

CASE 3871: Application of STOLTZ  
and Company for COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO.

Case No.

3871

Application, Transcript,  
Small Exhibits, Etc.

GOVERNOR  
DAVID F. CARGO  
CHAIRMAN

State of New Mexico  
**Oil Conservation Commission**



LAND COMMISSIONER  
GUYTON B. HAYS  
MEMBER

P. O. BOX 2088  
SANTA FE

STATE GEOLOGIST  
A. L. PORTER, JR.  
SECRETARY - DIRECTOR

October 31, 1968

Mr. Jason Kellahin  
Kellahin & Fox  
Attorneys at Law  
Post Office Box 1769  
Santa Fe, New Mexico

Re: Case No. 3871  
Order No. R-3535  
Applicant:  
Stoltz & Company

Dear Sir:

Enclosed herewith are two copies of the above-referenced Commission order recently entered in the subject case.

Very truly yours,

*A. L. Porter, Jr.*  
A. L. PORTER, Jr.  
Secretary-Director

ALP/ir

Carbon copy of order also sent to:

Hobbs OCC x

Artesia OCC       

Aztec OCC       

Other Mr. Richard S. Morris

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE No. 3871  
Order No. R-3535

APPLICATION OF STOLTZ AND COMPANY  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on September 25, 1968, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 31st day of October, 1968, the Commission, a quorum being present, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, Stoltz and Company, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the E/2 SE/4 of Section 32, Township 11 South, Range 33 East, NMPM, Lea County, New Mexico.

(3) That said E/2 SE/4 of Section 32 is within one mile of the horizontal limits of the North Bagley-Lower Pennsylvanian Pool.

(4) That by Order No. R-3249, dated June 5, 1967, special rules and regulations were promulgated, at the instance of Stoltz & Company, for said North Bagley-Lower Pennsylvanian Pool.

(5) That Rule 2 of said Order No. R-3249 provides that each well shall be located on a standard unit containing 80 acres,

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CASE No. 3871

Order No. R-3535

more or less, consisting of the N/2, S/2, E/2, or W/2 of governmental quarter section and that nothing contained within said rule shall be construed as prohibiting the drilling of a well on each of the quarter-quarter sections in a unit.

(6) That the applicant is the operator of the SE/4 SE/4, W/2 SE/4, and the SW/4 of said Section 32.

(7) That the applicant, as the operator of said SE/4 SE/4, has the right to drill and proposes to drill a well in the E/2 SE/4 of said Section 32 to the North Bagley-Lower Pennsylvanian Pool.

(8) That there are interest owners, Burleson & Huff and Merren & Montgomery, in the proposed spacing unit who have not agreed to pool their interests.

(9) That said protestants, Burleson & Huff and Merren & Montgomery, are the operators of only the NE/4 SE/4 of said Section 32.

(10) That Rule 3 of the aforementioned Order No. R-3249, governing the North Bagley-Lower Pennsylvanian Pool, reads as follows:

RULE 3. The Secretary-Director of the Commission may grant an exception to the requirements of Rule 2 without notice and hearing when an application has been filed for a non-standard unit comprising a governmental quarter-quarter section or lot or the unorthodox size or shape of the tract is due to a variation in the legal subdivision of the United States Public Land Surveys. All operators offsetting the proposed non-standard unit shall be notified of the application by registered or certified mail, and the application shall state that such notice has been furnished. The Secretary-Director may approve the application upon receipt of written waivers from all offset operators or if no offset operator has entered an objection to the formation of the non-standard unit within 30 days after the Secretary-Director has received the application.

(11) That on August 5, 1968, the Commission received from the aforementioned protestants an application requesting administrative approval, pursuant to said Rule 3, for a non-standard proration unit comprising the NE/4 SE/4 of Section 32, Township

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CASE No. 3871

Order No. R-3535

11 South, Range 33 East, NMPM, Lea County, New Mexico, to be dedicated to a North Bagley-Lower Pennsylvanian test well to be located within 150 feet of the center of said quarter-quarter section.

(12) That Stoltz & Company and other operators offsetting the proposed non-standard proration unit were properly notified, by Burleson & Huff and Merren & Montgomery, of the application for said non-standard proration unit.

(13) That on September 4, 1968, the Secretary-Director of the Commission, having received no objection to the formation of said non-standard proration unit, did, by Administrative Order NSP-798 authorize the operation of the NE/4 SE/4 of Section 32, Township 11 South, Range 33 East, NMPM, Lea County, New Mexico, as a non-standard proration unit in the North Bagley-Lower Pennsylvanian Pool.

(14) That Stoltz & Company was the operator of the SE/4 SE/4, W/2 SE/4, and SW/4 of said Section 32 prior to, at the time of, and subsequent to the issuance of the aforesaid Administrative Order NSP-798.

(15) That there has been no material change in conditions since the issuance of said Administrative Order NSP-798.

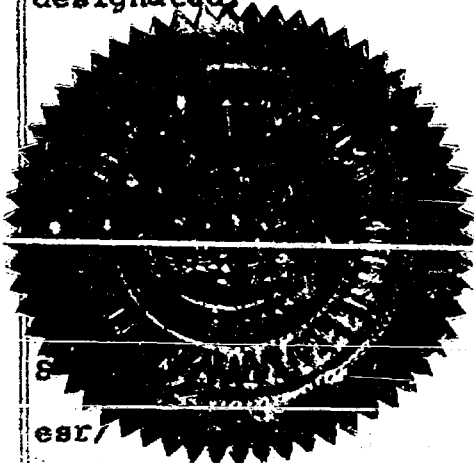
(16) That the subject application should be denied.

IT IS THEREFORE ORDERED:

(1) That the subject application is hereby denied.

(2) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

DAVID P. CARGO, Chairman

GUYTON B. HAYS, Member

A. L. PORTER, Jr., Member & Secretary

J. O. SETH (1883-1963)

A. K. MONTGOMERY  
WM. FEDERICI  
FRANK ANDREWS  
FRED C. HANNAHS  
RICHARD S. MORRIS  
SUMNER G. BUELL  
SETH D. MONTGOMERY

MONTGOMERY, FEDERICI, ANDREWS, HANNAHS, MORRIS

ATTORNEYS AND COUNSELORS AT LAW

350 EAST PALACE AVENUE  
SANTA FE, NEW MEXICO 87501

October 30, 1968

MAIN OFFICE

OCT 30 1968

POST OFFICE BOX 2307  
AREA CODE 505  
TELEPHONE 982-3876

Mr. Daniel S. Nutter  
New Mexico Oil Conservation Commission  
State Land Office Building  
Santa Fe, New Mexico 87501

Re. Case No. 3871 - Application of  
Stoltz & Company for Compulsory  
Pooling, Lea County, New Mexico

File

Dear Mr. Examiner:

At the hearing of this case on September 25, 1968, Mr. Kem Merren testified that the API reserve figures showed 359,000 barrels of recoverable reserves from an 80-acre unit or 179,500 barrels for a 40-acre unit.

I am now advised that the API reserve figures have been revised by the API and that the reserves for an 80-acre tract are now estimated to be 544,000 barrels or 272,000 barrels for a 40-acre tract.

We believe that you and the Commission may properly take these revised estimates into account in determining the economic feasibility of drilling a well on a nonstandard 40-acre proration unit. As stated at the hearing, my clients, Burleson & Huff, stand ready to drill a well on the 40-acre non-standard proration unit that was approved by Administrative Order NSP-798.

Very truly yours,

*Richard S. Morris*

RSM:LHS

cc: Mr. Jason Kellahin  
Kellahin & Fox  
P. O. Box 1769  
Santa Fe, New Mexico 87501

Burleson & Huff  
P. O. Box 935  
Midland, Texas 79701

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Docket No. 28-68

September 25, 1968 Examiner Hearing

- CASE 3865: Application of Southern Union Production Company for an unorthodox location and a dual completion, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks approval of the dual completion (conventional) of its Jicarilla "A" Well No. 9 to produce gas from the Blanco-Mesaverde and Basin Dakota Pools at an unorthodox location for the Blanco-Mesaverde Pool 790 feet from the North line and 1670 feet from the West line of Section 14, Township 26 North, Range 4 West, Rio Arriba County, New Mexico.
- CASE 3866: Application of Shell Oil Company for salt water disposal, Chaves County, New Mexico. Applicant, in the above-styled cause, seeks authority to dispose of produced salt water into the San Andres formation in the perforated interval from approximately 3360 feet to 3512 feet in its Thelma Crosby "F" Well No. 1 located in Unit H of Section 17, Township 9 South, Range 30 East, Cato-San Andres Pool area, Chaves County, New Mexico.
- CASE 3867: Application of Tenneco Oil Company for a unit agreement, McKinley County, New Mexico. Applicant, in the above-styled cause, seeks approval of the South Hospah Unit Area comprising 476 acres, more or less, of federal lands in Section 12, Township 17 North, Range 9 West, South Hospah Upper Sand Oil Pool, McKinley County, New Mexico.
- CASE 3868: Application of Texaco, Inc., for a waterflood expansion, Lea County, New Mexico. Applicant, in the above-styled cause, seeks expansion of the Texaco BV Waterflood Project, Lazy J-Pennsylvanian Pool, by the conversion to water injection of its "BV" State (NCT-1) Well No. 5 located in Unit M of Section 26, Township 13 South, Range 33 East, Lea County, New Mexico.
- CASE 3869: Application of Texaco, Inc., for a down-hole commingling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to commingle the marginal production from the Blinebry and Paddock Oil Pools in the wellbore of its C. H. Lockhart Federal NCT-1 Well No. 3 located in Unit O of Section 18, Township 22 South, Range 38 East, Lea County, New Mexico.



