

BEFORE THE OIL & GAS COMMISSION

LAWRENCE & SHALYNE FOX,

Appellants,

-vs-

DIVISION OF MINERAL RESOURCES
MANAGEMENT,

Appellee,

and

EVERFLOW EASTERN PARTNERS, L.P.,

Intervenor.

Appeal No. 811

Review of Chief's Order 2008-91
(Everflow Eastern Partners, L.P.)

FINDINGS, CONCLUSIONS AND ORDER OF THE COMMISSION

Appearances: Lawrence & Shalyne Fox, Appellants *pro se*; Mark G. Bonaventura, Assistant Attorney General, Counsel for Appellee Division of Mineral Resources Management; John K. Keller, Michael J. Settineri, Counsel for Intervenor Everflow Eastern Partners, L.P.

BACKGROUND

This matter came before the Oil & Gas Commission upon appeal by Lawrence & Shalyne Fox from Chief's Order 2008-91. Through Order 2008-91, the Chief of the Division of Mineral Resources Management [the "Division"] **approved** an application for mandatory pooling, associated with the drilling of a well to be known as the Joseph Unit #1D Well. Mr. & Mrs. Fox reside on property, which is affected by this mandatory pooling order. Everflow Eastern Partners, L.P. ["Everflow Eastern"] applied for mandatory pooling and intends to obtain a permit to drill and operate the Joseph Unit #1D Well.

Mr. & Mrs. Fox filed their appeal of Chief's Order 2008-91 with the Commission on December 8, 2008. On January 6, 2009, Everflow Eastern moved for intervention into this action. On January 29, 2009, the Commission **GRANTED** Everflow Eastern's request for intervention, and Everflow Eastern has participated in this appeal with full-party status. Everflow Eastern's position is adverse to the Foxes' position.

On April 24, 2009, this cause came on for hearing before three members of the Oil & Gas Commission. Commission member Howard Petricoff recused himself from this matter, and did not participate. At hearing, the parties presented evidence and examined witnesses appearing for and against them.

ISSUE

The issue presented by this appeal is: **Whether the Chief acted lawfully and reasonably in approving Everflow Eastern's application for mandatory pooling for the well to be known as the Joseph Unit #1D Well.**

THE LAW

1. Pursuant to O.R.C. §1509.36, the Commission will affirm the Division Chief if the Commission finds that the order appealed is lawful and reasonable.

2. O.R.C. §1509.24 provides:

The chief of the division of mineral resources management, with the approval of the technical advisory council on oil and gas . . . may adopt, amend, or rescind rules relative to minimum acreage requirements for drilling units and minimum distances from which a new well may be drilled . . . for the purpose of conserving oil and gas reserves.

3. O.A.C. §1501:9-1-04 addresses the spacing of wells and provides:

(A) General spacing rules:

(1) The division of mineral resources management shall not issue a permit for the drilling of a new well . . . unless the proposed well location and spacing substantially conform to the requirements of this rule.

* * *

- (4) A permit shall not be issued unless the proposed well satisfies the acreage requirements for the greatest depth anticipated.

* * *

(C) Location of wells:

* * *

- (4) No permit shall be issued to drill . . . a well for the production of the oil or gas from pools from four thousand (4000) feet or deeper unless the proposed well is located:

- (a) Upon a tract or drilling unit containing not less than forty (40) acres;
- (b) Not less than one thousand (1000) feet from any well drilling to, producing from, or capable of producing from the same pool;
- (c) Not less than five hundred (500) feet from any boundary of the subject tract or drilling unit.

- (5) For new applications to drill wells in urbanized areas, the proposed wellhead location shall be no closer than seventy five (75) feet to any property not within the subject tract or drilling unit. . . .

4. O.R.C. §1509.27 provides *inter alia*:

If a tract of land is of insufficient size or shape to meet the requirements for drilling a well thereon as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, and the owner has been unable to form a drilling unit under agreement as provided in section 1509.26 of the Revised Code, on a just and equitable basis, the owner of such tract may make application to the division of mineral resources management for a mandatory pooling order . . . the chief, if satisfied that the application is proper in form and that mandatory pooling is necessary to protect correlative rights or to provide effective development, use, or conservation of oil and gas, shall issue a drilling permit and a mandatory pooling order complying with the requirements for drilling a well as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable . . .

