR. BRUCE: Mr. Examiner, my
9 name is Jim Bruce from the Hinkle Law Firm in Santa Fe.

10 I have two witnesses to be
11 sworn and I ask at this time that Cases 8828 and 8819 also
12 be consolidated for the purposes of hearing.

13 MR. STOGNER: Are there any
14 other appearances in this case or Case 8828 or 8819?

15 We'll go ahead at this time and
16 call Cases Numbers 8828 and 8819.

17 MR. TAYLOR: The application of
18 The Petroleum Corporation of Delaware for compulsory pool-
19 ing, Eddy County, New Mexico.

20 And, 8819, the application of
21 The Petroleum Corporation of Delaware for compulsory pool-
22 ing, Eddy County, New Mexico.

23 MR. STOGNER: Let the record
24 show that Mr. Bruce has entered an appearance in both of
25

1 these matters.

2 Cases Numbers 8827, 8828, and
3 8819 will be consolidated for purposes of testimony.

4 Mr. Bruce, you may proceed.

5 MR. BRUCE: I have two witness-
6 ses to be sworn.

7

8 (Witnesses sworn.)

9

10 FRED WARD,
11 being called as a witness and being duly sworn upon his
12 oath, testified as follows, to-wit:

13

14 DIRECT EXAMINATION

15 BY MR. BRUCE:

16 Q Would you please state your name, city of
17 residence, occupation, and employer?

18 A My name is Fred Ward. I reside in Dal-
19 las, Texas, and I'm Vice President of Land for The Petroleum
20 Corporation of Delaware.

21 Q Have you previously testified before the
22 New Mexico OCD and had your credentials accepted as a matter
23 of record?

24 A No, I have not.

25 Q Would you please briefly state your edu-

1 cational and employment history?

2 A I graduated from the University of Okla-
3 homa in 1972 under the petroleum land management curricu-
4 lum.

5 I've been in the oil and gas business for
6 sixteen years, the last six years of which I've been with my
7 present employer, The Petroleum Corporation of Delaware.

8 My area of responsibility does include
9 New Mexico and I have been quaified as a landman before the
10 Oklahoma Corporation Commission.

11 Q And are you familiar with The Petroleum
12 Corporation's application in connection with these three
13 cases and with the land ownership matters relating to the
14 area embraced within the three applications?

15 A Yes, I am.

16 MR. BRUCE: Mr. Examiner, is
17 the witness considered qualified?

18 MR. STOGNER: He is considered
19 qualified.

20 Q Mr. Ward, would you please state for the
21 record what Petroleum Corporation of Delaware seeks by its
22 three compulsory pooling applications?

23 A The Petroleum Corporation of Delaware
24 seeks orders pooling all mineral interests from the depth of
25 3500 feet to a depth of 5600 feet beneath the surface under-

1 lying the southeast quarter southwest quarter of Section 12
2 in Case 8819; the northeast quarter southwest quarter of
3 Section 12 in Case 8827; and the southwest quarter northwest
4 quarter of Section 12 in Case 8828; all in Township 26
5 South, Range 29 East, Eddy County, New Mexico.

6 The Petroleum Corporation also seeks the
7 consideration of the costs for drilling and completing the
8 three wells, allocation of the costs of the wells, and ac-
9 tual operating costs and charges for supervision.

10 We also seek to be designated as operator
11 and to be allocated a charge for the risk involved in drill-
12 ling the wells.

13 Q Would you please now refer to Exhibit
14 Number One and describe it for the examiner?

15 A Exhibit One is a land plat depicting four
16 sections with wells in the area noted on the plat. The ac-
17 reage in yellow indicates acreage in which The Petroleum
18 Corporation of Delaware has an interest or controls.

19 It also depicts the completed Brushy Fed-
20 eral 12-1 Well, situated in the southeast quarter southwest
21 quarter of 12.

22 It also shows the completed Brushy Fed-
23 eral 12-2 Well, situated in the northeast quarter southwest
24 quarter of 12, and also shows our proposed -- The Petroleum
25 Corporation of Delaware's proposed 12-A1 Well, situated in

1 the southwest quarter northwest quarter of 12.

2 Q What is the status of the three wells
3 which you have just mentioned?

4 A In Case 8819 the Brushy Federal 12-1,
5 situated in the southeast quarter southwest quarter of 12,
6 was completed on November 13, 1985.

