

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
21 May 1980

EXAMINER HEARING

IN THE MATTER OF:

Application of Harvey E. Yates Com-) CASE
pany for a unit agreement, Lea County,) 6904
New Mexico.)

BEFORE: Richard L. Stamets

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation
Division:

Ernest L. Padilla, Esq.
Legal Counsel to the Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

SALLY W. BOYD, C.S.R.

Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

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MR. STAMETS: Call next Case 6904.

MR. PADILLA: Application of Harvey E.
Yates Company for a unit agreement, Lea County, New Mexico.

MR. STAMETS: Applicant has requested
this case be continued to the June 4th Examiner hearing,
and it shall be.

(Hearing concluded.)

SALLY W. BOYD, C.S.R.
Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division 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 C.S.R.

SALLY W. BOYD, C.S.R.

Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

I do hereby certify that the foregoing is a true and correct copy of the original as filed in the files of the Oil Conservation Division.
Date 5-21 6904 80

Richard P. Clement

OIL CONSERVATION DIVISION

STATE OF NEW MEXICO
 ENERGY AND MINERALS DEPARTMENT
 OIL CONSERVATION DIVISION
 STATE LAND OFFICE BLDG.
 SANTA FE, NEW MEXICO
 4 June 1980

EXAMINER HEARING

 IN THE MATTER OF:)

Application of Harvey E. Yates Company)
 for an unorthodox gas well location,)
 Lea County, New Mexico.)

CASE
 6903

and)

Application of Harvey E. Yates Company)
 for a unit agreement, Lea County, New)
 Mexico.)

CASE
 6904

and)

Application of Harvey E. Yates Company)
 for compulsory pooling, Lea County,)
 New Mexico.)

CASE
 6921

 BEFORE: Daniel S. Nutter

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation
 Division:

Ernest L. Padilla, Esq.
 Legal Counsel to the Division
 State Land Office Bldg.
 Santa Fe, New Mexico 87501

For the Applicant:

Robert H. Strand, Esq.
Harvey E. Yates Company
Roswell, New Mexico

I N D E X

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MR. NUTTER: Call Case Number 6903.

MR. PADILLA: Application of Harvey E. Yates Company for an unorthodox gas well location, Lea County, New Mexico.

MR. STRAND: Mr. Examiner, Robert H. Strand, attorney for Harvey E. Yates Company, appearing on behalf of the applicant.

Mr. Examiner, I'd like to ask leave to combine testimony for Cases 6903, 6904, and 6921.

MR. NUTTER: We will call next Case Number 6904.

MR. PADILLA: Application of Harvey E. Yates Company for a unit agreement, Lea County, New Mexico.

MR. NUTTER: And Case Number 6921.

MR. PADILLA: Application of Harvey E. Yates Company for compulsory pooling, Lea County, New Mexico.

MR. NUTTER: Cases Numbers 6903, 6904, and 6921, will be consolidated for purposes of testimony and exhibits.

Proceed.

MR. STRAND: Mr. Examiner, before we proceed with testimony, I noticed this morning that we have

a problem with the advertisement on one of these cases and with the application as well. These three cases involve the unit that the applicant is attempting to put together in Lea County, and the initial well to be drilled on that unit, we are asking for an unorthodox location in Case 6903, 660 feet from the south line and 990 feet from the east line of Section 33, Township 15 South, Range 36 East.

However, in Case 6921, the compulsory pooling case, the unorthodox location is mistakenly stated there as 660 feet from the south and east lines, and I would suggest that we be allowed to put on the testimony today for these cases and if necessary, the Case 6921 be re-advertised.

MR. NUTTER: Okay. The only error in the advertisement of the three cases is in the well location as described in 6921.

MR. STRAND: Yes, that's correct.

MR. NUTTER: And it should be 660 from the south and 990 from the east.

MR. STRAND: Yes, that's correct.

MR. NUTTER: So we will go ahead and hear the cases and we'll have to withhold any order in Case Number 6921 until after June the 25th. We'll re-advertise the case then for the hearing on June 25th and recall it at

that time. You may present your testimony today, however.

MR. STRAND: Thank you, Mr. Examiner.

We have two witnesses that need to be sworn.

