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STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
CASE 10,767

EXAMINER HEARING

IN THE MATTER OF:

Application of Santa Fe Energy Operating Partners,  
L.P., for compulsory pooling, Eddy County, New  
Mexico

**ORIGINAL**

TRANSCRIPT OF PROCEEDINGS

BEFORE: MICHAEL E. STOGNER, EXAMINER

STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO

July 29, 1993

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A P P E A R A N C E S

FOR THE DIVISION:

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State Land Office Building  
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E X H I B I T S

APPLICANT'S EXHIBITS:

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1           WHEREUPON, the following proceedings were had  
2 at 8:37 a.m.:

3           EXAMINER STOGNER: I'll call next case,  
4 Number 10,767.

5           MR. STOVALL: Application of Santa Fe Energy  
6 Operating Partners, L.P., for compulsory pooling, Eddy  
7 County, New Mexico.

8           EXAMINER STOGNER: Call for appearances.

9           MR. LOPEZ: Thank you, Mr. Examiner. My name  
10 is Owen Lopez with the Hinkle Law Firm in Santa Fe, New  
11 Mexico, appearing on behalf of the Applicant, Santa Fe  
12 Energy Operating Partners, and I have our first  
13 witness, Mr. Green.

14           EXAMINER STOGNER: Okay, how many witnesses  
15 total do you have?

16           MR. LOPEZ: Two.

17           EXAMINER STOGNER: Has one of them previously  
18 been sworn and the other --

19           MR. LOPEZ: Gene, have you been sworn?

20           MR. DAVIS: No, I have not.

21           EXAMINER STOGNER: Okay, will both witnesses  
22 please stand to be sworn at this time?

23           (Thereupon, the witnesses were sworn.)

24           EXAMINER STOGNER: First witness may take a  
25 seat.

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GARY GREEN,

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

DIRECT EXAMINATION

BY MR. LOPEZ:

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

A. My name is Gary Green. I live in Midland, Texas.

Q. And what is your occupation and who is your employer?

A. I'm a landman with Santa Fe Energy Resources.

Q. Have you previously testified before the Commission and had your qualifications accepted as a matter of record as a landman?

A. Yes, I have.

Q. Are you familiar with the land matters set forth in this case, 10,767?

A. Yes, I am.

Q. Would you briefly state what Santa Fe seeks in this case?

A. Santa Fe seeks an order pooling all mineral interests from the surface to the base of the Cisco/Canyon Formation underlying Section 5, in Township 22 South, Range 24 East, in Eddy County, New

1 Mexico.

2 Q. I will refer you now to Exhibit 1 and ask you  
3 to describe what it shows.

4 A. Exhibit 1 is a 1-to-4000 land plat. Shown  
5 the top part of the exhibit, Section 5, hachured  
6 section 5 with the red square in the center, is the  
7 location of the well that Santa Fe proposes. The  
8 hachured area shows the spacing unit, the oil spacing  
9 unit. The acreage that's colored in yellow represents  
10 Santa Fe's acreage in the area.

11 Q. And who does Santa Fe seek to pool in this  
12 case?

13 A. Santa Fe seeks to pool Donahoe Oil and Gas  
14 Company, Phoenix, Arizona, and Mr. Joe Walton, also  
15 shows ownership in part of this section under Graystone  
16 Corporation. There's a Phoenix address for Graystone  
17 Corporation. There's a Midland address for Mr. Joe  
18 Walton.

19 Q. And would you describe your effort to obtain  
20 the voluntary joinder of these persons?

21 A. An effort to get these people to participate  
22 in drilling a well or farm out their acreage began  
23 early April of this year, had a number of telephone  
24 calls with these people back and forth, we've talked to  
25 all of them.

1           Other parties in the ownership in this  
2 section, Yates Petroleum and three of their other  
3 entities have joined, Skipper Hamilton, Inc., has  
4 agreed to terms with Santa Fe whereby Santa Fe will  
5 take their share.

6           So it's been an ongoing process since April,  
7 for the last two or three months to get voluntary  
8 joinder from these people.

9           Q.    I'd now refer you to Exhibit Number 2 and ask  
10 if this is a copy of your correspondence with the  
11 parties you desire to pool.

12           A.    Exhibit 2, the first letter is a letter dated  
13 June 22nd, 1993, to Donahoe Oil and Gas Company,  
14 Phoenix, Arizona. The references are previous  
15 telephone conversations. Also provides them with  
16 notice of the Application for compulsory pooling. Also  
17 enclosed in that letter were copies of the operating  
18 agreement and the well-cost estimates for their review  
19 and execution.

20           There's similar letters for Mr. Joe Walton,  
21 with the same information attached.

22           Q.    In your opinion, have you made a good-faith  
23 effort to obtain the voluntary joinder of these  
24 parties?

25           A.    Yes, I have.

1 Q. Does Santa Fe request that it be named  
2 operator of the well?

3 A. Yes, Santa Fe will own 72.267 percent of the  
4 working interest in this well and request it be named  
5 operator.

6 Q. I now refer you to Exhibit Number 3 and ask  
7 you to discuss the cost of the proposed well.

8 A. Exhibit 3 is a generalized well cost estimate  
9 for the re-entry of the Walt Canyon "5" Federal Number  
10 1 well -- it's to be renamed the Nagooltee Peak "5"  
11 Federal Com Number 1 -- re-entry and a proposal to  
12 complete as an 8600-foot Cisco/Canyon test.

13 It shows dryhole costs of \$197,000,  
14 completion cost of \$496,000.

15 Q. Is the proposed well cost in line with those  
16 normally encountered in drilling wells to this depth in  
17 Eddy County?

18 A. Yes, it is.

19 Q. Do you have a recommendation as to the  
20 amounts which Santa Fe should be paid for supervision  
21 and administrative expenses?

22 A. It is our recommendation that monthly  
23 drilling charges of \$5200 and \$520 per month be allowed  
24 for producing wells.