7 In Case 8827 the Brushy Federal 12-2
8 Well, situated in the northeast quarter southwest quarter of
9 Section 12, was completed on January 28, 1986.

10 The Petroleum Corporation of Delaware is
11 the operator of both wells, the 12-1 and the 12-2.

12 In Case 8828, The Petroleum Corporation
13 of Delaware proposes drilling the 12-A1, situated in the
14 southwest quarter of the northwest quarter of 12.

15 Q Have all interest owners committed their
16 interest to the drilling of these three wells?

17 A All interest owners have farmed out their
18 interest with the exception of Nu-Energy Oil & Gas, Incor-
19 porated.

20 Q What interest in each of the three units
21 is owned by Nu-Energy?

22 A Nu-Energy owns an undivided 2-1/2 percent
23 working interest in each unit.

24 Q Would you please describe your efforts to
25 obtain the commitment of Nu-Energy to the drilling of these

1 three wells?

2 A Our first initial contact was September
3 3, 1985, whereby I called Nu-Energy and advised them of our
4 proposed plans to drill the initial well, the 12-1. They
5 were not interested in farming out their interest, which I
6 inquired, or participating at that time.

7 I followed up with a letter, sending them
8 a, forwarding to them a designation of operator for drilling
9 the 12-1.

10 I made several phone -- we had no
11 response on the designation of operator. They did not exe-
12 cute that designation of operator in favor of The Petroleum
13 Corporation.

14 I made several phone calls subsequent to
15 that date to no avail. They elected not to do anything at
16 that particular point in time.

17 On November 26th I mailed two additional
18 designation of operators to them for their execution in
19 favor of The Petroleum Corporation for anticipation of
20 drilling additional wells on two distinct Federal leases.

21 On December -- no response. They did not
22 execute those designation of operator forms.

23 On December 12, '85, I wrote a lengthy
24 letter summarizing our efforts out in the area. I respect-
25 fully requested they elect one of two options, and that was

1 either to farm out their interest as did the other farmors
2 in the area or join in the execution of the operating agree-
3 ment, which they would be afforded the right to either par-
4 ticipate as to their proportionate 2-1/2 percent working in-
5 terest in drilling of these wells, or be a nonconsenting
6 party. I gave them a ten day time period within which to
7 respond and advised at that time that they, if we did not
8 hear from them, our only alternative, which is required by
9 New Mexico statute, was to proceed with a forced pooling.

10 Q Thank you. Do you believe you have made
11 a good faith effort to obtain the voluntary commitment?

12 A Yes, I do.

13 Q Would you please now refer to Exhibits
14 Two, Three, and Four, and describe them briefly?

15 A Exhibit Two is an AFE prepared by The
16 Petroleum Corporation for the drilling of the Brushy 12-1,
17 situated in the southeast quarter of southwest quarter of
18 12, in Case 8819. That well was completed for a final well
19 cost of \$334,552.

20 Exhibit Three is the AFE prepared by The
21 Petroleum Corporation of Delaware for the drilling of the
22 Brushy Federal 12-2 Well, situated in the northeast quarter
23 southwest quarter of 12 in Case 8827.

24 The estimated, even though that well was
25 completed, all the invoices are not final through our of-

1 fice. Our estimated cost for that well was \$388,575.

2 And Exhibit Four is an AFE prepared for
3 the drilling of the 12A-1, situated in the southwest quarter
4 northwest quarter of 12 in Case 8828.

5 The estimated well cost is \$321,700.

6 Q Does The Petroleum Corporation of Dela-
7 ware wish to named as the operator of these three wells?

8 A Yes, we do.

9 Q And do you have a recommendation as to
10 the charge for the risk involved which should be granted to
11 Petroleum Corporation for drilling this well -- these wells?

12 A Yes. I recommend the maximum allowed by
13 New Mexico statutes, which I understand is 200 percent.

14 Q Is that amount in line with nonconsent
15 provisions in operating agreements currently being used in
16 this area?

17 A Yes, it is.

18 Q Is the expense, or proposed expense of
19 the three wells, as reflected on Exhibits Two, Three, and
20 Four, in line with expenses which can normally be expected
21 in drilling wells of this type in this area?

22 A Yes, they are.

23 Q Do you have a recommendation as to the
24 amount which Petroleum Corporation should be paid for super-
25 vision and administrative charges?