(Witnesses sworn.)

ROSEMARY T. AVERY

being called as a witness and having been duly sworn upon her oath, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. STRAND:

Q Will you state your full name, please?

A Rosemary T. Avery.

Q Mrs. Avery, where are you employed?

A I'm employed for Harvey E. Yates Company of Roswell, New Mexico.

Q What is the nature of your employment?

A I'm a landman.

Q Mrs. Avery, are you familiar with the applications in Cases Numbers 6903, 6904, and 6921?

A Yes, I am.

Q Mrs. Avery, referring to Exhibit Number One, would you briefly describe that exhibit?

A This is a land plat showing the unit -- the proposed unit outline in red and the proposed proration unit outline in blue for 320-acre spacing, and the initial well in red.

Q Mrs. Avery, that plat shows the initial location of the well as 660 feet from the east line -- or 990 feet from the east line and 660 feet from the south line, is that correct?

A Yes, sir, it certainly is.

Q And is the name that we propose for this unit the McDonald Unit?

A Yes, it is.

Q Mrs. Avery, what is the total acreage within the proposed unit boundary?

A 1440.22 acres, which consists of the south half of Section 33, the southwest quarter of Section 4, in Township 13 South, Range 36 East, plus the west half of Section 3, and all of Section 4, in Township 14 South, Range 36 East, in Lea County, New Mexico.

Q Mrs. Avery, going back to your description of the lands in 13 South, 36 East, that's Section 34 in the southwest quarter.

A I'm sorry.

Q What is the mineral ownership under this

proposed unit?

A It's 100 percent fee land.

MR. STRAND: Mr. Examiner, we have intended to introduce as Exhibit Number Two the proposed form of unit agreement that will be circulated to the interest owners under this proposed unit. A copy of that is attached to the application; however, we neglected to bring the three copies of the unit agreement today, and I would ask leave to present those at a later date.

MR. NUTTER: We have the unit agreement attached to the application. That should be sufficient. There hasn't been a change in it since the --

MR. STRAND: No, no.

MR. NUTTER: Since it was drawn up here, has there?

MR. STRAND: No.

MR. NUTTER: Well, it's really not all filled in. It's got a bunch of blanks.

Q Mrs. Avery, with reference to the south half of Section 33, Township 13 South, Range 36 East, are there any working interest owners that have not agreed to pool their interests under this particular 320-acre spacing unit?

A Yes, there are. Richard L. Moore,

Michael H. Moore, and Stephen F. Moore, who together own the unleased mineral interest under the northeast quarter of the northwest quarter of the southeast quarter of Section 33, have not agreed to pool their interests and join the unit.

Q Mrs. Avery, do these parties you've mentioned own the entire mineral interest under that 10-acre tract?

A Yes, they do.

Q Does the applicant own leasehold interests within the south half of Section 33?

A Yes, we do.

Q Have all other working interest owners agreed at least verbally to pool their interests under this half section?

A Yes, they have.

MR. NUTTER: Okay, now Mrs. Avery, looking at your Exhibit One here and also looking at the application, it looks like the Moores, there were three of them, Richard, Michael, and Stephen?

A Yes, sir.

MR. NUTTER: And it looks like they own 10 acres being in the northeast of the northwest of the southeast. So that would be a little 10-acre square that's

on your Exhibit Number One here.

A Yes, sir.

MR. NUTTER: And it would be the second one to the right of the word -- of the number 33 on that exhibit, is that correct?

A Let's see. Yes, that is correct.

MR. NUTTER: And that's the only un-committed working interest --

A Yes, it is.

MR. NUTTER: -- in the entire -- now do they own these lands in fee?

A They own the mineral estate.

Q So they would also be a royalty owner in any pooling action here.

A Yes, sir.

MR. NUTTER: Okay. How about all the rest of the royalty ownership?

A It's all under lease.

MR. NUTTER: Well, is it committed to the unitization either by pooling clause in the lease or by commitment of the royalty.

A Yes, sir.

MR. NUTTER: So the only outstanding interest we have are the Moores here in this 10-acre tract?

A Yes, sir.

MR. NUTTER: Okay.

Q Mrs. Avery, referring to Exhibit Number Three, will you describe that?