25 Q. And do you request that the operating charges

1 be escalated annually? And in this connection, I ask  
2 you to refer to what's been marked as Exhibit 4.

3 A. Yes, we request that these charges be  
4 escalated annually pursuant to the 1984 COPAS as shown  
5 on page 1 -- or item 1- -- page 4, item 1A3. In this  
6 particular case it's going to be page 5.

7 Q. Are the amounts that you have just  
8 recommended in line with amounts normally charged by  
9 Santa Fe and other operators for wells of this type in  
10 this area?

11 A. Yes, it is.

12 Q. Have all parties been notified of this  
13 Application?

14 A. Yes, they have.

15 MR. LOPEZ: Mr. Examiner, our Exhibit 5 is  
16 the affidavit of notice, and I requested my secretary  
17 yesterday to notarize it, and she failed to do so. I  
18 hope she's on her way over.

19 I would request that the case remain open  
20 until I can submit a properly notarized copy of Mr.  
21 Green's affidavit.

22 Q. (By Mr. Lopez) ut I'll ask you to just try  
23 and work Exhibit 5 from --

24 A. Exhibit 5 is an affidavit regarding notice  
25 whereby I have sworn that I have given the proper

1 notification to all the owners.

2 MR. LOPEZ: As soon as I have a properly  
3 notarized and sufficient copy I'll --

4 MR. STOVALL: Do you have an Exhibit A to  
5 that, that identifies the parties to whom notice was  
6 given? Would you do so as you complete it, just an  
7 Exhibit A that says -- you know, so we can tell who the  
8 notice refers to?

9 MR. LOPEZ: Okay, I'd be glad to.

10 Q. (By Mr. Lopez) What penalty do you recommend  
11 against nonconsenting interest owners?

12 A. Santa Fe requests the cost-plus-200-percent  
13 penalty.

14 Q. And will your geologist discuss the  
15 reasonableness of that request?

16 A. Yes, our geologist will discuss the  
17 reasonableness of that and also the risk associated  
18 with this well.

19 Q. In your opinion, will the granting of the  
20 Application be in the interests of conservation, the  
21 prevention of waste and the protection of correlative  
22 rights?

23 A. Yes.

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



1 Donahoe -- trying to locate and then did locate. I  
2 started trying to locate Mr. Donahoe beginning the  
3 first part of April. Around the middle of April, I did  
4 locate Mr. Donahoe. I have had at least seven or eight  
5 telephone conversations with Mr. Donahoe concerning his  
6 interests in this section and advising him that if we  
7 could not come to an agreement, that we were going to  
8 be forced to --

9 Q. Have you previously sent him an AFE or an  
10 operating agreement or any opportunity to execute an  
11 agreement?

12 A. Prior to this notice?

13 Q. Prior to this notice.

14 A. No, sir, I did not. I reviewed --

15 Q. How did Mr. Donahoe know what he might be  
16 joining in, other than your verbal representations?

17 A. That's what he did -- he -- that was what --

18 Q. Did you give him well costs when you talked  
19 to him?

20 A. Yes, I did.

21 Q. Did you tell him the depth?

22 A. Yes, I did.

23 Q. Did you tell him the terms of an operating  
24 agreement which would be --

25 A. Yes, I did. There was previously an

1 operating agreement covering this acreage, which Mr.  
2 Donahoe had executed. The operating agreement had  
3 expired, the dry hole was drilled. I told him that we  
4 would use the same form there; it was an operating  
5 agreement that he had accepted before, and we would use  
6 the same form. The only difference that we would have  
7 there would be some change in Article 15 and also the  
8 interest of the parties.

9 Q. But in fact, the only opportunity you  
10 actually gave him to execute any agreement to join the  
11 well was at the time you notified him that you were  
12 force-pooling him; is that correct?

13 A. No, sir, I gave him an opportunity --

14 Q. No, the only time you gave him the  
15 opportunity to execute a document to join the well was  
16 at the time you sent him the force-pooling agreement?

17 A. That is true.

18 Q. Okay. Let's go on to Mr. Walton. Is it  
19 essentially the same with Mr. Walton?

20 A. Yes, sir.

21 Q. And let's go on with -- You have the other,  
22 the corporation which apparently Mr. Walton has an  
23 interest in; is that correct?

24 A. Apparently Mr. Walton -- We gave notice to  
25 Graystone Corporation, who were the owners of record

1 that we found, and still owners of record. We got  
2 Graystone Corporation returned. Mr. Walton through  
3 just knowing other people in Midland who have an  
4 ownership in there, such as Skipper Hamilton, called  
5 and said that Graystone Corporation was a defunct  
6 corporation, that he was the owner of this interest,  
7 and that's when we talked to Mr. Walton.

8 Q. Okay. You don't have any documentation about  
9 Graystone being defunct or anything? You just got the  
10 representation of Hamilton and others; is that --

11 A. No, all I have -- This is a bad address.  
12 Everything we sent there was returned. Certified mail  
13 was returned.

14 MR. STOVALL: Mr. Examiner, I have a concern  
15 about meeting the threshold requirement for compulsory  
16 pooling. I'm not sure we've satisfied the basic  
17 requirement or even the allegation of the Application  
18 that attempts have been made, good-faith negotiations  
19 have been conducted, in my opinion, and I think the  
20 Division has historically operated on the basis that  
21 you at least have to send an AFE and/or an operating  
22 agreement to the parties to give them the opportunity  
23 to review and execute, to have good-faith negotiations.

24 EXAMINER STOGNER: You're referring to the  
25 statutes, are you not, Mr. Stovall?

1 MR. STOVALL: I am.

2 EXAMINER STOGNER: Mr. Lopez, historically  
3 what Mr. Stovall is saying is correct. The compulsory  
4 pooling is a last-ditch effort before a party comes in  
5 for compulsory pooling or submits an application that  
6 they have tried with a good-faith effort in trying to  
7 reach agreement and such.