5. O.A.C. §1501:9-1-02 addresses permitting requirements for oil & gas wells, including wells drilled in urbanized areas, and provides:

(F) Water sampling. The well owner shall sample all water wells within three hundred (300) feet of the proposed well location in urbanized areas prior to drilling under the guidelines provided in the divisions BMPs [best management practices] for pre-drilling water sampling manual, dated April 30, 2005 that can be located at <http://www.dnr.state.oh.us/mineral/oil/index.html> or by contacting the division of mineral resources management. The chief may require modification of this distance if determined necessary to protect water supplies or [as] site conditions may warrant.

6. O.A.C. §1501:9-1-02 addresses permitting requirements for oil & gas wells, and allows for directional drilling of a well, stating:

(H) Well deviation: The maximum point at which a well penetrates the producing formation shall not vary unreasonably from the vertical drawn from the center of the hole at the surface, with the exception of approved directional drilling. Such approval must be in writing from the chief.

FINDINGS OF FACT

1. Everflow Eastern intends to drill an oil & gas well in Mahoning County, Boardman Township, Ohio. The well would be known as the Joseph Unit #1D Well.

2. The Joseph Unit #1D Well would be located in an urbanized area. Therefore, additional conditions would be attached to the drilling and operation of this well. These items have been articulated in an Urbanized Area Permit Conditions Form on file with the Division. (See Division Exhibit 2.)

3. The proposed well has a target depth of 5,500 feet, and would produce from the Clinton Sandstone Formation. The well is proposed to be cased to a depth of 600 feet. The well would be "directionally" drilled, meaning that the well will be drilled at an angle rather than vertically.

4. The bottom of the proposed well (the target) would be located approximately 550 feet west of the well's surface installations, and would be situated beneath property owned by Dale & Mary Fishbeck. The Fishbeck property is under lease to Everflow Eastern. The surface installations associated with this well (*i.e.*, the wellhead and tank batteries) would be located on property owned by Joseph & Marilyn Joseph. The Joseph property is also under lease to Everflow Eastern.

5. The Joseph & Marilyn Joseph property is 4.65 acres in size. This lot is divided into two parcels, one parcel being 0.72 acre in size and the other parcel being 3.93 acres in size. The Joseph home is located on the 0.72-acre parcel. The 3.93-acre parcel is a large rectangular piece of property, located behind the Joseph's home. The Joseph Unit #1D wellhead and tank batteries are proposed to be located on the 3.93-acre parcel. The tank batteries would be located approximately 125 feet east of the wellhead. The 3.93-acre parcel of the Joseph lot, abuts and adjoins the rear portion of the Joseph's residence parcel, and abuts and adjoins 8 other properties proposed to be included in the Joseph Unit #1D drilling unit.¹ The Joseph residence is located approximately 200 feet from the proposed wellhead and 325 feet from the proposed tank batteries. The location of the surface installations associated with the proposed well was chosen by the landowner, Mr. Joseph Joseph.

6. Lawrence & Shalyne Fox own and reside on property located at 103 Roche Way, Youngstown, Ohio. The Foxes have lived on this property for nine years. The Fox property is located on the corner of Roche Way and Margaret Street. The Fox property is 0.50 acre in size. This lot is approximately 100 feet wide and approximately 150 feet deep. The Fox home is situated basically in the center of this 0.50-acre parcel.

¹ A "drilling unit" is defined at O.R.C. §1509.01(G) as: "the minimum acreage on which one well may be drilled." The law set forth minimum acreage and spacing requirement for oil & gas wells. Specifically, the law requires that the well operator hold leases to the oil & gas interests on a tract of land sufficient to support the well, both in terms of size, set-backs and the spacing from other wells. Based upon the proposed depth of the Joseph Unit #1D Well, Everflow Eastern's tract for this well would need to be at least 40 acres in size and would need to include all properties located within a 500 foot radius of the well. See O.A.C. §1501:9-1-04.

7. Mr. & Mrs. Fox obtain their domestic water supply from a water well located on their property. The Fox water well is drilled to an approximate depth of 110 - 120 feet.