A Exhibit Three consists of two letters, one dated March the 31st, 1980, wherein we invited the Messrs. Moore to join the unit or to give us a 1-year lease, and we had no response at all to that letter.

The second letter was dated May the 27th, 1980, and we informed them of our plans to seek compulsory pooling and sent them copies of the application for compulsory pooling.

Q Mrs. Avery, have you been in contact with Mr. Richard Moore within the past few days concerning this matter?

A Yes, I have. Mr. Richard Moore speaks for the entire group and he called me on May the 28th and wanted to discuss this situation but he did not have anything reasonable to propose. And then I called him again on June the 2nd to see if he would be reasonable and we could not reach any kind of reasonable agreement.

Q But he was provided with a copy of the compulsory pooling application?

A Oh, yes, yes, he was. I had talked to

him earlier on the telephone, too, as long ago as a year ago, when I was acquiring oil and gas leases in that area.

Q Mrs. Avery, does Harvey E. Yates, as applicant, request that it be designated as operator of this unit?

A Yes.

Q And does the proposed unit agreement, which will be Exhibit Number Two, designate Harvey E. Yates Company as the operator?

A Yes, it does.

Q Mrs. Avery, were Exhibits One through Three prepared or compiled by you or to your knowledge to they come from files of the applicant?

A Yes, they do.

MR. STRAND: I have no further questions of Mrs. Avery at this time.

MR. HUTTER: Are there any questions of Mrs. Avery? She may be excused.

RANDOLPH C. SMITH

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

DIRECT EXAMINATION

BY MR. STRAND:

Q Would you state your full name, please?

A Randolph C. Smith.

Q Mr. Smith, what is your occupation and by whom are you employed?

A I am an exploration geologist for Harvey E. Yates Company in Midland, Texas.

Q Have you testified before the Division in the past and are your credentials a matter of record?

A Yes, they are.

MR. STRAND: Mr. Examiner, we tender Mr. Smith as an expert witness.

MR. NUTTER: Mr. Smith is qualified.

Q Mr. Smith, are you familiar with the applications that have been previously described in Cases 6903, 6904, and 6921?

A Yes, I am.

Q Mr. Smith, referring to what we've marked as Exhibit Four-A, would you please explain that exhibit?

A Yes, I will. Exhibit Number Four-A is a structure map on top of the Pennsylvanian with the unit outline and the proposed well location marked with an arrow.

Q Referring to Exhibit Four-B, would you

please explain that?

A Exhibit Four-B is a structure map in the Austin area on top of the Mississippian-Austin structure. Also, the well, proposed well location is indicated with an arrow.

Q Mr. Smith, would you state briefly the objective formation of the well to be drilled at the location you've testified to?

A Yes. The recommended location is for a well to go to the Devonian approximately at a depth of 14,700 feet, located 660 from the south, 990 from the east, Section 33, 13 South, 36 East.

The purpose of this location in this proposed well is based on Exhibit Number Four-A, Pennsylvanian structure map, primarily because of the dense control of this horizon, and it is suggested that this tight feature in the Pennsylvanian is indicative of a deeper feature at the Devonian depth.

Q Mr. Smith, is this a Morrow prospect?

A Yes, sir, it is.

Q If that is the case, then the proration unit to be assigned to a producing well from the Devonian would be a 40-acre proration unit, is that correct?

A That's correct.

Q And would the location that we have discussed previously be an orthodox location for that Devonian well?

A Yes, it would.

Q Mr. Smith, are there any secondary objectives, particularly that would be relevant to a 320-acre gas proration unit?

A Yes, sir, as it is possible that we may encounter equivalent Atoka -- or excuse me, possibly Atoka Sand zone or Mississippian-Austin gas zone up the section from the Devonian, and this would be classified under a 320 proration unit.

Q Mr. Smith, then the basic purpose for the application for the unorthodox location in the Wolfcamp through Mississippian and the compulsory pooling application is in the event that we should complete a gas well up the hole?

A Yes.

Q Mr. Smith, I refer you to Exhibit Number Five. Would you please describe that exhibit?