DOCKET: EXAMINER HEARING - WEDNESDAY - SEPTEMBER 25, 1968

9 A.M. - OIL CONSERVATION COMMISSION CONFERENCE ROOM,  
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or  
Elvis A. Utz, Alternate Examiner:

CASE 3778: (Continued from the August 7, 1968, Examiner Hearing)

Application of Atlantic Richfield Company for a dual completion and salt water disposal, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to dually complete its State BH Well No. 1 located 660 feet from the North and West lines of Section 13, Township 19 South, Range 34 East, Quail-Queen Pool, Lea County, New Mexico, in such a manner as to permit production of oil from 5080 feet to 5136 feet in the lower Queen formation through tubing and the disposal of produced salt water into the upper Queen formation through the casing-tubing annulus in the perforated interval from 4820 feet to 4830 feet.

CASE 3862: Application of Gulf Oil Company - U. S. for a dual completion, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the dual completion (conventional) of its W. D. Grimes (NCT-A) Well No. 16, located in Unit D of Section 32, Township 18 South, Range 38 East, Lea County, New Mexico, to produce oil from undesignated Paddock and Blinbry oil pools through parallel strings of tubing.

CASE 3863: Application of Pan American Petroleum Corporation for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval of the North Crow Flats Unit Area comprising 6,419 acres, more or less, of Federal, State and Fee lands in Township 16 South, Range 28 East, Eddy County, New Mexico.

CASE 3864: Application of Pubco Petroleum Corporation for salt water disposal, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to dispose of produced salt water into the Wolfcamp formation in the perforated interval from approximately 10,756 feet to 10,834 feet in the Sinclair 668 State Well No. 1 located in Unit E of Section 27, Township 16 South, Range 34 East, Kemnitz-Wolfcamp Pool, Lea County, New Mexico.

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September 25, 1968, Examiner Hearing

Docket No. 28-68

CASE 3870: Application of D. W. St. Clair for salt water disposal, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to dispose of produced salt water into the Queen formation in the perforated interval from approximately 4941 feet to 5060 feet in his Superior-Federal Well No. 7 located in Unit G of Section 25, Township 19 South, Range 34 East, Pearl-Queen Pool, Lea County, New Mexico.

CASE 3871: Application of Stoltz and Company for compulsory pooling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the North Bagley Upper, Middle, and Lower Pennsylvanian Pools underlying the E/2 SE/4 of Section 32, Township 11 South, Range 33 East, Lea County, New Mexico.

JASON W. KELLAHIN  
ROBERT E. FOX

KELLAHIN AND FOX  
ATTORNEYS AT LAW  
54 1/2 EAST SAN FRANCISCO STREET  
POST OFFICE BOX 1789  
SANTA FE, NEW MEXICO 87501

TELEPHONE 982-4315  
AREA CODE 505

September 16, 1968

*gms*  
*file case 3871*

Oil Conservation Commission  
P. O. Box 2088  
Santa Fe, New Mexico

Gentlemen:

Enclosed find the application of Stoltz & Company  
for forced pooling in the North Bagley-Upper, Mid-  
dle and Lower Pennsylvanian Pools Lea County.

Very truly yours,

*Jason W. Kellahin*  
JASON W. KELLAHIN

jwk/mas  
enclosures

60 SEP 17 AM 8 36

*Handwritten initials*

BEFORE THE  
OIL CONSERVATION COMMISSION OF NEW MEXICO

APPLICATION OF STOLTZ & COMPANY  
FOR FORCED POOLING IN THE NORTH  
BAGLEY-UPPER, MIDDLE, AND LOWER  
PENNSYLVANIAN POOLS, LEA COUNTY,  
NEW MEXICO.

*Order 3871*  
SEP 17 AM 8 38

A P P L I C A T I O N

Comes now Stoltz & Company and applies to the Oil Conservation Commission of New Mexico for an order force pooling all of the mineral interests underlying the E/2 SE/4 of Section 32, Township 11 South, Range 33 East, N.M.P.M., Lea County, New Mexico, insofar as the North Bagley Upper Pennsylvanian Pool, North Bagley Middle Pennsylvanian Pool, and the North Bagley Lower Pennsylvanian Pool, are concerned.

In support of said application, applicant would show that the above-described lands form a standard unit for the Bagley Pools; that applicant is the owner of the right to drill and develop the SE/4 SE/4 of said Section 32; that the owners of interests within said E/2 SE/4 of Section 32 have not agreed to pool their interest, and applicant, as one of the owners having the right to drill a well on said unit proposes to drill and develop said unit to a common source of supply; and that to avoid the drilling of unnecessary wells, to protect correlative rights, and to prevent waste said E/2 SE/4 should be pooled for the production of oil and hydrocarbons from the Bagley pools.

WHEREFORE, applicant prays that this application be set for hearing before the Commission or the Commission's duly appointed examiner, and that after notice and hearing as provided by law, the Commission enter its order pooling the E/2 SE/4 of Section 32, Township 11 South, Range 33 East, N.M.P.M., together with such provisions as will enable applicant to recover his costs of development and operation of such unit together with reasonable charge for supervision, actual expenditures required for operating the subject well attributable to each non-consenting working interest owner, and a charge for the risk involved in the drilling of such well, to be charged against any non-consenting working interest owner or owners' pro rata share of the costs of drilling and completing the well.

Respectfully submitted,

STOLTZ & COMPANY

By Jason W. Kellahin  
Kellahin & Fox  
P. O. Box 1769  
Santa Fe, New Mexico

ATTORNEYS FOR APPLICANT

CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

# WESTERN UNION TELEGRAM

W. P. MARSHALL  
CHAIRMAN OF THE BOARD

R. W. MCFALL  
PRESIDENT

SYMBOLS

DL = Day Letter  
NL = Night Letter  
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

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PR SLA611 NL PD=SALT LAKE CITY UTAH 17  
A L PORTER, C/O OIL CONSERVATION COMMISSION  
STATE LAND OFFICE BLDG SANTA FE NMEX

1968 SEP 18 AM 7 39

RE CASE 3871 - STOLTZ & COMPANY

UNITED STATES SMELTING REFINING AND MINING CO, THE  
RECORD OWNER OF STATE OF NEW MEXICO OIL & GAS LEASE  
NO K-4478 COVERING SW 1/4, NW 1/4 SE 1/4, S 1/2 SE 1/4 SECTION  
32 T-11-S R-33-E NMPM, CONCURS WITH AND SUPPORTS  
APPLICATION FOR COMPULSORY POOLING

UNITED STATES SMELTING REFINING AND MINING CO  
J V NEUMAN JR VICE PRESIDENT MINING & OIL

60 SEP 18 AM 9 00

WU1201 (R2-65)

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

# WESTERN UNION TELEGRAM

W. P. MARSHALL  
CHAIRMAN OF THE BOARD

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PRESIDENT

SYMBOLS

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LA115 HSA410

NS MDA096 PD=MIDLAND TEX 24 305P CDT= 1968 SEP 24 PM 2 18  
OIL CONSERVATION COMM, CARE A L PORTER STATE LAND BLDG  
SANTA FE NMEX

RE CASE 3871 STOLTZ APPLICANT MEADCO PROPERTIES LIMITED  
OPERATOR OF STATE LEASE K3774 UNDER FARMOUT FROM SHELL  
IN THE NORTH EAST QUARTER SECTION FIVE T12 SOUTH R33  
EAST LEA COUNTY NEW MEXICO CONCURS WITH AND SUPPORTS  
STOLTZ APPLICATION FOR COMPULSORY POOLING IN CASE 3871  
TO BE HARD 9-25-68

MEADCO PROPERTIES LTD 606 VAUGHN BLDG MIDLAND TEX  
BY BILL COTTNER

WU1201 (R2-65)

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

**Sunray DX Oil Company**



September 18, 1968

*RLN*  
Oil Conservation Commission  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: S-68932  
Lea County, New Mexico

Attention: Mr. A. L. Porter

Dear Sir:

This is to advise that Sunray DX Oil Company supports the  
position of Stoltz and Company in Case #3871 of Docket 28-  
68 to be heard September 25, 1968.