8 I don't see -- Nothing you've presented to me  
9 today really tells me that they have had that, and  
10 telephone conversations just doesn't cut it.

11 MR. LOPEZ: Mr. Examiner, I would suggest  
12 that the fact that it's been over a month since the  
13 parties we're requesting to force-pool that had a copy  
14 of the proposed operating agreement and the terms of  
15 the request, and the fact that prior to June 22nd,  
16 there were seven or eight telephone conversations  
17 getting them -- trying to persuade them to join in  
18 these terms -- would more than meet the effort. They  
19 were notified in this hearing today.

20 EXAMINATION (Resumed)

21 BY MR. STOVALL:

22 Q. Mr. Lopez, let me interrupt you. What terms?  
23 Would you or the witness tell me exactly what terms Mr.  
24 Donahoe did not agree to? I want to hear exactly what  
25 terms he didn't agree to.

1           A.    Mr. Donahoe said he didn't know what he  
2 wanted to do.  I told him that we would get him an  
3 operating agreement similar to the one he had signed  
4 previously.  I gave him the well cost.  I told him that  
5 we needed to get an answer out of him --

6           Q.    Did you give him a line-by-line itemization  
7 of the well cost?

8           A.    No, sir.

9           Q.    Or did you give him a total cost for the  
10 well?

11          A.    I gave him the total cost for re-entering the  
12 well.

13          Q.    Mr. Green, let me just -- Why did you not  
14 send him a letter when you first located him and offer  
15 him a chance to join the well?

16          A.    Because I believed at the time that we could  
17 work out details of an operating agreement, get those  
18 finalized and send a finalized version of an operating  
19 agreement, if there were any changes, if he would like  
20 to join in there, rather than doing an operating  
21 agreement three or four times.

22                    Had no problems with Yates Petroleum, had no  
23 problem with Skipper Hamilton, the other two entities  
24 with Yates, did not have a problem with the way we  
25 handled that.

1           Mr. Donahoe is not necessarily eager -- I  
2 think he participated in a dryhole out there on the  
3 same section. He spent a lot of money on the lease. I  
4 don't think he is very eager or willing to spend any  
5 money out there.

6           There was a good-faith effort.

7           Q. Did you attempt to obtain a farmout from him?

8           A. Yes, sir.

9           Q. Do you have an offer of a farmout agreement?

10          A. I have a verbal offer.

11           I also offered to purchase his interest if he  
12 did not want to participate, if he didn't want to farm  
13 out. I made him an offer to purchase his interest.

14           Same with Mr. Walton. We have given them at  
15 least four options before we filed the force-pooling.  
16 I think they've had -- certainly had adequate notice.  
17 They've had this letter for six weeks. Yates --

18           Q. Something about a letter that says we've  
19 filed an application asking the State to exercise its  
20 police power to force your property into participation  
21 in this well, without having any prior correspondence  
22 with the operator -- or with the person sought to be  
23 pooled -- saying, here is an opportunity and here are  
24 your options and here are the alternative offers we are  
25 making you --



1     been discussed over the telephone to want to find out  
2     if they wanted to participate.

3             If they don't want to participate, then you  
4     say, Do you want to participate, or do you want to farm  
5     out?

6             Q.    Mr. Green --

7             A.    Then you can work -- send letters out,  
8     farmout agreement or an operating agreement.

9             Q.    Does Santa Fe operate like this too?  When  
10    somebody calls you up, do you make the agreement right  
11    then and there?  Or do you see something in writing?

12            A.    I will tell them that yes, we want to  
13    participate, send us an operating agreement, or no we  
14    don't, we'll farm out to you.  There's no -- You're  
15    preparing an operating agreement or a farmout  
16    agreement.

17            MR. LOPEZ:  Mr. Examiner, I would ask of Mr.  
18    Stovall, is there something in the June 22nd packet  
19    that, in your opinion, is inadequate in terms of --

20            MR. STOVALL:  Yeah, what is inadequate is the  
21    timing of it, the fact that you send to a party that  
22    you're seeking to pool a letter saying, Here's your  
23    invitation to come to the OCD and watch them force-pool  
24    your interests.  This is the first time we're going to  
25    give you a written information about this proposal.

1           It is not the content; it is the timing and  
2 the failure to do something prior that concerns me, Mr.  
3 Lopez.

4           This package -- It is my opinion that this  
5 package should have gone out with a -- something  
6 explaining what alternatives Santa Fe was offering Mr.  
7 Donahoe prior to the time you come to the Commission  
8 and say, We have made good-faith effort to negotiate.

9           MR. LOPEZ: Is it the Commission's position  
10 that there needs to be more than one attempt at  
11 correspondence in order to show good-faith effort to --

12           MR. STOVALL: I think it is the Commission's  
13 practice, and historically it has occurred, that the  
14 Commission requires that you at least offer somebody in  
15 writing the opportunity to participate in a well or  
16 otherwise negotiate the disposition, if you will, of  
17 their interest through farmout, sale or operating  
18 agreement, et cetera, without -- before you come to the  
19 Commission and say -- They shouldn't see their first  
20 written piece of paper be a notice of the hearing  
21 before this Commission -- or Division.

22           MR. LOPEZ: And the -- or otherwise negotiate  
23 the seven or eight telephone conversations, this is the  
24 terms of the operating agreement or possibly a farmout  
25 under sworn testimony, doesn't meet that?

1 MR. STOVALL: Well, Mr. Lopez, as you well  
2 know, you've got a parol evidence problem with the  
3 telephone call. Exactly what was offered, what was Mr.  
4 Donahoe referring to?

5 I'm sure Mr. Green in good faith is telling  
6 us what he believes he offered. We don't know what Mr.  
7 Donahoe heard. We don't know the details of the  
8 discussion, exactly what Donahoe said.

9 In other words, Mr. Donahoe really has only  
10 had the opportunity to have some discussions with Mr.  
11 Green and not evaluate an offer.