8. The Fox property abuts and adjoins the 3.93-acre parcel of the Joseph property, upon which the surface installations for the Joseph Unit #1D Well are proposed to be located. The Fox home/garage is the closest structure to the proposed wellhead. Relevant distances are (all distances are approximate):

100 feet	distance from the Foxes' southern property line to the proposed wellhead
125 feet	distance from the Foxes' southern property line to the proposed tank batteries
130 feet	distance from the Foxes' attached garage to the proposed wellhead
150 feet	distance from the Foxes' water well to the proposed wellhead
155 feet	distance from the Foxes' attached garage to the proposed tank batteries
510 feet	distance from the Foxes' southern property line to the proposed well target
560 feet	distance from the Foxes' water well to the proposed well target
575 feet	distance from the Foxes' attached garage to the proposed well target

9. Access to the proposed Joseph Unit #1D Well would be gained via Margaret Street, which runs along the eastern side of the Fox property. Everflow Eastern intends to re-pave this road after the proposed drilling operations.

10. Mr. & Mrs. Fox have retained the mineral interests, including oil & gas rights, for their property.

11. The drilling unit for the Joseph Unit #1D Well includes 87 properties. These properties form the pool,² which would support the proposed Joseph Unit #1D Well. In addition to the development lease obtained from Joseph & Marilyn Joseph, Everflow Eastern obtained non-development leases³ from 82 separate landowners. These 83 landowners voluntarily leased their oil & gas rights to Everflow Eastern for the development of the Joseph Unit #1D Well, with the understanding that they would share in this well as royalty owners.

² A "pool" is defined at O.R.C. §1509.01(E) as: "an underground reservoir containing a common accumulation of oil or gas, or both..."

³ A development lease for oil & gas grants to the lessee the mineral interests in the property and includes the right of ingress and egress for the surface development associated with a well. A non-development lease for oil & gas grants to the lessee only the underlying mineral interests and does not provide for any surface affectment of the property subject to the lease.

12. The properties voluntarily pooled to create the Joseph #1D drilling unit cover 38.64 acres of ground. Based upon the proposed depth of the Joseph Unit #1D Well, the drilling unit for this well must be at least 40 acres in size and must include all properties within 500 feet of the well's target (bottom of the well). To meet these size and set-back requirements, Everflow Eastern sought to mandatorily pool four additional properties, being:

the Mark & Barbara Bestic property	0.67 acre
the Mary Dalesandro property	0.32 acre
the Kevin & Nanette Sellards property	0.37 acre
the Lawrence & Shalyne Fox property	<u>0.50 acre</u>
	1.86 acres

13. With the addition of the 1.86 acres requested for mandatory pooling (including the 0.50-acre Fox property), the total amount of acres included in the drilling unit for the proposed Joseph #1D Well is 40.50 acres.

14. Between April 9, 2007 and July 17, 2008, representatives of Everflow Eastern approached the Foxes, in person and in writing, regarding the leasing of their oil & gas rights, for the development of the Joseph Unit #1D Well. Everflow Eastern's efforts consisted of:

April 9, 2007	Letter & proposed non-development lease sent to the Foxes; \$200 signing bonus and royalty interest offered
April 14, 2007	Personal contact with Mr. Fox, who asked for time to review the proposed non-development lease
June 21, 2007	Discussion between Mr. Fox and Everflow Eastern; Mr. Fox requested: 1) that Everflow Eastern agree to remove the bore path, 2) that the signing bonus be increased to \$500, 3) that a water protection clause be included in the lease, 4) that the Foxes be provided with a plat of the well, and 5) that the Foxes receive free gas; Everflow Eastern agreed to terms 1 through 4, but would not agree to term 5 (free gas)
July 17, 2008	Meeting between Mr. Fox and Everflow Eastern; certified letter & proposed non-development lease sent; \$500 signing bonus and royalty interest offered, lease did not include a water protection clause (although, the testimony at hearing revealed that there were discussions regarding placing a \$10,000 bond on the water well); the certified letter indicated Everflow Eastern's intention to initiate a mandatory pooling action if the Foxes did not sign the non-development lease

15. Everflow Eastern has agreed to provide free gas to Joseph & Marilyn Joseph, the landowners upon whose property the surface installations for the Joseph Unit #1D Well are proposed to be located. Nine landowners, including the Foxes, requested free gas as a condition of their leases. Everflow Eastern has denied free gas to all of these landowners, including the Foxes, with the exception of one landowner, Thomas Joseph (the brother of Joseph Joseph).

16. The surface installations associated with the proposed Joseph Unit #1D Well will likely be visible from the Fox property. Everflow Eastern intends to screen the surface features associated with the proposed well by installing vinyl fencing around the wellhead and the tank batteries, and by planting bushes around these well structures. Everflow Eastern also intends to install mufflers on the drilling rig to mitigate the noise associated with the drilling operation.