Yours very truly,

SUNRAY DX OIL COMPANY

*Robert L. Noah*  
Robert L. Noah  
Area Landman

RLN/jks

MAIN OFFICE  
SEP 19 AM 8 35

<p>McElroy, R. (C. 1975) State, MI. K-1122 1312</p> <p>27</p>	<p>Sunroy, Harris State, MI. K-1122 1312</p> <p>26</p>	<p>State, MI. K-1122 1312</p> <p>25</p>	<p>Continental State, MI. K-1122 1312</p> <p>30</p>	<p>State, MI. K-1122 1312</p> <p>29</p>	<p>State, MI. K-1122 1312</p> <p>28</p>
<p>State, MI. K-1122 1312</p> <p>34</p>	<p>State, MI. K-1122 1312</p> <p>35</p>	<p>State, MI. K-1122 1312</p> <p>36</p>	<p>State, MI. K-1122 1312</p> <p>31</p>	<p>State, MI. K-1122 1312</p> <p>32</p>	<p>State, MI. K-1122 1312</p> <p>33</p>
<p>State, MI. K-1122 1312</p> <p>19</p>	<p>State, MI. K-1122 1312</p> <p>20</p>	<p>State, MI. K-1122 1312</p> <p>21</p>	<p>State, MI. K-1122 1312</p> <p>22</p>	<p>State, MI. K-1122 1312</p> <p>23</p>	<p>State, MI. K-1122 1312</p> <p>24</p>
<p>State, MI. K-1122 1312</p> <p>30</p>	<p>State, MI. K-1122 1312</p> <p>31</p>	<p>State, MI. K-1122 1312</p> <p>32</p>	<p>State, MI. K-1122 1312</p> <p>33</p>	<p>State, MI. K-1122 1312</p> <p>34</p>	<p>State, MI. K-1122 1312</p> <p>35</p>
<p>State, MI. K-1122 1312</p> <p>18</p>	<p>State, MI. K-1122 1312</p> <p>17</p>	<p>State, MI. K-1122 1312</p> <p>16</p>	<p>State, MI. K-1122 1312</p> <p>15</p>	<p>State, MI. K-1122 1312</p> <p>14</p>	<p>State, MI. K-1122 1312</p> <p>13</p>
<p>State, MI. K-1122 1312</p> <p>12</p>	<p>State, MI. K-1122 1312</p> <p>11</p>	<p>State, MI. K-1122 1312</p> <p>10</p>	<p>State, MI. K-1122 1312</p> <p>9</p>	<p>State, MI. K-1122 1312</p> <p>8</p>	<p>State, MI. K-1122 1312</p> <p>7</p>
<p>State, MI. K-1122 1312</p> <p>6</p>	<p>State, MI. K-1122 1312</p> <p>5</p>	<p>State, MI. K-1122 1312</p> <p>4</p>	<p>State, MI. K-1122 1312</p> <p>3</p>	<p>State, MI. K-1122 1312</p> <p>2</p>	<p>State, MI. K-1122 1312</p> <p>1</p>



# ALLOWABLE VERSUS PRODUCTION - JULY 1968

Field	No. Wells	Permissable Allowable, bbls	Actual Allowable, bbls	Actual Production Bbls.	Ratio of Production to Permissable Allow
N. Bagley Lower Penn	61	*622139	437070	298120	0.48
N. Bagley Upper Penn	37	**317719	189414	114543	0.36
TOTAL	98	939858	626484	412663	0.44

cost of 150,000 incl at lilt

cost of 512,000/mo/well (pumping)  
(incl. adv. overhead)

make factor: 150%

\*(329)(31)(61) = 622139  
 \*\*(277)(31)(37) = 317719

BEFORE EXAMINER NUTTER  
 OIL CONSERVATION COMMISSION  
 EXHIBIT NO. 3  
 CASE NO. 3871

LEWIS B. BURLESON

JACK HUFF

BURLESON & HUFF

OIL PROPERTIES

BOX 935 • PHONE MU 3-4747

MIDLAND, TEXAS

July 31, 1968

New Mexico Oil Conservation Commission  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Attn: Mr. A. L. Porter, Jr.  
Secretary-Director

Re: Application for Administrative  
Approval of Non-Standard Spacing  
Unit in North Bagley-Lower  
Pennsylvanian Pool Area,  
Lea County, New Mexico

Gentlemen:

We propose to drill a well to test the Lower Pennsylvanian formation at a depth of about 10,000 feet located within 150 feet from the center of the NE/4 of SE/4 of Section 32, Township 11 South, Range 33 East, N.M.P.M., Lea County, New Mexico. We are the owners of the State of New Mexico Oil and Gas Lease No. L-960 which covers only said 40-acre tract of land above described, which said tract is colored in red on the plat attached hereto. Our proposed location is situated within one mile of the North Bagley-Lower Pennsylvanian Pool and is not nearer to or within the limits of another designated Lower Pennsylvanian oil pool, and is therefore subject to the Special Rules and Regulations for said Pool as set forth in the Oil Conservation Commission Order No. R-3249.

We hereby make application to drill on the above described 40-acre tract as a non-standard spacing unit and request that under Rule 3 of the special rules aforementioned, the Secretary-Director of the Commission grant us an exception to the requirements of Rule 2 of said special rules without notice and hearing and approve our spacing unit as consisting solely of the NE/4 of SE/4 of said Section 32. We further request that the allowable for our well, if productive, be determined as provided by Rule 6 of the aforementioned special pool rules.

Our request is made due to the fact that the only acreage we have on which to drill in said Section 32 is the NE/4 of SE/4 thereof, and we wish to drill on such 40-acre tract and maintain the production from it as a spacing and proration unit by itself.

We have mailed copies of this application by certified mail with return receipt requested to all of the offsetting operators to the NE/4 of SE/4 of said Section 32, notifying them of our application. The offsetting operators are as follows: Stoltz & Company and Sunray DX Oil Company are the operators to the north and northwest; United States Smelting, Refining

NSP-798  
Sept 4, 1968

BEFORE EXAMINER NUTTER
OIL CONSERVATION COMMISSION
<i>Huff</i> EXHIBIT NO. <u>1</u>
CASE NO. <u>3871</u>

New Mexico Oil Conservation Commission  
July 31, 1968  
Page 2

and Mining Company is the operator to the west, southwest and south; and Amerada Petroleum Corporation is the operator to the southeast, east and northeast. Photo copies of receipts showing notices have been mailed are attached hereto, and photo copies of the signed receipts from the offset operators will be forwarded to you after they have been returned to us.

This application is submitted to you in triplicate.

Yours very truly,

BURLESON & HUFF

By \_\_\_\_\_  
Jack Huff

MERREN & MONTGOMERY

By \_\_\_\_\_  
Kem Merren

GOVERNOR  
DAVID F. CARGO  
CHAIRMAN

State of New Mexico  
**Oil Conservation Commission**



P. O. BOX 2088  
SANTA FE

LAND COMMISSIONER  
GUYTON B. HAYS  
MEMBER

STATE GEOLOGIST  
A. L. PORTER, JR.  
SECRETARY - DIRECTOR

September 4, 1968

Burleson & Huff  
P. O. Box 935  
Midland, Texas

Attention: Mr. Jack Huff

Administrative Order NSP-798

Gentlemen:

Reference is made to your application for approval of a 40-acre non-standard oil proration unit in the North Bagley Lower Pennsylvanian Pool consisting of the following acreage:

LEA COUNTY, NEW MEXICO  
TOWNSHIP 11 SOUTH, RANGE 33 EAST, NMPM  
Section 32: NE/4 SE/4

It is understood that this unit is to be dedicated to your Lower Pennsylvanian test well to be located within 150 feet of the center of the NE/4 SE/4 of said Section 32.

By authority granted me under the provisions of Order No. R-3249, you are hereby authorized to operate the above-described acreage as a non-standard oil proration unit.

Very truly yours,

*A. L. Porter, Jr.*  
A. L. PORTER, Jr.  
Secretary-Director

ALP/GMH/esr

cc: Oil Conservation Commission - Hobbs  
Oil & Gas Engineering Committee - Hobbs  
State Land Office - Santa Fe  
Proration Department, OCC - Santa Fe

BEFORE EXAMINER NUTTER	
OIL CONSERVATION COMMISSION	
EXHIBIT NO.	2
CASE NO.	2071

DRAFT

GMH/esr  
10-22-68

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE No. 3871

Order No. R-3535

APPLICATION OF STOLTZ AND COMPANY  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on September 25, 1968,  
at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this \_\_\_\_\_ day of October, 1968, the Commission, a  
quorum being present, having considered the testimony, the record,  
and the recommendations of the Examiner, and being fully advised  
in the premises,

FINDS:

(1) That due public notice having been given as required by  
law, the Commission has jurisdiction of this cause and the subject  
matter thereof.

(2) That the applicant, Stoltz and Company, seeks an order  
pooling all mineral interests in the ~~North Bagley-Lower Pennsylvanian Pool~~ *Pennsylvanian formation*  
~~vanian Pool~~ underlying the E/2 SE/4 of Section 32, Township 11  
South, Range 33 East, NMPM, Lea County, New Mexico.

(4) That by Order No. R-3249, dated June 5, 1967, special  
rules and regulations were promulgated, at the instance of Stoltz  
& Company, for ~~the~~ *said* North Bagley-Lower Pennsylvanian Pool.

(5) That Rule 2 of said Order No. R-3249 provides that each  
well shall be located on a standard unit containing 80 acres,  
more or less, consisting of the N/2, S/2, E/2, or W/2 or a

governmental quarter section and that nothing contained within

(3) That said E/2 SE/4 of Section 32 is within  
one mile of the horizontal limits of the North Bagley-  
Lower Pennsylvanian Pool.

said rule shall be construed as prohibiting the drilling of a well on each of the quarter-quarter sections in a unit.

(6) That the applicant is the operator of the ~~SE/4~~ <sup>SE/4 SE/4</sup>, W/2 SE/4 and the SW/4 of said Section 32.

(7) That the applicant, as the operator of said SE/4 SE/4, has the right to drill and proposes to drill a well in the E/2 SE/4 of said Section 32 to the <sup>North Bagley</sup> Lower Pennsylvanian Pool.

(8) That there are interest owners, Burleson & Huff and Merren & Montgomery, in the proposed spacing unit who have not agreed to pool their interests.

(9) That said protestants, Burleson & Huff and Merren & Montgomery, are the operators of only the NE/4 SE/4 of said Section 32.

(10) That Rule 3 of the aforementioned Order No. R-3249, governing the North Bagley-Lower Pennsylvanian Pool, reads as follows:

RULE 3. The Secretary-Director of the Commission may grant an exception to the requirements of Rule 2 without notice and hearing when an application has been filed for a non-standard unit comprising a governmental quarter-quarter section or lot or the unorthodox size or shape of the tract is due to a variation in the legal subdivision of the United States Public Land Surveys. All operators offsetting the proposed non-standard unit shall be notified of the application by registered or certified mail, and the application shall state that such notice has been furnished. The Secretary-Director may approve the application upon receipt of written waivers from all offset operators or if no offset operator has entered an objection to the formation of the non-standard unit within 30 days after the Secretary-Director has received the application.