12 And when you seek to use -- That may be fine  
13 when you reach an agreement with a party orally and  
14 they in fact join the well, as the others did, then  
15 you're not invoking the police power of the State.

16 But once you start to do that, then you've  
17 got to take some extra steps and make sure it's done  
18 properly.

19 MR. LOPEZ: And the fact that Mr. Donahoe was  
20 personally notified, according to Exhibit 2 --

21 MR. STOVALL: You've satisfied the notice  
22 requirement. The problem that I have a difficulty with  
23 is satisfying the statutory threshold of conducting  
24 good-faith negotiations.

25 I think this is the first time -- I know

1 Santa Fe has been here before, and they have -- in  
2 fact, I've seen cases where they have sent out letters  
3 and made offers in writing. There have been other  
4 parties here who have not, and they have faced the same  
5 problems of -- You don't start formal negotiations with  
6 an application to force-pool.

7 I mean, that is my concern. I think it's a  
8 problem. It's certainly not a ruling. And the effect  
9 of it, what has happened in the past, I will tell you,  
10 is, we have continued cases to allow those negotiations  
11 to be conducted. Rather than dismiss or deny an  
12 application, continue the case and give the parties the  
13 opportunity to follow through with those negotiations.

14 EXAMINER STOGNER: I concur with Mr. Stovall,  
15 Mr. Lopez, on this matter. If you have something to  
16 say before I come down with some sort of a ruling at  
17 this point, you may --

18 MR. LOPEZ: I would ask Mr. Green --

19 THE WITNESS: I have a question.

20 EXAMINER STOGNER: Well, I'm asking Mr.  
21 Lopez, what do you want to do in this situation? I  
22 don't think the question is --

23 FURTHER EXAMINATION

24 BY MR. LOPEZ:

25 Q. Well, what I'd like to ask Mr. Green is

1 whether he believes that further negotiations with  
2 either of these parties is going to bear any fruit.

3 A. I don't believe so. These negotiations have  
4 been going on since April 14th. They've had official  
5 notice, they have had operating agreements, they have  
6 had cost estimates for at least five weeks.

7 Should they have -- Should we give them six  
8 months or three months? Is five weeks not enough time?

9 MR. LOPEZ: Let's do this, Mr. Examiner: I'd  
10 request, then, that we continue this to the next --

11 MR. STOVALL: Mr. Lopez, before you do this,  
12 would you like to visit with your clients outside the  
13 hearing room before -- and we can move on to another  
14 case and then give you a chance to come back in and  
15 make a final determin- -- You're on the spot at this  
16 point of having to make a decision on the record, and I  
17 think you need an opportunity to --

18 MR. LOPEZ: Right, I appreciate that. Thank  
19 you.

20 MR. STOVALL: So Mr. Examiner, I recommend  
21 that we continue this until a later point in today's  
22 hearing and let Mr. Lopez consult with his clients and  
23 make a decision.

24 EXAMINER STOGNER: Okay, at this point I've  
25 noticed that the next case is another Santa Fe Energy.

1 Are you a party to that and the other witnesses?

2 MR. LOPEZ: Mr. Kulseth will have the next  
3 case. I would like to finish this case.

4 I have one more witness with the geology, but  
5 I'll let Mr. Kulseth go forward with this case, if I  
6 could just have an answer for you after that.

7 And if it is agreeable with my client to  
8 continue the hearing, I would like the indulgence of  
9 the Examiner to finish the case with the second witness  
10 and then come back at a later date, if that's the  
11 client's desire, with only one witness to show what  
12 further negotiations took place if we aren't able to  
13 reach agreement.

14 EXAMINER STOGNER: That might be a suitable  
15 situation.

16 MR. STOVALL: Let me offer one other  
17 alternative, Mr. Lopez, to discuss with your clients,  
18 and it is something that has been done in the past.

19 The true concern -- The concern is not the  
20 joinder of the interests so much as it is the potential  
21 for a penalty assessment.

22 FURTHER EXAMINATION

23 BY MR. STOVALL:

24 Q. Mr. Green, are you under any sort of drilling  
25 deadline with this well?

1           A.    Yes, we have a lease that will expire the end  
2 of March, 1994, in about six months.

3           Q.    The end of March, okay.

4                    So you're not -- It's not like you'd better  
5 get something done here in a hurry?

6                    You have done that part, you are well in  
7 advance, and then you --

8           A.    We are well in advance.

9                    This is also a well that we have budgeted  
10 that we would like to drill this year.

11           MR. STOVALL: Well, the other option would be  
12 to forego a penalty except as perhaps would cover a  
13 cost-of-money type of factor.

14                    I mean, that's not without -- That would be a  
15 consideration as you discuss it with your client --

16           MR. LOPEZ: Thank you.

17           MR. STOVALL: -- because that's where the  
18 real problem, in my opinion, with the State police  
19 power is in the forfeiture of interest through a  
20 penalty, exacerbates that.

21           EXAMINER STOGNER: With that, let's take --  
22 not a recess, but we will continue Case 10,767 till a  
23 later date in today's hearing.

24                    (Thereupon, a recess was taken at 8:58 a.m.)

25                    (The following proceedings had at 9:35 a.m.)

1 EXAMINER STOGNER: With that, let's recall  
2 Case Number 10,767. Are we back on the record, Mr.  
3 Lopez?

4 MR. LOPEZ: Yes, thank you, Mr. Examiner.  
5 I'd like to now call Mr. Davis.

6 MR. STOVALL: Before we go into the  
7 geologic -- You can go ahead and take the stand.  
8 Before we go into the geology, let's summarize briefly  
9 what the response is to the land issues with which  
10 we're concerned.

11 If you would just set forth your proposal,  
12 Mr. Lopez?

13 MR. LOPEZ: Yes. During the break, Mr.  
14 Examiner, I had the opportunity to consult with our  
15 client, and it is our request that this case be  
16 continued to the next examiner hearing or such time as  
17 the Examiner in his discretion determines best.