1 A Yes. My recommendation is that \$4500 per
2 month be allowed for a drilling well and \$450 per month be
3 allowed for a producing well.

4 Q Are the amounts that you have just recom-
5 mended in line with amounts normally charged by Petroleum
6 Corporation and other operators for wells of this type in
7 this area?

8 A Yes, they are.

9 Q In your opinion will the granting of the
10 three subject applications be in the interest of conserva-
11 tion, the prevention of waste, and the protection of correl-
12 ative rights?

13 A Yes.

14 Q Were Exhibits One through Four prepared
15 by you or under your supervision?

16 A Yes, they were.

17 MR. BRUCE: At this time, Mr.
18 Examiner, I move the exhibits -- the entrance of Exhibits
19 One through Four.

20 MR. STOGNER: Exhibits One
21 through Four will be admitted into evidence.

22 MR. BRUCE: I have no further
23 questions at this time.

24

25

1 CROSS EXAMINATION

2 BY MR. STOGNER:

3 Q Mr. Ward, you testified that you contac-
4 ted, your first, initial contact with Nu-Energy was on Sep-
5 tember 3rd, 1985. You made a telephone call, is that cor-
6 rect?

7 A Yes, sir.

8 Q Who did you talk to that day?

9 A Fred Davidson.

10 Q And is he in Dallas?

11 A No, he's in Vancouver, North Vancouver,
12 British Columbia.

13 Q What is his title with Nu-Energy?

14 A He heads up the Land Department, is my
15 understanding.

16 Q And your first written correspondence
17 with him, was it with him?

18 A Yes.

19 Q And that was on November 26th?

20 A No. After my telephone conversation on
21 September 3, '85, I followed up with a letter that same day,
22 and forwarded to them a designation of operator in favor of
23 The Petroleum Corporation for drilling the first well.

24 Q Do you have a copy of that letter?

25 A Yes, sir.

1 MR. STOGNER: Mr. Bruce, I'm
2 going to request that you make that available.

3 MR. BRUCE: Okay. Make it Six.

4 MR. STOGNER: Mr. Bruce, this
5 letter that you give me is Exhibit Number Six, is that cor-
6 rect?

7 MR. BRUCE: That's correct.

8 Q Did you receive a reply from Mr. Fred
9 Davidson on this correspondence?

10 A No, sir, I did not.

11 Q And let's go through the sequence again.
12 You contacted him when?

13 A I made various telephone calls subsequent
14 to this date, September 3, '85.

15 Q Okay, and who did you speak to at those
16 times?

17 A Fred Davidson.

18 Q Fred Davidson. And what kind of response
19 did you get from Mr. Davidson?

20 A His posture was still the same, that they
21 were not going to do anything, farmout or participate. This
22 was all verbal.

23 Q How about some other written correspon-
24 dence, did you have any?

25 A Yes, sir, the November 26, '85, letter.

1 I have a copy of it.

2 And also December 12, 1985, I have that.

3 Q Did those -- did those correspondence
4 roughly repeat what you had asked for back in the September
5 3rd, 1985, hearing?

6 A The November 26th --

7 Q I mean the September 3rd, '85, letter?

8 A The November 26th letter did. I just
9 forwarded to them two additional designation of operator
10 forms in favor of The Petroleum Corporation, which there was
11 no response to that letter.

12 The December 12, '85, letter has more
13 substance to it on the options that we afforded to them be-
14 fore we proceeded with forced pooling.

15 MR. STOGNER: Mr. Bruce, could
16 you supplement me a copy of those correspondence, too?

17 MR. BRUCE: Copies of the Nov-
18 ember 26th, 1985, letter will be marked Exhibit Seven, and
19 the December 12th, 1985, letter will be marked Exhibit
20 Eight.

21 Q On Exhibit Number Eight, that's the let-
22 ter from you to Mr. Fred Davidson, I see a hand scribbled
23 note up here, "received on 12-13-85, confirmed by tele-
24 phone."

25 Could you explain that a little further?

1 A Yes. We Federal Expressed that letter
2 and it's been our experience that you do not get a return
3 receipt requested on Federal Express; however, you can get
4 confirmation that it has been received via telephon, and we
5 do that just to make sure that it got there.