(11) That on August 5, 1968, the Commission received from the aforementioned protestants an application requesting administrative approval, pursuant to said Rule 3, for a non-standard proration unit comprising the NE/4 SE/4 of Section 32, Township 11 South, Range 33 East, NMDM, Lea County, New Mexico, to be dedicated to a North Bagley-Lower Pennsylvanian test well to be located within 150 feet of the center of said quarter-quarter section.

-3-  
CASE No. 3871

(12) That Stoltz & Company and other operators offsetting the proposed non-standard proration unit were properly notified, by Burleson & Huff and Merren & Montgomery, of the application for said non-standard proration unit.

(13) That on September 4, 1968, the Secretary-Director of the Commission, having received no objection to the formation of said non-standard proration unit, did, by Administrative Order NSP-798 authorize the operation of the NE/4 SE/4 of Section 32, Township 11 South, Range 33 East, NMPM, Lea County, New Mexico, as a non-standard proration unit in the North Bagley-Lower Pennsylvanian Pool.

(14) That Stoltz & Company was the operator of the SE/4 SE/4, W/2 SE/4, and SW/4 of said Section 32 prior to, at the time of, and subsequent to the issuance of the aforesaid Administrative Order NSP-798.

(15) That there has been no material change in conditions since the issuance of said Administrative Order NSP-798.

(16) That the subject application should be denied.

IT IS THEREFORE ORDERED:

(1) That the subject application is hereby denied.

(2) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

6 Sept. 25, 1968

7 papers

Case

Application of Stalby and Company  
for compulsory pooling, Lea County,  
New Mexico.

Applicant, in the above-styled  
cause, seeks an order pooling  
all mineral interests in the  
North Bagley Upper, middle, and Lower  
Pennsylvanian Pools underlying the E $\frac{1}{2}$  SE $\frac{1}{4}$   
of Section 32, Township 11 South, Range  
33 East, Lea County, New Mexico.



**EXAMINER HEARING**

Case No. 3871

TRANSCRIPT OF HEARING

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MR. NUTTER: We'll call Case Number 3871.

MR. HATCH: Case 3871, application of Stoltz and  
Company for compulsory pooling, Lea County, New Mexico.

(Whereupon, Applicant's Exhibits  
Numbers 1, 2, and 3 were marked  
identification.)

MR. NUTTER: We'll call for appearances.

MR. KELLAHIN: Jason Kellahin of Kellahin and Fox,  
Santa Fe, appearing for the applicant.

MR. MORRIS: Dick Morris, Montgomery, Federici,  
Andrews, Hannahs and Morris, Santa Fe, appearing for Jack Huff,  
Lewis Burlison, Kem Merren, and W.C. Montgomery.

MR. KELLAHIN: We have two witnesses we'd like to  
have sworn.

MR. HATCH: Will you have witnesses?

MR. MORRIS: I'm not sure how many witnesses we'll  
have. Let me ask all of our men present to stand and be sworn,  
just in case. We have three.

(Witnesses sworn.)

DEAN STOLTZ

called as a witness, having been first duly sworn, was  
examined and testified as follows:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Would you state your name, please?

A Dean Stoltz.

Q What business are you engaged in, Mr. Stoltz?

A Oil operator.

Q Are you the applicant in the case pending before the Commission at this time?

A On behalf of Stoltz and Company, our partnership.

Q Is Stoltz and Company a partnership?

A Yes.

Q Mr. Stoltz, are you familiar with the application of Stoltz and Company in Case 3871?

A I am.

Q What is proposed by Stoltz and Company in this case?

A We're proposing to compulsory-pool the east half southeast quarter of Section 32, Township 11 South, Range 33 East, for the drilling of a Pennsylvanian test, in the North Bagley Field under the 80-acre proration unit that field rules provide for.

Q Now, do you own the right to drill in the south half of that section?

A In 280 acres of the south half, we have this under sublease from U.S. Smelting and Refining Company. The remaining 40-acre tract is owned by Jack Huff, being the northeast quarter southeast quarter of Section 32.

Q Now, is that the tract that you propose to force-pool into a standard proration unit under the pool rules for this area?

A This is correct, the northeast quarter, southeast quarter with our subleased acreage from U.S. Smelting in the southeast quarter, southeast quarter.

Q What is the spacing in this pool?

A Eighty acres.

Q What pool is this, Mr. Stolts?

A It's the North Bagley, Upper and Lower Pennsylvanian.

Q Have you made any effort to get voluntary pooling of this tract of land?

A We have made several overtures to Mr. Huff and his group relative to both subleasing his 40-acre tract for the purpose of drilling an immediate well. We propose that he be 19 and a half per cent override, which would be proportionately reduced as to their interest under an 80-acre tract. Also, we propose that we drill a joint well, it being immaterial as to who would actually operate the well.

We have some 51 wells in the field and would be certainly, I think, qualified in experience to operate the proposed well.

Q You're willing to drill a well and have them join in the drilling, is this correct?

A This is correct.

Q You're also willing to take a farmout from them on any reasonable basis, is this correct?

A This is so.

Q Are you willing to join them in the drilling of a well and have them drill it?

A Yes.

Q And have they made any agreement to do any of these things?

A No, they have not.

Q Mr. Stoltz, you own the remaining acreage in that half-section. You could actually drill a well and dedicate other acreage to it, could you not?

A We believe that we will have four full 80-acre units, in this half-section and, therefore, at some point, in any event, we would have to pool this 40 with some portion of our lease.

Q In order to dedicate your acreage to a producing well, is this what you mean?

A This is so.

Q Now, referring to what has been marked as Exhibit Number 1, would you identify that exhibit, please?

A This is a land plat of the area in question which

embraces the North Bagley Field in Township 11 South, Range 33 East, Lea County, New Mexico.

Q And does it show the acreage involved in this application and the ownership insofar as you know it?

A Yes, it does.

Q Now, that designates the acreage as being U.S. Smelting, is that correct?

A Yes.

Q Now, you have a farmout from U.S. Smelting?

A We have a farmout from U.S. Smelting.

Q Have they advised the Commission of their support in this case?

A They have, yes, sir.

Q Was Exhibit Number 1 prepared under your supervision?

A Pardon?

Q Was Exhibit Number 1 prepared under your supervision?

A Yes.

MR. KELLAHIN: At this time, I offer in evidence Exhibit Number 1.

MR. NUTTER: Exhibit Number 1 will be admitted in evidence.

(Whereupon, Applicant's Exhibit Number 1 was admitted in evidence.)



Q Do you have anything to add, Mr. Stoltz?

A No, I do not.

MR. KELLAHIN: That's all I have on direct examination of the witness.

MR. NUTTER: Does anyone have any questions of this witness?

MR. MORRIS: Yes, sir.

MR. NUTTER: Mr. Morris.

CROSS EXAMINATION

BY MR. MORRIS:

Q Mr. Stoltz, I believe you said in your application, but I did not hear you say on direct, that you actually propose to drill a well in this 80-acre unit that you want force-pooled, is that correct?

A Yes.

Q I didn't hear you say where you expected to drill that well. What location do you expect to drill in?

A We'd be willing to drill this on either a 40-acre tract, whether it be the 40 that Mr. Huff has under lease or whether it be the southeast southeast quarter which we have under sublease from U.S. Smelting.

Q What is your proposal to the Commission? Where is the well to be located to which you propose to dedicate this

80-acre proration unit?

A I think that this would have to be, or either location would be satisfactory to us, and I would assume that there's nothing unusual we'd have to agree to as potential joint operators.

Q You have no definite proposal right now?

A Our proposal right now, I'd say the southeast southeast.

Q Now again, Mr. Stoltz, your application asks the Commission to fix a certain risk factor in connection with the drilling of the well and I haven't heard you mention anything about that here on your direct testimony. What is your proposal with respect to assignment of a risk factor?

MR. KELLAHIN: I think Mr. Stoltz could answer the question. We will have some further testimony on that, however.

MR. MORRIS: I see.

Q (By Mr. Morris) Well, doesn't the risk factor, Mr. Stoltz, depend on where the well is drilled?

A We do not feel that is so. We feel the full 320 acres is capable of producing.

Q You think there is the same amount of risk as involved in drilling a well no matter where it is located on this 320 acres?

A We'll not define this as to any portion of the 320 being more productive than any other.

Q Well, leaving aside the productivity and you're talking about risk, aren't you, talking at least in part about obtaining maybe a better well in some area of the acreage than you would in other areas of the south half of this section?

A We have drilled or would have drilled by the end of next month, 51 wells in the field and it has been our experience that there is a certain unpredictable pattern in the field and I don't think that we could point out wells in the middle of the field that have not been good wells, and I think the sense that you're seeking here --

Q Mr. Stoltz, you say that you have a sublease from U.S. Smelting. When did you acquire that sublease?

A The latter part of August. I believe our letter of agreement is possibly dated the twentieth day of August.

Q August the 20th?

A Yes.

Q Are you familiar with the application that was filed by Mr. Huff and his group for a 40-acre non-standard proration unit on the 40-acre tract that they own and operate?

A Yes.

MR. MORRIS: Would you mark that as Huff Exhibit

Number 1.

(Whereupon, Huff Exhibit Number 1 was marked for identification.)

Q Is what has been marked as Huff Exhibit Number 1 in this case a copy of the notice that was sent to you?

A It appears to be a copy of the same.

MR. KELLAHER: May I ask the date of it, please?