18 Immediately following today's hearing, we  
19 will notify the nonconsenting interest owners that the  
20 case has been continued to whatever date is set, and we  
21 again would urge that they either join in the operating  
22 agreement and spell out specifically the terms under  
23 which we would request they join, or that they farm out  
24 and also provide specifically those terms and then, at  
25 the continued hearing, bring back a witness to testify

1 as to what those efforts, negotiations -- what they  
2 resulted in, and go from there.

3 MR. STOVALL: Mr. Examiner, I believe that  
4 would satisfy the requirements here.

5 EXAMINER STOGNER: Okay, Mr. Lopez, if you  
6 would provide us copies along this detail between now  
7 and the August 12th hearing, so we can evaluate this  
8 ongoing matter, as Mr. Stovall said, that should  
9 hopefully satisfy the requirements on that part of it.

10 MR. STOVALL: Well, I think, Mr. Examiner, he  
11 said he would bring back the land witness today to  
12 testify as to what steps will be taken between now and  
13 the 12th; is that right?

14 MR. LOPEZ: And introduce the extra exhibits,  
15 right, the correspondence that we submit and any  
16 responses or -- Maybe the battle will be resolved, and  
17 we can ask for it to be dismissed. That would be  
18 wonderful.

19 So that if that doesn't happen, we'll be  
20 back.

21 EXAMINER STOGNER: Okay.

22 In that case, this case will be continued  
23 till August 12, but we'll hear your geology witness  
24 today.

25 MR. LOPEZ: Thank you.

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GENE DAVIS,

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

DIRECT EXAMINATION

BY MR. LOPEZ:

Q. Would you please state your name and where you reside?

A. My name is Gene Davis. I reside in Midland, Texas.

Q. And by whom are you employed and in what capacity?

A. I'm employed by Santa Fe Energy Resources. I'm a geologist.

Q. Have you previously testified before the Commission and had your qualifications as an expert geologist accepted as a matter of record?

A. Yes, I have.

Q. Are you familiar with the Application of Santa Fe in this case?

A. Yes, I am.

(Off the record)

Q. (By Mr. Lopez) Mr. Davis, I would refer you to what's been marked Exhibit Number 7 and ask you to identify it -- or I guess it's Exhibit Number 6.

A. Number 6 is an isopach map of the

1 Cisco/Canyon Dolomite.

2 Q. You might want to talk about this in  
3 reference with Exhibit Number 7 as well, so I would  
4 refer you to that as well.

5 A. Exhibit Number 7 is a cross-sectional view of  
6 two type logs on the Saginaw Prospect area.

7 Q. Would you explain what you intend to show  
8 with these two exhibits?

9 A. If I can also introduce Exhibit 8, it would  
10 probably be helpful as well.

11 Q. Okay, we can also refer to Exhibit Number 8.

12 A. Exhibit Number 8 is a structure map on top of  
13 the Cisco/Canyon Dolomite in the area of the Saginaw  
14 Prospect.

15 If I can just talk about the exhibits, the  
16 two smaller exhibits, Number 6 and Number 8 first, they  
17 both -- As to color, yellow is acreage that is owned by  
18 -- or is controlled by Santa Fe Energy, and the red  
19 stars, six-point stars, are wells that either are  
20 producing or were producing in the Indian Basin gas  
21 field.

22 There is a green triangle on the south end of  
23 the cross-section, and that is the Yates Petroleum  
24 Company Hickory "ALV" Fed Number 1 well, which is the  
25 discovery well for the Indian Basin Upper Penn

1 associated oil field.

2 Basically the prospect, the Saginaw Prospect,  
3 is located on the south flank of the Indian Basin gas  
4 field, or southeast flank of the Indian Basin gas  
5 field.

6 It is our intention here to re-enter a well  
7 in Section 5, the Discovery Operating Walt Canyon "5"  
8 Fed Number 1 well, re-naming it the Nagooltee Peak "5"  
9 Fed Number 1, and deepen the well from its existing TD  
10 of 8012 feet to a -- deepening to a depth of 8600 feet.

11 We are basically going to re-enter the well  
12 in search -- looking at what would be the Upper Penn  
13 associated reservoir that is being produced in the  
14 Hickory "ALV" Fed Number 1 well by Yates.

15 Basically, our regional work in the area  
16 suggests that the Indian Basin gas field is the updip  
17 expression of a very large and complex oil and gas  
18 reservoir.

19 The Indian Basin field is productive of gas  
20 and condensate, and in later years it's been productive  
21 also of water as well.

22 And lying down beneath that gas field is  
23 another reservoir that is being exploited on the north  
24 end of the Indian Basin gas field in the Dagger Draw  
25 North and South fields, which are Upper Penn associated

1 oil fields, where there's gas, oil and water produced.

2 On the south flank of the Indian Basin gas  
3 field, it's only been recently -- has this lower  
4 reservoir been looked at. And again, that is the Yates  
5 Pet Hickory "ALV" Fed Number 1 well in Section 17 of  
6 Township 22 South, Range 24 East, has come in -- has  
7 been made a producer from that zone, and a new field  
8 has been established there.

9 We are going to attempt to drill -- to deepen  
10 that well in Section 5 and look at that particular  
11 reservoir.

12 If you can look at the structure map, you'll  
13 note that the Hickory well encountered the top of the  
14 Cisco/Canyon Dolomite at a subsea depth of minus 3941.

15 The Discovery Operating well in Section 5,  
16 which we plan to re-enter, encountered the top of the  
17 dolomite at minus 3634.

18 Referring to the type log cross-section,  
19 Exhibit Number 7, you can see that the Discovery well  
20 TD'd at a depth that would allow it to test only the  
21 Indian Basin gas reservoir, which extends, in our  
22 opinion, down to about a depth of minus 3754.

23 Between a depth of minus 3754 and a depth of  
24 minus 4057 subsea, we believe there is the other  
25 reservoir, the other Upper Penn associated reservoir,

1 which is productive of gas, oil and/or water.