A Exhibit Number Five is an AFE stating a producing well cost for this proposed Devonian test of \$979,300, being the producing well cost; the dry hole cost being \$645,100.

Q What is the proposed depth of this well?

A 14,700 feet.

Q Mr. Smith, in your opinion as a geologist, does drilling of a well to this depth or to the depth of the Wolfcamp through Mississippian formations present substantial risk to the operator?

A Yes, it does.

Q Mr. Smith, the Division under the compulsory pooling statute has authority to allow recovery of costs from nonconsenting interest owners, plus a reasonable penalty for risk, up to 200 percent of the costs of drilling and supervision.

In your opinion what would be a reasonable penalty for risk for drilling this well?

A 200 percent.

Q Mr. Smith, to your knowledge, have there been other operating agreements covering similar wells in this area where the nonconsent penalties which the parties have agreed to have been as high as 500 percent?

A Yes, I am, and there has been.

Q Has Harvey E. Yates Company been a party to that type of operating agreement?

A Yes, they have.

Q Mr. Smith, in your opinion will approval

of the applications in Cases 6903, 6904, and 6921 maximize the production of unitized substances, prevent the drilling of unnecessary wells, and otherwise promote conservation, prevent waste, and protect correlative rights?

A Yes, sir, it will.

Q Mr. Smith, were Exhibits Four-A, Four-B, and Five prepared by you or under your supervision, or to your knowledge were they prepared by other employees of the applicant?

A Yes, sir, they were.

MR. STRAND: Mr. Examiner, I would move the admission of Exhibits One, Three, Four-A, Four-B, Five, and Exhibit Two when you receive it.

MR. NUTTER: Exhibits Numbers One, Three, Four-A, Four-B, and Five will be admitted in evidence.

You will mail in Exhibit Number Two to us, correct?

MR. STRAND: Yes, sir.

MR. NUTTER: And it will be similar to the copy of the unit agreement as filed with the application except the blanks will be filled in.

MR. STRAND: That's correct.

MR. NUTTER: And it will call for drilling of a well to 14,700 or depth sufficient to test the Devonian,

is that it?

MR. STRAND: Yes, that's correct.

MR. NUTTER: Are there any questions of Mr. Smith?

Well now, Mr. Smith, we're talking in Case 6921 about the pooling of the south half. Now, we'd be pooling the interests down to the Mississippian, but you'd be going on down to test the Devonian, and this is going to present a rather complicated accounting procedure, I would imagine, if you end up with a 40-acre Devonian well, and pool 320 to drill to the Mississippian. Now will that be handled, or can you answer that, Mr. Strand?

MR. STRAND: Mr. Examiner, I would assume the costs would have to be prorated down to the base of the Mississippian.

MR. NUTTER: On the basis of 320 acres?

MR. STRAND: Yes. I might state that we will still attempt to secure the joinder of Mr. Moore in this unit, or at least in a pooling agreement covering the south half of Section 33 voluntarily. We hope we don't have to get to the point of going through this.

MR. NUTTER: It would be nice if a working interest operating agreement could be made up to share in the Devonian venture as well, even though it's not dedicated.

MR. STRAND: Mr. Examiner, we have not prepared formally an operating agreement for this unit at the present time, due to the fact that it's extremely complicated because of numerous depth segregations under various leases, and we're still in the process of negotiating that, but it is certainly our objective to get everyone to sign at least that operating agreement.

MR. NUTTER: I see. Are there any further questions of Mr. Smith? He may be excused.

Do you have anything further, Mr. Strand?

MR. STRAND: Nothing further, Mr. Examiner.

MR. NUTTER: Does anyone have anything to offer in Cases 6903, 6904, 6921?

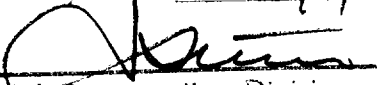
We'll take the cases under --- Numbers 6903 and 6904 under advisement, and we will continue Case Number 6921 to the Examiner Hearing scheduled to be held at this same place at 9:00 o'clock a. m. June 25th, and it will be readvertised to correct the well location.

(Hearing concluded.)

C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division 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.

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examination of Case No. 6903504-6921
heard by me on 6/4 19 80.


_____, Examiner
Oil Conservation Division