17. On or about September 30 2008, Everflow Eastern filed an application with the Division for a mandatory pooling order. (See Division Exhibit 1.) The application for mandatory pooling, requested that four properties be mandatorily pooled into the proposed Joseph #1D drilling unit. The application for mandatory pooling included the Fox property. No surface equipment associated with the well is proposed to be located on the Fox property.

18. Everflow Eastern's application for mandatory pooling was referred to the Technical Advisory Council ["TAC"].⁴ A hearing before the TAC, upon this application, was conducted on November 12, 2008. Mr. & Mrs. Fox were notified of this hearing, but did not appear before the TAC to oppose the forced pooling of their property. However, the Foxes did contact representatives of the Division to express concern regarding the drilling of the Joseph Unit #1D Well. The Foxes had particular concerns regarding the potential effect of the Joseph Well on their domestic water well. At the request of Mr. Fox, this concern was presented to the TAC through Division employee Kelly Barrett. The TAC unanimously recommended that the Division Chief approve Everflow Eastern's application for mandatory pooling.

⁴ The TAC is created under O.R.C. §1509.38, and is authorized to advise the Division Chief on matters relating to spacing requirements and to advise the Division Chief on specific requests relating to the size and shape of drilling units. The TAC conducts public hearings on applications for mandatory pooling, and advises the Chief on such applications. See O.R.C. §1509.24, §1509.25 and §1509.27.

19. On November 18, 2008, following the TAC hearing, and pursuant to the advice and recommendation of the TAC, the Division Chief issued Chief's Order 2008-91, which mandated the inclusion of the 0.50 acre Fox property and three other properties, into the drilling unit for the Joseph #1D Well. Chief's Order 2008-91 held in part:

1) The drilling unit owned by the applicant [Everflow Eastern] is of insufficient size or shape to meet the requirements for drilling a well thereon as provided in Section 1509.24 of the Ohio Revised Code, and the applicant [Everflow Eastern] has been unable to form a drilling unit under agreement as provided in Section 1509.26 of the Ohio Revised Code on a just and equitable basis.

* * *

4) After having given due consideration to all testimony presented at the hearing [before the TAC] and all facts filed by the applicant [Everflow Eastern], a determination has been made that the application is proper in form and that mandatory pooling is necessary to protect correlative rights and to provide for the effective development, use and conservation of oil and gas.

20. On December 8, 2008, Lawrence & Shalyne Fox filed with this Commission, a notice of appeal from Chief's Order 2008-91. The order under appeal mandated the pooling of the Foxes' 0.50-acre property into the drilling unit for the Joseph #1D Well. This appeal was heard by the Commission on April 25, 2009. Mr. & Mrs. Fox appeared and presented evidence. Their neighbor, Mary Hawkins, also appeared and testified in support of the Foxes' appeal. The Foxes were not represented by counsel in the proceeding before this Commission.

CONCLUSIONS OF LAW

1. Pursuant to O.R.C. §1509.36, the Commission will affirm the Division Chief, if the Commission finds that the order appealed is lawful and reasonable.

2. O.R.C. §1509.27 requires the Division Chief to order the mandatory pooling of properties where: (1) a tract of land is of insufficient size or shape to meet the spacing requirements of the law, (2) the Chief finds that the owner of the proposed well has been unable to form a drilling unit under agreement on a just and equitable basis, and (3) mandatory pooling is necessary to protect correlative rights or to provide effective development, use or conservation of oil & gas resources.

3. Everflow Eastern attempted to enter into voluntary pooling agreements with property owners, including the Foxes, in order to meet the minimum drilling unit acreage and set-back requirements. Everflow Eastern obtained voluntary agreements from 83 landowners. Everflow Eastern did not obtain leases from 4 landowners, including the Foxes, who Everflow Eastern believed were necessary to form the drilling unit to support the Joseph #1D Well. Everflow Eastern attempted to obtain a voluntary oil & gas lease for the Fox property. Everflow Eastern's offers to the Foxes were not just and equitable.

4. Chief's Order 2008-91, mandating the pooling of Fox property into the Joseph #1D drilling unit, is not lawful and reasonable, as Everflow Eastern's attempts to form a voluntary drilling unit under agreement were not just and equitable.

DISCUSSION

Ohio's oil & gas law is designed to protect both the public's interest in the conservation and efficient development of oil & gas resources, and the private property interests of those, like the Appellants, who own land, which overlie deposits of oil & gas.