2           If you look at the isopach map, you will note  
3 that the Yates well in Section 17, the Hickory well,  
4 encountered 118 feet of dolomite and there down towards  
5 the southern edge of the reservoir, limits itself.

6           The well that we propose to re-enter in  
7 Section 5 encountered a little greater than 60 feet of  
8 dolomite. And if you'll also note that the two  
9 surrounding wells to it in Section 5 and also in the  
10 north half of Section 8 encountered greater than 400  
11 feet of dolomite.

12           So we believe that by re-entering the  
13 Discovery well, we're going to be able to look at a  
14 fairly substantial thickness of dolomite that is  
15 basically untested in Section 5.

16           Q. Do you have an opinion as to the amount of  
17 risk penalty that should be assessed against any  
18 nonconsenting interest owners in the unit?

19           A. First, there is the re-entry risk. We're re-  
20 entering a well that was drilled in 1984. It was  
21 obviously plugged and abandoned. We're going to have  
22 to re-enter that wellbore, and we're not sure what kind  
23 of shape it's in but, you know, obviously we hope that  
24 we will be able to go in there, re-enter and deepen the  
25 well with little trouble, but there will be some risk

1 involved with that.

2           Secondly, there is obviously the risk that we  
3 could drill into the reservoir and find it to be tight.  
4 If you'll refer to some of the wells in the Dagger Draw  
5 Field, you'll find that there are zones within that  
6 reservoir that are tight and nonproductive or less  
7 productive than other wells in the area.

8           And finally, it's possible that we might not  
9 encounter a commercial reservoir. The Yates well in  
10 Section 17, the Hickory "ALV" Fed Number 1, while it  
11 has been designated as a Discovery well for a field, in  
12 a hearing here, we were given basically one day's worth  
13 of production data on that well, and that well was  
14 given as having production of 408 barrels a day of oil,  
15 but also having 1197 barrels of water.

16           So this reservoir we know is going to contain  
17 a significant amount of water, and we're not sure  
18 exactly how much water we'll produce in a well that we  
19 deepen and try to complete in Section 5. It could be  
20 so much water involved and so little hydrocarbon  
21 involved that we could end up having a well that's  
22 noncommercial.

23           So there is that risk as well. Hopefully  
24 that does not exist. That may not be the case, but  
25 it's possible that it will be.



1 8 --

2 A. Yes, sir.

3 Q. -- just with respect to -- your -- I may have  
4 missed in your testimony, but your legend indicates  
5 that the proposed location is the red square?

6 A. That is a proposed location in Section 8, and  
7 there is a -- the other well that we're seeking to re-  
8 enter in Section 5 is the well that would be in the  
9 southeast quarter section that has the "TL" next to it  
10 and has a hexagon around it that is not colored.

11 And I apologize for that oversight.

12 Q. That was the well that was in Case 10,768,  
13 but apparently has been dismissed?

14 A. That's correct.

15 Q. Okay. Just so that the record reflects that  
16 we're really not talking about the subject well.

17 A. We're not talking about the Old Ranch Knoll  
18 "8" Number 2 well, that's correct.

19 EXAMINATION

20 BY EXAMINER STOGNER:

21 Q. Since we are talking about Section 5, I think  
22 it would be interesting to kind of go to the  
23 chronological order as far as the upper basin -- I'm  
24 sorry, the Indian Basin Upper Pennsylvanian Pool --  
25 which is currently spaced on 640 acres out there in

1 this area.

2 A. That's correct, sir.

3 Q. Which was the first well in this particular  
4 proration unit, in Section 5?

5 A. It would be the John H. Trigg Azotea Mesa Fed  
6 Number 1-8 well, which is the well that was drilled in  
7 the northwest quarter section, has a red star around it  
8 with a number, minus 3471, associated with it on the  
9 structure map.

10 Q. Do you know when that was produced?

11 A. It was completed in August of 1965 as a  
12 producer from the Indian Basin Gas Pool.

13 Q. Do you know when it stopped producing?

14 A. I believe it was 1984 to 1986. I'd have to  
15 get you the exact date, but it is in that time frame.

16 Q. Okay, and then another well was attempted  
17 or --

18 A. There was a well that was drilled by Steve  
19 Sell in Section 5 that is adjacent to that location.  
20 That is his -- Number 5 is the Band Aid Federal well.  
21 And that well was drilled down to just -- into the very  
22 top of the Cisco/Canyon Dolomite. They did make a  
23 completion attempt and were unsuccessful

24 And that well was drilled -- If I could look  
25 at my notes, I can give you the exact date when that

1 well was drilled.

2 Q. You could do that, but it don't have to be  
3 exact.

4 A. I would say that well was drilled about in  
5 1989 to 1990.

6 Q. That's fine. Does Steve Sell still have that  
7 well, or has Santa Fe taken over operations?

8 A. I believe that that well was -- I believe  
9 that well was actually plugged and abandoned, but I'd  
10 have to look at my records, and we actually -- would  
11 actually have the ownership of the section itself.

12 Q. Okay, any discrepancy would show up --

13 A. I'm not sure if the well was actually P-and-  
14 A'd or P-and-A'd.

15 Q. Okay. Any such ownership discrepancy would  
16 be in our records and such.

17 A. Yes.

18 Q. Now, when you talk about the Discovery well,  
19 you're not talking about the discovery well for the  
20 proposed, but --

21 A. No.

22 Q. -- the Discovery Operating, Inc., the  
23 proposed well at this point, right?

24 A. That's correct, it's Discovery Operating,  
25 Incorporated.

1           Q.    And that zone did test the Indian Basin Upper  
2 Penn also?

3           A.    Yes, it did.  That well tested -- the top --  
4 They perforated between an interval of minus -- of 7938  
5 to 7976, which is in the very top.  If you look at the  
6 cross-section, Exhibit 7, you'll notice that there are  
7 perforations shown right below the top of the  
8 Cisco/Canyon Dolomite in that well.