MR. MORRIS: It's dated July thirty-first, 1968.

I'd offer Huff Exhibit Number 1 into evidence.

MR. NUTTER: Mr. Morris, is this the application that Huff made to the Commission for the non-standard proration unit?

MR. MORRIS: That is correct.

MR. NUTTER: This will be identified and entered, then, as Huff Exhibit Number 1.

(Whereupon, Huff Exhibit Number 1 was admitted in evidence.)

Q (By Mr. Morris) Now, Mr. Stoltz, you received a copy of this application as an offset operator. Are you familiar with the Commission rules and regulations regarding the granting of administrative non-standard proration units in this pool?

A We were not. As a matter of fact, we assumed that this would come up before a hearing of this type.

Q Well, now, Mr. Stoltz, weren't you actually the applicant for these rules that we're talking about?

MR. KELLAUIN: If the Examiner please, I don't know what rules he's talking about. I also question the materiality of this line of questioning. I don't know what is to be accomplished by establishing that the Commission approved the non-standard unit which, admittedly, they did.

MR. MORRIS: Well, if the Commission please, I think upon the development of the evidence here and the cross examination of Mr. Stoltz, the equities of the situation will be brought out and I intend to argue after the facts are before the Examiner that the application should be dismissed and that Mr. Stoltz has waived his right or is estopped to present this application to the Commission by sitting upon his hands and doing nothing in the face of this application for an administrative order.

MR. NUTTER: Mr. Morris, your last question directed to Mr. Stoltz was, whether he had been the applicant for the rules. Do you mean as applicant for the 80-acre pool rules which the pool was operating under?

MR. MORRIS: Yes, I'm referring to Case Number 3583 which resulted in Order Number R-3249 which established the special rules and regulations for the North Bagley Lower Pennsylvanian Pool and Mr. Stoltz, I'm sure, will recall that he was the applicant for those special rules and regulations,

and as an operator in the oil industry, whether he was the applicant for the rules or not, he'd be bound to not what was in them, but my question here is merely to establish that he had personal knowledge of them, which I would assume that he did since he was the applicant for them.

MR. NUTTER: I think, without requiring him to answer the question, that you can take notice of records and can determine who the applicant was in the case.

MR. MORRIS: All right. Fine.

MR. NUTTER: And we'll judge whether he had personal notice or not.

MR. KELLAHIN: If the Examiner please, I have no objection to the Commission taking notice of its record in that regard, but my objection is to the materiality of this line of questioning. We have 80-acre spacing of the pool and we are here in an effort to force-pool a tract under the provisions of the State of New Mexico and rules and regulations of this Commission, and whether this was the applicant in the 80-acre rules or whether he had knowledge of this application for a non-standard unit, I think, is wholly immaterial.

MR. MORRIS: If the Examiner please, in response to that, I think it is very material that this Commission never allow the forced pooling laws of this state to be used oppressively

or unfairly and that is exactly what we feel is happening in this case, and we intend to show, by cross examination and by presentation of evidence, that this would be unfair, completely unfair to Mr. Huff and his group to whom non-standard proration unit was granted, to allow this application to be entertained by the Commission.

MR. NUTTER: I think that I would want to put this little item right here into the records in this case: that we do have pool rules, that an application was filed on July thirty-first, 1968, and the title of it is: "Re: Application for Administrative Approval of a Non-Standard Spacing Unit in the North Bagley Lower Pennsylvanian Pool Area of Lea County, New Mexico," and the first sentence of the second paragraph of this letter reads as follows:

"We hereby make application to drill on the above described 40-acre tract as a non-standard spacing unit and request that, under Rule 3 of the special rules aforementioned, the Secretary-Director of the Commission grant us an exception of the requirements of Rule 2 of said special rules without notice and hearing and approve our spacing unit as consisting solely of the northeast quarter southeast quarter of said Section 32."

I think these facts will stand and speak for themselves.

Now, would you proceed with your questioning. I think we've ironed out this difficulty of whether there are pool rules and whether an application was made for administrative approval.

MR. MORRIS: Fine.

MR. NUTTER: And, for the record, wasn't an administrative order issued, Mr. Morris?

MR. MORRIS: Yes.

MR. NUTTER: What was the order number and what was the date of that order?

MR. MORRIS: Mr. Examiner, I would like to offer, and I might as well do it right at this point, a copy of the --

MR. NUTTER: Mr. Kellahin, the Commission will have to make this determination: whether, as Mr. Morris argues, your applicant has been estopped; or whether, as you argue, the application should be approved for the order for development of the remainder of the pool. This is something that will have to be determined outside of the hearing. It's up to the Commission.

MR. MORRIS: May I have this marked as Huff Exhibit Number 2?

(Whereupon, Huff Exhibit Number 2 was marked for identification.)

MR. MORRIS: Mr. Examiner, I would offer Huff Exhibit Number 2, which is an administrative order, NSP - 798, dated



September 4, 1968, approving the application for the non-standard unit.

MR. NUTTER: That Exhibit Number 2 will be --

MR. KELLAHIN: I object to the admission of the exhibit or any further testimony pertaining to the non-standard unit as being immaterial to any issue before the Commission in connection with this case.

MR. MORRIS: Mr. Examiner, I think you've already indicated what your ruling would be on this, but I would like to state in response to Mr. Kellahin's objection, just to make our position clear, that we are not here attacking the special rules and regulations for this pool.

We are actually, if anything, seeking to uphold those rules and regulations, and in particular, the special provisions of them that permit the granting of non-standard proration units. We are not trying to question here that the pool go back on 40s or anything of the sort, but we are saying, in this particular area, and in connection with this particular acreage, forced pooling should not be ordered.

MR. NUTTER: Huff Exhibit Number 2 will be admitted in evidence.

(Whereupon, Huff Exhibit Number 2 was admitted in evidence.)

FURTHER CROSS EXAMINATION

BY MR. MORRIS:

Q Mr. Stoltz, you made no objection to the application for administrative approval that's been identified as Huff Exhibit Number 1 in this case, did you?

MR. NUTTER: Mr. Morris, I think we already ruled on this, that an order had been issued and we'll proceed from here on.

MR. MORRIS: Mr. Examiner, may I ask that the entire record of the Commission with respect to this application be made -- that administrative notice of it be taken in this hearing, which record will show that the Commission received no objections, and upon receiving no objections, granted the administrative order.

MR. NUTTER: So that we will have a complete file, we can incorporate by reference the file in administrative order NSP-798 file in the record of this case.

MR. MORRIS: All right.

MR. ELLAHIN: All right. Let the record note the same objection I had before.

MR. NUTTER: Objection noted.

Q Mr. Stoltz, at the time that this administrative application was filed, you were operating in this section up in

the north part of this section, were you not?

A Yes, sir.

Q You were actually drilling a well which has been designated as your Una Well at that time, is that correct?

A That's correct.

Q I'm referring to the well that would be an immediate northwest offset from the 40 acres that Mr. Huff and his group are on.

A They, in fact, advised us that they would do nothing with respect to this 40-acre tract till this well was done or completed.

Q Since you bring that up, Mr. Stoltz, you say that you made an offer to Mr. Huff and his group to join you either in the drilling of a well or for farmout out of their acreage. Now, you could not reasonably expect them to agree to either one of those alternatives until your Una Well was completed, could you?

A Our offer was a very liberal offer and a generous offer and it was predicated on the assumption that this would be a productive well. It was a production-type offer, in other words.

Q Now, as I understand your testimony, you have offered either to drill a joint well or to take a farmout from Mr. Huff,

with Mr. Huff retaining a 19 and a half per cent override.

A This is right.

Q Isn't this offer of a 19 and a half per cent override something less than the override that you offered and that you, in fact, have given to U.S. Smelting for its acreage in the south half of this section?

A We have made a trade with U.S. Smelting based on a 22 and a half per cent override and this is due to the fact that there are three and a half locations involved here as opposed to half a location with respect to Mr. Huff's acreage.

Q Your net interest in your acreage, then, in the south half of Section 32, considering a 12 and a half per cent royalty and 22 and a half per cent override is only 65 per cent interest, is that correct?

A That's right. Our interest, incidentally, on a communitized tract would be 66.5, I believe, assuming that they would accept the 19 and a half per cent override.

Q Mr. Stoltz, did you make any effort to acquire the 40 acres that Mr. Huff now owns at the time it was put up for state bid?

A We did not.

Q Pardon me?

A We did not.

Q You were aware that this 40 acres was put up for lease in June of this year by the State at sealed bid?

A Actually, it was an oversight on our part.

Q Mr. Stoltz, in your negotiations with Mr. Huff and his group and your offers to them to join you in the drilling of a well or farmout to you, did you at any time discuss making information, from the Una Well that is the northwest offset to the Huff 40 acres, available to the Huff group?

A I can't recall what the exact conversation was in this respect. However, this was -- I think whatever was discussed along this line was predicated on them making a trade with us which, of course, they never agreed to.

Q As a matter of fact, Mr. Stoltz, didn't they specifically say they could not evaluate your offer until they had some information on the Una Well, isn't that correct?

A We haven't even completed this Una Well at this point.

Q It's not completed?

A It's not completed.

Q Has it been logged?

A It has been logged and the casing has been run.

Q Has the log been made available to the Huff group?

A We have not released this log.

Q Mr. Stoltz, do I understand that your other witness in

this case will testify with respect to the risk factor?

A Yes.

MR. MORRIS: I think that's all the questions I have.

CROSS EXAMINATION

BY MR. NUTTER:

Q Mr. Stoltz, will the other witness also testify as to operating costs and well costs?

A Yes, sir.