6 Q Thank you, Mr. Ward.

7 A Thank you.

8 MR. STOGNER: I have no further
9 -- Mr. Ward, for one more question.

10 A Yes, sir.

11 Q In any of these correspondences, did you
12 notify Mr. Davidson and Nu-Energy that you were seeking a
13 forced pooling on -- on these particular lands?

14 A Only on the December 12th, '85, letter I
15 think I reiterate that on the last page after I -- after I
16 requested that they either farmout or join in the execution
17 of the operating agreement; back on the second page of that
18 letter, that if we do not hear a response either written or
19 verbal within ten days of receipt hereof, the only alterna-
20 tive is to proceed with forced pooling.

21 MR. STOGNER: Mr. Ward, Mr.
22 Bruce, pursuant to --

23 MR. TAYLOR: We're having a
24 little problem with notice because our new notice provisions
25 require that potential adverse parties in the proceeding be

1 given notice by registered mail and we now see that the let-
2 ter transmitting the application to us apparently went to,
3 who is it, Nu --

4 MR. BRUCE: Nu-Energy.

5 MR. TAYLOR: -- Nu-Energy also,
6 is that correct? Is that what your records --

7 MR. BRUCE: Yes.

8 A Yes. Yes.

9 MR. BRUCE: Yeah, there were to
10 letters of transmission for the three applications.

11 MR. TAYLOR: Okay.

12 MR. BRUCE: They -- all of the
13 applications went to Nu-Energy and I can check with our Mid-
14 land Office to see if them by certified mail.

15 MR. TAYLOR: Would you do that
16 and that would be sufficient, I think.

17 MR. STOGNER: Okay, in looking
18 through my files here, those letters were submitted January
19 14th and January 7th. In there you said that certified mail
20 was used.

21 If that be the case, would you
22 submit to us a copy of the return receipts --

23 MR. BRUCE: Sure.

24 MR. STOGNER: And that should
25 satisfy Rule 1207, our notice requirements. And if you

1 could just forward those to me as soon as you can.

2 MR. BRUCE: Sure.

3 MR. STOGNER: I have no further
4 questions of this witness at this time.

5 Are there any other questions
6 of Mr. Ward?

7 MR. BRUCE: No, sir.

8 MR. STOGNER: If not, he may be
9 excused.

10

11 MARION E. SPITLER,

12 being called as a witness and being duly sworn upon his
13 oath, testified as follows, to-wit:

14

15 DIRECT EXAMINATION

16 BY MR. BRUCE:

17 Q Would you please state your name and city
18 of residence?

19 A My name is Marion E. Spitler. I reside
20 in Dallas, Texas.

21 Q And what is your occupation, please?

22 A I'm the Vice President of Exploration in
23 charge of exploration geology and development geology for
24 The Petroleum Corporation of Delaware.

25 Q Have you previously testified before the

1 New Mexico OCD as a geologist?

2 A Yes, I have, but it was some 25 or 30
3 years ago.

4 Q Would you please give a summary of your
5 educational and work background?

6 A I'm a graduate of University of Texas, El
7 Paso, Bachelor of Science degree in geology in 1953.

8 I've had 33 years of oil and gas business
9 experience, including nine years when I resided in Jal, New
10 Mexico, and Artesia, New Mexico, and held down geological
11 and operations positions.

12 This was followed by 24 years of manage-
13 ment experience in geological and operations positions, where
14 I was active during that time also in New Mexico.

15 I've been employed by Petroleum Corpora-
16 tion for seven months.

17 Q Are you familiar with the three cases in-
18 volved herein and the geological matters involved in those
19 cases?

20 A Yes.

21 MR. BRUCE: Mr. Examiner, is
22 the witness considered qualified?

23 MR. STOGNER: The witness is so
24 qualified.

25 Q Mr. Spitler, would you please refer to

1 Exhibit Number Five and describe it for the examiner?

2 A Exhibit Number Five is a structure map on
3 top of the Williamson zone of the same four section area
4 that was shown in our -- I believe it's Exhibit Number Four.
5 This is the north end of the Brushy Draw Delaware Field and
6 all but three of the wells indicated thereon produce princi-
7 pally from the Ramsey Sandstone, which is a shallow, shal-
8 lower zone in the Bell Canyon member of the Delaware Moun-
9 tain Group.

10 The primary zone of interest is the Wil-
11 liamson zone of the Cherry Canyon member of the Delaware
12 Mountain Group.