9                    They acidized the well.  It flowed 149,000  
10 cubic feet of gas per day and 300 barrels of water on a  
11 32-64 inch choke, and then they plugged and abandoned  
12 well.

13                   At that time, no one was considering the  
14 potential of the lower portion of the Dolomite in this  
15 portion of the Indian Basin reservoir.

16           Q.    Is it location that makes this particular  
17 well in Section 5 -- just Section 5 alone -- that makes  
18 this well more attractive for such recompletion as  
19 opposed to the other two?

20           A.    Part of it is the fact that it is -- you  
21 know, we do think we're going to encounter at least, I  
22 would say, 300 feet of potential pay in that well.

23                   And also it's ease of access.  This is an  
24 extremely rugged area topographically, and that well  
25 will serve the purpose of being easily accessible and a

1 well that we can actually re-enter it at a reasonable  
2 cost. And the cost, of course, has something to do  
3 with it as well. We're trying to keep our costs down  
4 as much as possible in testing this idea.

5 The well is fairly new, so it should be okay  
6 to re-enter.

7 EXAMINER STOGNER: Are there any other  
8 questions of Mr. Davis?

9 FURTHER EXAMINATION

10 BY MR. LOPEZ:

11 Q. In your opinion, would the granting of the  
12 Application be in the interests of prevention of waste  
13 and protection of correlative rights?

14 A. Yes, it would be.

15 MR. LOPEZ: That concludes my questioning.

16 FURTHER EXAMINATION

17 BY MR. STOVALL:

18 Q. I just have one, just to make sure I know  
19 where we're talking about.

20 The Yates Hickory well that's on your map, is  
21 that the well that was the subject of a hearing here  
22 within the last month, regarding the creation of the  
23 associated pool?

24 A. That's correct, it is.

25 Q. Okay, so we are on the southeast corner of

1 the Indian Basin area; is that correct?

2 A. That's correct, southeast corner on the  
3 flank.

4 MR. STOVALL: Okay, that's it.

5 MR. LOPEZ: Mr. Examiner --

6 EXAMINER STOGNER: Yes, sir?

7 MR. LOPEZ: -- I'm not sure that I introduced  
8 Exhibits 1 through 4.

9 I have the affidavit now properly notarized  
10 with the exhibit attached, but now that we have a  
11 different game plan I probably need to --

12 MR. STOVALL: I think you can go ahead and  
13 introduce that, Mr. Lopez, to just show that you gave  
14 -- I don't think notice was the issue, so you might as  
15 well submit the negotiation.

16 EXAMINER STOGNER: And this is Exhibit 5; is  
17 that correct?

18 MR. LOPEZ: Exhibit 5.

19 EXAMINER STOGNER: Exhibit 5 definitely will  
20 be admitted into evidence at this time.

21 MR. LOPEZ: And I think I offered Exhibits 1  
22 through 4, but if I didn't I'd like to offer them  
23 again.

24 EXAMINER STOGNER: Exhibits 1 through 4 will  
25 be admitted into evidence at this time also.





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STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
CASE 10,767

EXAMINER HEARING

IN THE MATTER OF:

Application of Santa Fe Energy Operating Partners,  
L.P., for compulsory pooling, Eddy County, New  
Mexico

**ORIGINAL**

TRANSCRIPT OF PROCEEDINGS

BEFORE: DAVID R. CATANACH, EXAMINER

17 1993

STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

August 12, 1993

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

FOR THE DIVISION:

ROBERT G. STOVALL  
Attorney at Law  
Legal Counsel to the Division  
State Land Office Building  
Santa Fe, New Mexico 87504

FOR THE APPLICANT:

HINKLE, COX, EATON, COFFIELD & HENSLEY  
Attorneys at Law  
By: JAMES G. BRUCE  
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P.O. Box 2068  
Santa Fe, New Mexico 87504-2068

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I N D E X

Page Number

Appearances

2

GARY GREEN

Direct Examination by Mr. Bruce

5

Examination by Examiner Catanach

10

Certificate of Reporter

12

\* \* \*

E X H I B I T S

APPLICANT'S EXHIBITS:

Exhibit 1

7

Exhibit 2

7

\* \* \*

1           WHEREUPON, the following proceedings were had  
2 at 9:59 a.m.:

3           EXAMINER CATANACH: At this time we'll call  
4 Case 10,767, which is the Application of Santa Fe  
5 Energy Operating Partners, L.P., for compulsory  
6 pooling, Eddy County, New Mexico.

7           Are there appearances in this case?

8           MR. BRUCE: Mr. Examiner, James Bruce from  
9 the Hinkle law firm in Santa Fe, representing the  
10 Applicant.

11           I have one witness to be sworn.

12           EXAMINER CATANACH: Any other appearances?

13           (Thereupon, the witness was sworn.)

14           MR. BRUCE: Mr. Examiner, for your  
15 information, this case was originally set for the July  
16 15th hearing. It was continued to July 29th, at which  
17 time Mr. Green testified and also a geological witness  
18 testified and presented all his geology.

19           I spoke with Mr. Stogner. He said that no  
20 more geological testimony was necessary.

21           During the last hearing, Mr. Stovall had  
22 requested that Mr. Green send out an additional  
23 proposal letter to two of the parties being pooled, and  
24 that is the primary reason we're back here today.

25           And in his testimony I'll have Mr. Green

1 recap for you a little bit of the negotiations with the  
2 parties.

3 EXAMINER CATANACH: Okay.

4 GARY GREEN,

5 the witness herein, after having been first duly sworn  
6 upon his oath, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BRUCE:

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

11 A. My name is Gary Green.

12 Q. And where do you reside?

13 A. Midland, Texas.

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

15 A. Santa Fe Energy Resources, as a landman.

16 Q. And have you previously testified before the  
17 Division as a landman and had your credentials accepted  
18 as a matter of record?