Q Mr. Stoltz, now you say that you have run a casing on Una No. 1.

A Yes.

Q Now, immediately west of that on my Exhibit Number 1 here, there's a little circle that's right under, overlying that "K" of the lease number. Is that another location or is that some kind of a little misprint?

A Jack, will you verify what that is?

MR. JACK BROWN: That's the location we just started, yes.

MR. NUTTER: You do have a well drilling to the west of it?

MR. JACK BROWN: Yes, to the west there, Vera No. 1.

MR. MORRIS: Excuse me. Do you have another copy of your Exhibit Number 1?

MR. KELLAHIN: Give him a copy.

(Whereupon, off the record discussion was had.)

A Yes, that location, that circle does not represent the location that we're now drilling. It's 1980 from the north and 810 from the west, so it's in the southwest of the northwest quarter.

Q So the well that has just been started is over there in the southwest of the northwest?

A Yes.

Q Now, this well ~~is~~ down in the southwest southwest, Mr. Stoltz. Do I read the map correctly where it says that it was dry and abandoned May second of '51?

A I believe that's correct.

Q And that well went to a total depth of, it looks like, 11,600 and some feet. Do you know whether the Pennsylvanian Formation was tested in that well or not?

A In our opinion, this is much like six other wells that we re-entered in the North Bagley Field and we think that this location is productive in the same manner that they were.

Q This well was drilled prior to some of the newer completion techniques that are being used in the formation?

A Yes. You see, we didn't start that development until July, '64, and there have been a few wells drilled up in this

North Bagley area and the year prior to that, so there's some twelve years gap in there as to thinking <sup>and</sup> in technique in terms of completions.

Q Now, down here in Section 5 of the northeast, is that a Pennsylvanian well there, that black dot?

A Yes, it is.

Q So that has, in effect, extended the North Bagley-Pennsylvanian down beyond the south half of Section 32?

A Yes, it has.

Q How about the Amerada Well east of your Una Well, is it a producing well from the Pennsylvanian at this time?

A Yes, it is. In fact, they have just recently recompleted that. We don't have any production data on it at this time.

MR. NUTTER: Are there any other questions of Mr. Stoltz? He may be excused.

MR. KELLAHIN: I'd like to call my second witness.

JACK BROWN

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Will you state your name, please?



A Jack Brown.

Q By whom are you employed, Mr. Brown?

A I am a partner in Stoltz and Company.

Q And what is your profession?

A Engineer, petroleum engineer.

Q Have you testified before the Oil Conservation Commission and made your qualifications a matter of record?

A Yes, I have.

MR. KELLAHIN: Are the witness's qualifications acceptable?

MR. NUTTER: Yes, they are.

Q Mr. Brown, are you familiar with the application now pending before the Commission?

A Yes, I am.

Q In connection with that application, have you made a study of the area involved in the acreage owned by Stoltz and Company and that owned by the Jack Huff, Lewis Burleson, and W.C. Montgomery and Kem Merren?

A Yes, I have.

Q Referring to what has been marked as Exhibit Number 2, would you identify that exhibit, please?

MR. MORRIS: Excuse me. Do you have an extra copy of that exhibit?

MR. KELLAHIN: I don't know.

MR. NUTTER: Show him that one.

MR. HATCH: (Complies.)

A Exhibit 2 is a contour structure map on top of the Strawn Formation of the North Bagley and Bagley-Pennsylvanian Pool.

Q Now, what is the purpose of this exhibit in connection with this application, Mr. Brown?

A This exhibit shows our geological interpretation of the acreage in question.

Q In your opinion, is the south half of Section 32 productive from the Bagley-Pennsylvanian Pool?

A Yes, I believe it will be productive.

Q Would that apply to the entire south half, in your opinion?

A Yes, the entire south half.

Q Now, it would appear, and I believe there was some discussion of it previously, that there is a dry hole which was plugged and abandoned in May, 1951, is that correct?

A Yes, there is a dry hole there.

Q In your opinion, does that in any way endanger the south half of the section?

A No, it does not.

Q Will you state on what you base that opinion?

A As Mr. Stoltz stated, we have personally re-entered six so-called dry holes in this North Bagley Pool and other operators have re-entered two or three others and developed; but using the techniques we have today, we could make producers out of, what operators here as Joe calls it, dry holes.

Q Now, in connection with your completion of these wells, you are presently drilling the Una No. 1 Well, is that correct?

A We have just set pipe and logged it so far.

Q You have set pipe and logged it?

A Yes.

Q Is it practical to evaluate a well by a log or Drill-stem Test in this area?

A We do not feel so. We have made a practice of setting casing and testing the various zones with a Kobe pump. I mean, personally, I would not, until I tested all the porosity by using a Kobe pump, calling it a dry hole.

Q In other words, you have to make a completion in order to determine whether you have a producing well or not, is this your testimony?

A Right. Yes, sir.

Q Now, you have made a study of the producing history of

the Bagley Pennsylvanian wells, North Bagley?

A Yes, I have.

Q Referring to what has been marked as Exhibit Number 3, would you identify that exhibit.

A Exhibit Number 3 was made to illustrate the allowable that the field has or would be permitted by the Commission versus the current production, our July, 1968 production in the field. For instance, in the North Bagley Lower Penn Field, there were 61 wells producing during July and the permissible allowable, if every well was top allowable, would be 622,139 barrels. The actual production was 298,120 barrels. The ratio of the production to the possible allowables, .48, and 48 per cent of the top allowable being produced in the Lower Penn.

Q Does this indicate, then, that the average well in the Bagley Lower Penn produces less than 50 per cent of its allowable --

A Yes.

Q -- that would be assigned it?

A That is what it illustrates.

Q Are you familiar with the pool rules for this pool?

A I am.

Q In the event you have a well located on a 40-acre tract, what allowable is assigned that well?

A It's prorated according to the amount of acreage. If you have half of a standard unit, you'd have half of the maximum allowable that a full unit would have.

Q Which would be approximately what the wells are producing, anyway, is this right?

A What the average well is producing, anyway.

Q Well, what affect, in your opinion, would this have on offset operators, then?

A I believe that, rather than a well being penalized for less acreage, there should be no penalty whatsoever at this point.

Q In other words, a well on 80 acres and a well on 40 acres would, in your opinion, get approximately the same allowable?

A Same amount of allowable and same amount of drainage.

Q Now, in connection with the drainage, are you in agreement with the finding of this Commission that one well will drain in excess of 80 acres?

A Yes, I am.

Q If that be the case, then, would one well located on 40 acres cause any disadvantage to the offset operators?

A The disadvantage, if it was only 40 acres compared to 80, you could get an equivalent amount of volume.

Q Would it result in drainage of the offsetting acres?

A Yes, it would.

Q Now, in connection with this application, Mr. Brown, Stoltz and Company asked for provision for cost of development, recovery of cost of development and operation, together with charges for supervision, expenditures required for operating the well and a charge for a risk factor. Are you familiar with cost of drilling in this area?

A Yes, I am.

Q What do they run?

A A normal producing well on artificial lift equipment requires operating costs of approximately \$150,000.00. Now, what are the costs of operation? You are operating wells in this pool, are you not?

A Yes.

Q What has been your experience in cost of operation of the wells?

A Approximately \$1200.00 a month per well.

Q Per well?

A Yes.

Q Are these all pumping wells?

A There are a few exceptions; wells are flowing temporarily, but I'd estimate 95 per cent of the wells are

pumping.

Q Are you taking that into consideration in arriving at your operating costs?

A Yes, I am.

Q And what are the costs of supervision?

A To drill and complete the well?

Q No. For the operation of the well, reasonable cost for the supervision.

A Those are included in the costs I set at \$1200.00.

Q They are included?

A Yes, they are.

Q Now, under the New Mexico Statute, the Commission may grant a risk factor in the event it sees fit to enter a forced pooling order. Do you have any recommendation in that connection?

A I recommend 150 per cent.

Q Now, on what do you base this, Mr. Brown?

A That, as I say, a well cannot be determined to be dry without going through the complete procedure and so you're risking \$150,000.00 to determine whether the well would be actually a dry well or not; and also, I didn't bring an exhibit to illustrate that, but even though we feel the entire half of the section is productive, it could be very possible that,

possibly, you could actually make a dry hole. There's no drilling venture that is 100 per cent sure until you've drilled a hole and put it under production.

Q In addition to the normal risks of drilling a well, has it been your experience that you find variations of permeability in this --

A Yes, we have wells inside a location that have three good or four good wells, very good wells, around them, and inside the location, just due to a little local permeability reduction, they would not be good wells.

Q Now, do you agree with the testimony that was given by Mr. Stoltz to the effect that he'd been willing to drill on either 40-acre tract here?

A Yes, I do.

Q Do you feel they are equally good?

A Yes.

Q Now, in the event this forced pooling order is not granted, would that make it necessary to drill on the remaining 40-acre tract owned by Stoltz and Company?

A Yes, it would.

Q Did you participate in the negotiations with Huff and his partners?

A I was present, yes.



Q Do you know whether you agreed to drill this location, too, whether the Una Well was a producer or not?

A Yes. That was part of the proposition. The offer we made was, assuming this is productive down here, regardless of the Una, even though it turned out to be a dry hole, we could still drill either one of these tracts.

Q Were Exhibits 2 and 3 prepared by you or under your supervision?

A Yes, they were.

MR. KELLAHIN: At this time, I offer in evidence Exhibits 2 and 3.

MR. NUTTER: Stoltz Exhibits 2 and 3 will be admitted in evidence.

(Whereupon, Applicant's Exhibits Numbers 2 and 3 were admitted in evidence.)