The law requires that wells be drilled on tracts of land meeting certain set-back, acreage and spacing requirements. See O.R.C. §1509.24. The Joseph Unit #1D Well is proposed to be drilled to a depth of 5,500 feet. For a well of this proposed depth, O.R.C. §1509.24 and O.A.C. §1501:9-1-04 require a 40-acre drilling unit and require that the drilling unit include all properties located within a 500-foot radius of the proposed well. Everflow Eastern attempted to pool the Fox property in order to ensure that the set-back, acreage and spacing requirements would be met.

Where the spacing requirements are not met, a potential well owner must attempt to create a drilling unit through the voluntary participation of landowners. See O.R.C. §1509.26. If an adequately-sized drilling unit cannot be established by voluntary participation, the owner of the proposed well may apply to the Division Chief for mandatory pooling of some non-leased lands into the drilling unit. See O.R.C. §1509.27. Mandatory pooling will not be ordered unless the conditions set forth in O.R.C. §1509.27 are met.

Mandatory pooling is designed to permit mineral development of a property of insufficient size and/or shape to meet the requirements of state spacing laws. It is used only when sufficient size and shape cannot be achieved. Without mandatory pooling, one landowner can 'veto' the wishes and rights of many others. Mandatory pooling prevents a minority landowner, whose acreage is small but necessary to form a legal drilling unit, from disrupting the majority landowners' ability to develop property. Mandatory pooling is solely designed to protect landowners' correlative rights. It is a tool of last resort. See Chodkiewicz v. Division & Ohio Valley Energy, Mark Scoville and Jerry Esker, #788 (Oil & Gas Commission, October 31, 2008, quoting from an article written by Tom Stewart, Executive Vice President of the Ohio Oil & Gas Association, printed in the Association's March 2008 Bulletin).

To establish the right to mandatory pooling, an operator must be able to establish that attempts to form a voluntary drilling unit, on a just and equitable basis, were unsuccessful.

At the hearing before this Commission, the Foxes presented their concerns regarding the installation of the Joseph Unit #1D Well. The concerns articulated by the Foxes include: 1) concerns about impacts of the oil & gas operation on the Foxes' domestic water supply (water well), 2) concerns about Everflow Eastern's utilization of Margaret Street for access to the well site, 3) health and safety concerns related to the installation of a well in a residential or urbanized area, 4) concerns about the noise to be generated by the drilling and operation of an oil & gas well; and 5) concerns that the existence of a well will degrade the aesthetics of this neighborhood. While the Commission recognizes that the Foxes' concerns are genuine, many of the items addressed through their comments at hearing are outside the jurisdiction of this Commission. The Commission is authorized only to review the Chief's Order under appeal, in order to determine if the Chief acted reasonably and lawfully. Some of the issues raised by the Foxes are not directly relevant to the issue of whether Chief's Order 2008-91 complies with the mandatory pooling procedures set forth under O.R.C. §1509.27. Under that section of the law, the Commission may consider:

- (1) Whether the tract of land on which the Joseph Unit #1D Well is proposed is of insufficient size or shape to meet the requirements of drilling such a well.
- (2) Whether Everflow Eastern has been unable to form a voluntary drilling unit on a just and equitable basis.
- (3) Whether mandatory pooling is necessary to protect correlative rights or to provide effective development, use or conservation of oil & gas resources.

At hearing, the evidence did not clearly establish that, without the inclusion of the Fox property, the drilling unit for the Joseph #1D Well would be insufficient in size or shape. Based upon the proposed depth of this well, the drilling unit must be at least 40 acres in size and must include all properties within 500 feet of the well target. Significantly, the size of the drilling unit is 40.5 acres, and would not appear to require the inclusion of the 0.5-acre Fox property. Additionally, the Fox property line is located 510 feet from the well's target. Therefore, it would appear that the Fox property is not necessary to meet either the set-back or unit acreage requirements of the law.

Nevertheless, Everflow Eastern applied to mandatorily pool the Fox property, and the Division Chief approved Everflow Eastern's application, ordering the pooling of the Fox property. Therefore, this Commission must review whether the Division Chief's decision to pool the Fox property was reasonable and lawful.