19 A. Yes, I have.

20 Q. And are you familiar with the land matters  
21 involved in this case?

22 A. Yes, I am.

23 MR. BRUCE: Mr. Examiner, I would tender Mr.  
24 Green as an expert petroleum landman.

25 EXAMINER CATANACH: Mr. Green is so

1 qualified.

2 Q. (By Mr. Bruce) Mr. Green, let's go over  
3 briefly for Mr. Catanach your negotiations with these  
4 parties.

5 When was your first contact with -- I believe  
6 the only two people who need to be pooled are Joe  
7 Walton and Donahoe Oil and Gas Company; is that  
8 correct?

9 A. That's correct.

10 My first contact was probably the middle of  
11 May, middle part of May, I made initial contact with  
12 the people I could locate, which was Yates Petroleum,  
13 who are also in there in April. I started this in  
14 April and finally tracked these people down and got --  
15 All of the old addresses and stuff were wrong, people  
16 moved around different places.

17 And about the middle of May I finally located  
18 them and started talking to them about the well  
19 proposal in Section 5.

20 Q. And your first contacts were by phone; is  
21 that correct?

22 A. Yes, they were.

23 Q. When was your first written contact?

24 A. First written contact was a letter dated June  
25 22nd, wherein I had notified them of the compulsory

1 hearing and also provided them with an operating  
2 agreement and an AFE.

3 Q. And besides offering them the right to join  
4 in the well, had you previously offered to purchase  
5 their interest?

6 A. Yes, I had.

7 Q. Okay. Now, this hearing was originally set  
8 for July 15th; is that correct?

9 A. That is correct. We asked that the hearing  
10 be continued at that time, in an attempt to negotiate  
11 an agreement between these two parties.

12 Q. Did you ever receive any response from Mr.  
13 Walton or from Donahoe Oil and Gas regarding your offer  
14 to join in or to purchase their interests?

15 A. I had six or seven telephone conversations  
16 with Mr. Donahoe and with Mr. Walton. They seem to not  
17 be willing to make a decision.

18 The main response I get out of Mr. Walton is,  
19 well, he's going to talk to Mr. Donahoe.

20 What I get out of Mr. Donahoe, well, he wants  
21 to talk to Mr. Walton so he can decide what they're  
22 going to do.

23 Q. Are Exhibits 1 and 2 your subsequent proposal  
24 letters to Mr. Walton and to Donahoe Oil and Gas?

25 A. Yes, they are.

1 Q. And just briefly, what do they offer the two  
2 parties?

3 A. Which two letters? Are you talking about the  
4 original Exhibits 1 and 2 or the --

5 Q. The July 30, 1993, letters.

6 A. Okay, I've got them.

7 Q. And both letters are essentially identical?

8 A. They're identical, just different addresses.

9 These letters basically set out what we  
10 previously offered in writing, what we had offered  
11 verbally. There's an offer to join in the well under  
12 an operating agreement for their share of the well,  
13 there is an offer to purchase their interest, there's  
14 an offer to accept a farmout under whatever terms, and  
15 also advising them that we have been requested by the  
16 Commission to make another attempt to come to some sort  
17 of voluntary agreement, and we need to try to get that  
18 done before today's date.

19 Q. And it does notify them again of the August  
20 12th hearing date?

21 A. Yes, it does.

22 Q. And to date they just have not reached a  
23 decision, despite phone calls with them?

24 A. No, they have not. I talked to Mr. Walton on  
25 Friday. I talked to Mr. Donahoe on Monday. I got the

1 same response. They were going to get together and  
2 talk, see if they can make a decision.

3 Q. Now, are there any upcoming lease expiration  
4 dates?

5 A. Yes, there are. Yates Petroleum has a 40-  
6 acre lease inside the 640-acre spacing unit that will  
7 expire at the end of November.

8 Q. And the proposal for this well is a re-entry,  
9 is it not?

10 A. That is correct, it's a re-entry which will  
11 require us to establish production to save that lease.

12 Q. So merely drilling across the end of Yates'  
13 lease term isn't sufficient?

14 A. No, we would not be making any new holes; we  
15 will just be re-entering the well.

16 Q. In your opinion, have you made a good-faith  
17 effort to obtain the voluntary joinder of Mr. Walton  
18 and Donahoe Oil and Gas in the proposed well?

19 A. Yes, I have.

20 Q. In your opinion, is the granting of this  
21 Application in the interests of conservation and the  
22 prevention of waste?

23 A. Yes, it is.

24 Q. And were Exhibits 1 and 2 prepared by you?

25 A. Yes, they were.

1 MR. BRUCE: Mr. Examiner, I tender Santa Fe  
2 Exhibits 1 and 2.

3 EXAMINER CATANACH: Exhibits 1 and 2 will be  
4 admitted as evidence.

5 EXAMINATION

6 BY EXAMINER CATANACH:

7 Q. Mr. Green, under the terms of the Division  
8 Pooling Order, the parties involved will have an  
9 additional 30 days in which to join in the well if they  
10 choose to do so; is that correct?

11 A. Yes, sir, and I have -- Santa Fe is not in a  
12 position to make anyone participate or not  
13 participate -- or participate under a pooling order if  
14 they decide to join.

15 I've told both these parties that, you know,  
16 the operating agreement is there; all you've got to do  
17 is sign it.

18 Q. These two parties have everything they need  
19 to make a decision, and it's just up to them to do it;  
20 is that correct?

21 A. Yes, sir.

22 EXAMINER CATANACH: I don't have anything  
23 else.

24 Anything else, Mr. Bruce?

25 MR. BRUCE: I have nothing further.

1 EXAMINER CATANACH: There being nothing  
2 further, Case 10,767 will be taken under advisement.

3 (Thereupon, these proceedings were concluded  
4 at 10:06 a.m.)

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17 I do hereby certify that the foregoing is  
18 a complete record of the proceedings to  
19 the Examiner hearing of Case No. 10767,  
20 heard by me on August 12 1993.

21 David R. Catanach, Examiner  
22 Oil Conservation Division  
23  
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