MR. KELLAHIN: That's all I have on direct examination.

MR. NUTTER: Are there any questions of this witness?

Mr. Morris.

MR. MORRIS: Yes, sir.

CROSS EXAMINATION

BY MR. MORRIS:

Q Mr. Brown, what control did you have for the structure that you have shown in Section 32?

A We have a dry hole in the southwest of the southwest of 32. The well is shown to be a dry hole. We have the well down in Section 5; you have the two producing wells that were drilled at that time.

Q Which two are those?

A The north half of 32. We have the Amerada Well over in the northwest quarter of 33. You have a well in the southwest quarter of 4. They all give you control.

Q Was information from the Una Well available to you at the time you prepared this map?

A No, it was not.

Q You did not use any information from the Una Well --

A No.

Q -- on this? Do you have information available to you now from the Una Well that would, either one, affirm or reject this interpretation?

A Yes, it would.

Q And does it confirm the interpretation?

A I haven't checked it. I'm not that concerned. I know it's going to be right there.

Q It's such a sure thing that you just know it's going to be there?

A Within a few feet. One way or another, yes; within a

25-foot contour or 50.

MR. NUTTER: Fifty foot?

THE WITNESS: Fifty-foot contour. It will fall within the contour line, right.

Q Are you saying that you have not examined the log?

A Yes, I did examine the log. I didn't bring it back and correlate it and put it on the map. This was done within the last two or three days, last Friday. However, in the field, as I say, I have it on the map, but this zone I was looking for in the field hits within ten feet of where I had predicted it would in the field. That's the reason I feel sure it will fall within ten-foot, one way or another.

Q I'd like to talk about this recommendation you've made of 150 per cent or a 50 per cent risk factor. Is it true, Mr. Brown, that the wells in this particular area of the field, and I'm referring to Section 32 and Section 29 and Section 20, those in that area, that the wells in that area are better as you go north?

A No, that's not true. From what point, now, are you talking about?

Q Well, specifically, what I'm asking is: wouldn't you expect to get a better well if a well were drilled on the Huff

40 than you would if it were drilled on the 40 that you propose to add to the Huff acreage to make a proration unit?

A No, I do not.

Q Mr. Brown, you are a partner in Stoltz and Company.

A Yes, I am.

Q Did you participate in the negotiations with U.S. Smelting for the farmout of its acreage?

A No, not personally, I did not.

Q Were you consulted in that regard as to the amount of override that should be offered to U.S. Smelting for the farmout?

A Yes, I was.

Q Does the amount of farmout of override that is offered on a farmout depend to some degree upon the amount of risk that is involved in, or that will be involved in the drilling of that acreage?

A I would give less on a wildcat than I would on an offset location, yes.

MR. MORRIS: That's all I have.

CROSS EXAMINATION

BY MR. NUTTER:

Q Mr. Brown, you have these various wells in Section 32 spotted on your contour map, but you don't have the subsea

elevations on there. Did you have the subsea elevations when this map was drawn?

A Yes, we did.

Q And, for instance, the Sue in the southwest southwest of 29, and the Rose and Nelly in 32 and the Metco Well down in Section 5, although you don't have subsea elevations on those wells, they are considered in the subsea elevations at the top of the Strawn?

A Yes, they are.

Q They are considered in plotting the lines?

A Yes. It's better to get them on the map.

Q Now, on this \$1200.00 per month per well, this is direct charge, operating costs for the average pumping well in the pool that you operate, is that correct?

A Yes.

Q And you said it includes administrative overhead. How much actual administrative overhead do you average on these wells on here?

A A hundred dollars?

UNIDENTIFIED SPEAKER: Yes.

A A hundred dollars.

Q About a hundred dollars per well per month?

A Yes.

Q And then 1100 would be direct charge, I imagine.

A Right.

Q The reason I ask is that because the Commission, on its orders, usually sets out a direct charge for operation of the well, plus a fixed amount for administrative overhead.

A I don't feel that a hundred dollars is sufficient. It should be 1150. We have done a hundred dollars in the past, but the cost of everything has gone up and the nominal price of that depth of a well would be a hundred fifty dollars at the time.

Q And you are acquainted with the provision in the statute that the maximum risk that the Commission can come, as set for a forced pooling case, is 50 per cent. Are you aware of the Commission policy which has reserved that 50 per cent for maximum risk ventures?

A I'm not familiar with the policy along those lines.

Q I might note, for the sake of the record, that the 50 per cent has been used only in those instances where it is considered there is a maximum amount of risk involved and that some of the more sure prospects carry considerably less than that maximum, 50 per cent.

Now, the one hundred fifty thousand dollars that you mentioned is the average cost of wells in this pool, including the artificial lift equipment, is this correct?

A Those are our average costs, yes.

Q Now, does that mean the Kobe equipment on the well, or is this a portion or part of the triplex pumps in the power oil supplies at the time that --

A It's equipment pertaining to the well.

Q Just to the well?

A Yes.

Q So you'd have some additional charges back at the tank battery including --

A Well, we set the tank battery on the well. We have one battery and one triplex for each well.

Q For each well?

A Yes.

Q Even though it's a multi-well lease?

A Yes.

Q I see. So this is average for a well, regardless of how much there are on the lease there?

A Yes.

Q Is this area, Mr. Brown, productive from both zones of the Pennsylvanian, or are all these single completions down in this area?

A They will vary from well to well, that area, all the way.

Q This hundred fifty thousand is for a single completion, I presume?

A Yes.

Q Are there any duals in the immediate area?

A No, sir, not in the field, no.

Q What are these wells in the north half of Section 32 producing from, upper or lower?

A I believe they're all Lower Pennsylvanian right there.

MR. NUTTER: Mr. Kellahin, what is the application? The style is, "Application of Stoltz and Company for compulsory pooling in the North Bagley Upper, Middle, and Lower Pennsylvanian, for any and all" --

MR. KELLAHIN: For any and all zones, what they're able to complete.

MR. NUTTER: Including dual completions, Mr. Kellahin?

MR. KELLAHIN: Including dual completions.

MR. NUTTER: Well, we probably should have some discussion then on the cost of dual completions.

THE WITNESS: We're not anticipating dual completion, but the Kobe type of operation, it becomes impractical, in my judgment, to attempt dual completions.

Q So you would run it into a single completion?



A Yes, sir.

MR. KELLAHIN: That was a lawyer's point of view.

MR. NUTTER: You're going to get all those strings of tubing down that well, now.

A We had an attempt at one time in the field at a total cost, eventually, of about a half million dollars, and to no success.

Q I see.

MR. NUTTER: Are there any other questions of Mr. Brown? You may be excused. Do you have anything further, Mr. Kellahin?

MR. KELLAHIN: That's all we have at this time.

\* \* \* \* \*

JACK HUFF

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Huff, will you please state your name and where you reside?

A Jack Huff, Midland, Texas.

Q What is your profession, Mr. Huff?

A I am an oil operator-partner in Burleson and Huff.

Q Would you briefly state to the Commission your

education and your experience in the oil industry.

A Well, I received a B.A. Degree from the University of Tulsa and an L.L. Degree from the University of Texas. I practiced law for about five years in Midland and then became landman for Joe Appling of Midland, Texas for about four and a half years, and then in 1959, formed a partnership with Lewis B. Burleson, known as Burleson and Huff, and we have been incorporated in the oil business since.

Q Mr. Huff, concerning the northeast of the southeast of Section 32, 11 South, 33 East, when did you acquire that lease?

A On June 18th, 1968.

Q Now, was that lease acquired in your name?

A Yes, sir.

Q Do you have business associates that are with you on that lease?

A Yes, sir. My partner, Mr. Burleson, and Kem Merren and W.C. Montgomery.

Q From whom did you acquire that acreage?

A From the State of New Mexico at the State Land Sale.

Q And how much did you pay for this lease?

A We paid a total of \$8300.00 or \$207.50 per acre.

Q And was this purchased through sealed bid at the normal

State sale?

A Yes, sir.

Q Mr. Huff, the application that you filed for approval of a non-standard proration unit and all of the papers associated with that application, including the order that was entered, are before the Examiner in this case by administrative notice. So, I won't ask you to go through all of it, but did you handle the making of that application?

A Yes, sir.

Q Was notice given by certified mail to Mr. Stoltz?

A Yes, sir, it was.

Q Was notice given to U.S. Smelting?

A Yes, sir.

Q And to the other offset operators?

A To all offsetting operators, yes, sir.

Q At the time you received approval of the 40-acre non-standard proration unit, and here, I'm referring to Administrative Order NSP-798 dated September 4, 1968, what was your intention concerning the development of this 40-acre lease?

A Our intention then was to drill a well to the Lower Penn on our 40-acre tract after having received the authority to do so under this order.

Q And what is your intention now?

A Our intention still is to do exactly the same if we're permitted to do so, that is, to drill a well on just our 40-acre tract to test the lower tract formation.

Q And are you ready, willing and able to proceed to drill a well on this 40-acre tract in the near future?

A Yes, sir, we are.

Q Mr. Huff, were you present when Mr. Stoltz and Mr. Brown testified concerning the negotiations they had made with you and your crew to join with them in the drilling of a well or to farm out your acreage to them?

A Well, I'm not certain just which conversation Mr. Stoltz and Mr. Brown have reference to. I assume that is a telephone conversation, though, with Mr. Burleson and, at that time, I was out of town and was not present.

Q Did you confer with your partner, Mr. Burleson, in connection with the offer that was made by Mr. Stoltz?

A Yes, sir, I did.

Q And what was your reaction to that offer?

A That we still wanted to drill just our own 40-acre tract, ourselves, and to reject the offer.