Everflow Eastern has the burden of demonstrating that its efforts to form a drilling unit under agreement of all necessary leaseholders were just and equitable. To determine whether Everflow Eastern's efforts to voluntarily pool the Fox property were "just and equitable," the Commission must examine what efforts were made to form this drilling unit. The evidence revealed that Everflow Eastern has offered free gas to the Joseph Joseph family. This action appears just and equitable, in that the surface installations associated with the proposed well would be located on the Joseph Joseph property. However, the evidence also revealed that Everflow Eastern intends to provide free gas to Thomas Joseph. Thomas Joseph granted Everflow Eastern a non-development lease. Therefore, the Thomas Joseph family would be on "equal footing" with other potential non-development lessors, such as the Foxes. The Commission **FINDS** that Everflow Eastern did not deal with the Foxes in a just and equitable fashion, as Everflow Eastern was willing to provide free gas to one non-development lessor, but was unwilling to provide this benefit to the Foxes, whose residence is actually located closer to the wellhead.⁵

Based upon the Record and the testimony at hearing, the Commission believes that at the time of approving the mandatory pooling application in question, the Division Chief was not aware that the Thomas Joseph family was set to receive free gas, or that multiple landowners, on "equal footing" to the Thomas Joseph family had requested, and were denied, free gas.


The Commission **FINDS** that Everflow Eastern's attempts to join the Foxes into the drilling unit for the Joseph #1D Well were not undertaken in a just and equitable manner. Thus, all of the statutory conditions precedent to the granting of the mandatory pooling application have not been met in this case. Pursuant to O.R.C. §1509.27, unless all of the statutory conditions are met, the Chief may not grant a request for mandatory pooling. Therefore, the Commission **FINDS** that Chief's Order 2009-91, requiring the mandatory pooling of the Fox property into the drilling unit for the Joseph #1D Well, was not reasonable and lawful.

⁵ The Thomas Joseph residence is located approximately 165 feet from the wellhead, as compared to the Fox residence, which is approximately 130 feet from the wellhead.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the Commission hereby **VACATES** the Division's issuance of Chief's Order 2008-91.

Date Issued: 6/24/09


TIMOTHY C. McNUTT, Acting Chair


ROBERT CHASE


JAMES H. CAMERON

RECUSED
M. HOWARD PETRICOFF, Secretary

INSTRUCTIONS FOR APPEAL

This decision may be appealed to the Court of Common Pleas for Franklin County, within thirty days of your receipt of this decision, in accordance with Ohio Revised Code §1509.37.

DISTRIBUTION:

Lawrence & Shalyne Fox (Via Certified Mail #: 91 7108 2133 3934 5972 4713 & Regular Mail)
Mark G. Bonaventura (Via Inter-Office Certified Mail #: 6516)
John K. Keller, Michael J. Settineri (Via Certified Mail #: 91 7108 2133 3934 5972 4720)

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INDEX OF EVIDENCE PRESENTED AT HEARING

Before: Timothy C. McNutt

In Attendance: Jim Cameron, Robert Chase

Appearances: Lawrence & Shalyne Fox, Appellants *pro se*; Mark G. Bonaventura, Assistant Attorney General, Counsel for Appellee Division of Mineral Resources Management; John K. Keller, Michael J. Settineri, Counsel for Intervenor Everflow Eastern Partners, L.P.

WITNESS INDEX

Appellant's Witnesses:

Lawrence Fox
Mary Hawkins

Statement on Record; Cross Examination
Statement on Record; Cross Examination

Appellee's Witnesses:

Kelly Barrett

Direct Examination; Cross Examination

Intervenor's Witnesses:

Laszlo Dundics

Direct Examination; Cross Examination

EXHIBIT INDEX

Commission's Exhibits:

Commission's Exhibit 1

Minutes from November 12, 2008, Technical
Advisory Council

Appellant's Exhibits:

Appellant's Exhibit A

Letter, dated 04/20/09, from Karen L. Wade

Appellant's Exhibits A-1 thru A-6

Photographs, relating to Wade letter

Appellant's Exhibit B

Portion of Map, relating to proposed Joseph Unit
#1D Well

Appellant's Exhibits B-1 thru B-3

Photographs, vicinity of Fox property, Margaret
Street

Appellee's Exhibits:

Appellee's Exhibit 1

Application for Mandatory Pooling, with
attachments

Appellee's Exhibit 2

Urbanized Area Permit Conditions, Joseph Unit
#1D Well

Appellee's Exhibit 3

Notification of Hearing before the Technical
Advisory Council on Oil & Gas, with attachments

Appellee's Exhibit 4

Chief's Order 2008-91, issued November 18,
2008