13 The three control points for the struc-
14 ture contours within this plat area are the following wells:
15 That would be the Penta No. 1 Gulf Federal Well in the
16 southwest southeast of Section 13; The Petroleum Corporation
17 No. 1-12 Brushy Federal, located in the southeast southwest
18 of Section 12; The Petroleum Corporation No. 2-12 Brushy
19 Federal, located in the northeast southwest of Section 12.

20 These three wells, plus the Rhymes Dril-
21 ling Company No. 3 Gulf Federal, which is located in the
22 northeast northwest of Section 13, for which we have no da-
23 ta, are believed to be the only wells within the area of the
24 plat which penetrated the interval.

25 The contour interval of the structure map

1 is 20 feet and it does indicate that there's an east/north-
2 east gentle dip at the rate of about 100 to 125 feet per
3 mile.

4 I believe that describes it.

5 Q What is the primary zone of interest for
6 your wells?

7 A Well, this is the Williamson Zone of the
8 Cherry Canyon member.

9 Q Do you have a recommendation as to the
10 charge for the risk involved which should be granted to Pet-
11 roleum Corporation for drilling these wells?

12 A Yes. I'd recommend 200 percent. Al-
13 though we think these are good geological locations, there
14 are elements of risk involving all three of them. They are
15 at the north end of the fields, thus there was obvious risk
16 of drilling the Brushy Federal No. 1-12, which was one mile
17 north of the Penta Well, which was the nearest Williamson
18 production at the time we drilled our well.

19 The geological risks were both stratigra-
20 phic and structural and both are important to finding com-
21 mercial reservoir conditions; that is, finding adequate
22 thickness, porosity, and permeability, as well as favorable
23 structural position.

24 Also it is necessary to achieve mechani-
25 cal success in the cementing, perforating, and stimulation

1 of the zone.

2 The Petroleum Corporation No. 2-12 and
3 the No. 1-12A Wells are logical, closer stepouts for the --
4 from the Petroleum Corporation No. 1-12, but all three in-
5 volve similar risk.

6 The Petroleum Corporation thinks it
7 should be compensated for taking these risks in drilling the
8 wells, as demonstrated by the fact that neither the 12-1
9 Well or the 12-2 Well make their allowable after producing
10 respectively 95 and 24 days.

11 Q In your opinion will the granting of
12 these three applications be in the interest of conserva-
13 tion, prevention of waste, and prevent drilling of unneces-
14 sary wells?

15 A Yes, it would.

16 Q Was Exhibit Five prepared by you or under
17 your direction?

18 A Yes.

19 MR. BRUCE: At this time I move
20 the admission of Exhibit Number Five, Mr. Examiner.

21 MR. STOGNER: Exhibit Number
22 Five will be admitted into evidence.

23 MR. BRUCE: I have no further
24 questions of this witness at this time.

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CROSS EXAMINATION

BY MR. STOGNER:

Q Mr. Spitler, does your job oversee the drilling of the wells in this area?

A Only as to the geological and completion recommendations.

Q Do you know if, for instance, the two wells that have already been drilled down here, did they encounter any drilling problems?

A We had lost circulation in the 12-1 Well. There is some direction control problems; it's not severe but we do have to -- it is a factor in the cost of drilling the well.

Q Is the zone of interest within a designated pool?

A Yes, I see it is in the 12-1 Well. I don't know whether 12-2 has been included yet or not.

Q I was under the impression earlier that the 12-1 Well has not started drilling yet. Is that (not understood)?

A That's the 1-12A in the southwest of the northwest of 12. That has not started drilling. The other two wells have been drilled.

MR. STOGNER: I have no more

1 cross -- I have no further questions of Mr. Spitler.

2 Are there any other questions
3 of this witness?

4 If not, he may be excused.

5 Anything further to come in
6 Case Number 8827 or 8828 or 8819 at this time?

7 MR. BRUCE: No, Mr. Examiner.

8 MR. STOGNER: Mr. Bruce, will
9 you get me those --

10 MR. BRUCE: Yes, sir.

11 MR. STOGNER: -- return re-
12 cepts and I will hold the record open on all three of these
13 cases pending that information.

14

15 (Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY the foregoing Transcript of Hearing before the Oil Conservation Division (Commission) was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. _____ heard by me on _____ 19____.
_____, Examiner
Oil Conservation Division