Q And what was your reasoning in connection with this decision?

A Well, we feel that we have a very drillable location with a very minimum risk of getting a dry hole, and we had already gotten our authority to drill on a non-standard unit, and we simply didn't feel like the offer was acceptable to us.

Q Did the fact that the Una Well was then drilling have any affect upon your decision?

A Well, that would, of course, affect any decision in negotiating on a trade with somebody, and we certainly didn't feel we were in any position to make any sort of a trade with anybody until the Una Well was down and until we had complete knowledge of the logging and the completion of it.

Q Do you know the status of this Una Well at the present time?

A Only what Mr. Stoltz has told me, that it has been logged and that the casing has been run.

Q Are you in a position, even today, to evaluate fairly the offers that have been made to you by Mr. Stoltz?

A Not completely, inasmuch as we have been refused permission to look at Mr. Stoltz's log on the Una Well.

Q Mr. Huff, you have said that you are presently ready, willing and able to drill a well on this 40 if the present application is denied. I take it from that, maybe this is implicit in your statement, that you believe this will be an

economic venture on a 40-acre development?

A Yes, sir, we feel very strongly so.

MR. MORRIS: I think that's all I have.

CROSS EXAMINATION

BY MR. NUTTER:

Q Now, Mr. Huff, you stated that you obtained this lease on June 18th, 1968, correct?

A Yes, sir.

MR. NUTTER: Mr. Stoltz, would you refresh my memory. When did you obtain the farmout from U.S. Smelting?

MR. STOLTZ: Our letter was dated August 20th; but, of course, our trade was negotiated somewhat prior to that.

MR. NUTTER: Had you made a deal with U.S. Smelting, Mr. Stoltz, at the time of the application for the non-standard unit was filed, or prior to the time that it was issued? It was issued on September the 4th.

MR. STOLTZ: We had been negotiating on that U.S. Smelting tract for better than a year, as far as conversation with them relative to securing a farmout is concerned.

MR. NUTTER: Then you did get your letter from them, which would be the written contract to the fact on August the --

MR. STOLTZ: Twentieth.

MR. NUTTER: -- twentieth.

MR. STOLTZ: I think that's the date of the letter, within a day or two, I believe. Right.

Q (By Mr. Nutter) Mr. Huff, what do you think of the applicant's suggested 150 per cent risk factor?

A Well, in my opinion, I consider it very high. I think it's very low risk in drilling the well and I feel like they really substantiated that in their own testimony.

Q How about the operating cost that they were talking about? Do you operate any wells in this pool?

A No, sir, we don't.

Q Do you operate any wells of a similar type in New Mexico?

A No, sir, not at that depth from that formation.

Q How about administrative overhead, as far as wells that you operate? What's your average administrative overhead of cost?

A Oh, 75 to 100 dollars per well.

Q Have you prepared cost estimates for the well that you propose to drill?

A Not detailed. In rough form, we consider about \$100,000.00, the casing point, and about \$50,000.00 completion cost.

Q So, in other words, Mr. Brown's estimate of \$150,000.00

for a completed well with artificial lift equipment would be pretty much in the ballpark?

A Yes, sir, we would agree with those figures.

MR. NUTTER: Are there any other questions of Mr. Huff?

MR. KELLAHIN: Yes, I'd like to ask a couple.

CROSS EXAMINATION

BY MR. KELLAHIN:

Q Mr. Huff, you stated that you feel very strongly that your acreage will result in a producing well?

A Yes, sir.

Q And you have been able to evaluate the prospects of a well located on that 40-acre tract?

A Yes, sir.

Q But, at the same time, you testified that you find it impossible to evaluate the order made by Stoltz and Company?

A Well, I say it's impossible to completely evaluate it without full information. Now, if the Una were a dry hole, that would make considerable difference, of course, in my confidence.

Q Well, didn't Stoltz and Company agree that they would be willing to drill a well on this acreage whether the Una Well was a dry hole or not?



A I can't testify correctly on that because I didn't have the conversation with Mr. Stoltz. I can give you some hearsay if you'd like, but my partner, Mr. Burleson, is in a position to testify to the conversation itself.

Q And he is here and will testify?

A He is here and will testify to that.

Q He's going to be a witness?

A Yes, sir.

Q Now, you testified you paid \$207.50 an acre for this land.

A That's correct.

Q What was the next high bid?

THE WITNESS: Do you have the bids?

MR. MORRIS: No, you've got them.

A Excuse me. The next high bid was \$6,446.00.

Q And what does that come out to per acre?

A I didn't divide it out.

Q What was your total bid?

A Eighty-three hundred.

Q So you bid something like two thousand more?

A That's correct.

Q Now, several offers were actually made by Stoltz and Company, several alternatives proposed, were they not? You

discussed them with your partner, didn't you?

A I don't remember any alternatives other than the 19 and a half per cent overriding royalty that was offered to us.

Q Didn't you discuss --

A Other than joining with him.

Q Joining with him?

A Yes.

Q And they agreed to join with you and let you drill the well, did they not?

A I think that would have been implied in the conversations.

Q But you couldn't evaluate that offer?

A Oh, I wouldn't say I couldn't evaluate it. Our main purpose was to drill our own well on our own 40.

Q This is your real reason for turning it down, isn't it, to drill your own well on your own 40?

A That's our primary aim in connection with this hearing.

Q In other words, what you're really governed by, isn't it true, Mr. Huff, is the fact that most of the wells in this pool make about half an allowable and that's what you'll get on your 40-acre tract?

A No, that's really not what we're governed by. What we're governed by is the fact that we have a 40-acre tract and that's all the land that we have and we would like to drill our own well on it.

Q And you are not willing to join with anybody to form a standard unit and not get any full allowable beside the royalty?

A Well, our preference, our very strong preference is simply to drill on the acreage that we have under the pool rules.

Q Now, you filed your application, as I understand it, for this non-standard unit some time in July?

A Yes, sir.

Q And you received your order on September 4th?

A I believe that's correct.

Q Have you made a location yet?

A No, sir, we have not.

Q Have you filed a notice of intention to drill?

A No, sir, we have not done that, yet.

Q You have not drilled --

MR. MORRIS: Excuse me. Let the witness answer the question.

Q Are you through with your answer?

A I was going to elaborate on it slightly, if you will permit me to do so.

Q Go ahead.

A I did call the Commission at Hobbs and asked them if we should go ahead and file our notice of intention to drill, and they said, "It wouldn't be necessary. You could wait until you got your order if it were forthcoming on the non-standard unit." That's the reason we waited. And then, of course, followed closely on the heels of that, came Mr. Stoltz's application for forced pooling before we even had really an opportunity to file one.

MR. KELLAHIN: That's all I have, Mr. Huff. Thank you.

MR. NUTTER: I have a question for Mr. Stoltz. Mr. Stoltz, you originally made these people an offer of a farmout for 19 and a half per cent override, and that was when the Una Well was in its infancy or maybe it hadn't even been started yet, I don't know, but now that well has been cased and, I presume or I believe, you've got a producer there. Does that 19 and a half per cent offer still stand?

MR. STOLTZ: Yes.

MR. NUTTER: That's all I wanted to ask you. I don't have anything further from you. Does anyone have anything

further to offer? Mr. Morris.

MR. MORRIS: Yes, I have one question.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q To be specific, Mr. Huff, if the application for forced pooling is denied, how soon would you anticipate actually commencing a well on your 40 acres?

A Well, I should think at least within the next 90 days and probably sooner.

MR. MORRIS: All right. Thank you.

MR. KELLAHIN: Since the Examiner has asked a question of Mr. Stoltz, may I ask Mr. Stoltz a question?

MR. NUTTER: Yes, sir.

MR. KELLAHIN: Mr. Stoltz, in response to a question by the Examiner, you said that you were still willing to grant the 19 and a half per cent overriding royalty, is that right?

MR. STOLTZ: Right.

MR. KELLAHIN: Are you still willing to join in the drilling of a well, either to be drilled by Stoltz and Company or to be drilled by Mr. Huff and his partners?

MR. STOLTZ: We are.

MR. KELLAHIN: That's all.

MR. NUTTER: Mr. Huff, you may be excused. Call your

next witness, please.

MR. MORRIS: Mr. Lewis Burleson.

LEWIS B. BURLESON

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Burleson, please state your name and where you reside.

A Lewis Burleson, Midland, Texas.

Q Mr. Burleson, what is your profession?

A I am a geologist.

Q Are you a partner with Mr. Huff?

A I am, sir.

Q Reference has been made here to a conversation that you had with Mr. Stoltz concerning his offer to take a farmout or to drill a joint well with your group. Would you relate your understanding of that conversation?

A On Friday, September 6, Mr. Stoltz phoned our office and I talked to him, and, Mr. Huff being out of town at that time, he told me that he would like to see us join our -- to farmout with a 19 and a half per cent override, but subject to the Una not being a producer, I considered this not to be a firm offer, and that we had within two hours to tell him if we would

accept one way or another or he would force-pool us at that time. I told him that I was sure that the other partners in this acreage would not agree to a deal with the Una Well presently drilled at approximately 4500 feet at that date.

MR. NUTTER: What was the date of that conversation?

THE WITNESS: September 6, 1968. In other words, this was a production-type offer, and it would be predicated on the Una Well being a producer.

MR. NUTTER: What day of the week was that, do you know?

THE WITNESS: That was on Friday. At that time, in the two-hour period, Mr. Huff was out of town and I was unable to contact Mr. Montgomery or Mr. Merren.

Q (By Mr. Morris) Mr. Burleson, did you and your group make any effort on your own to acquire additional acreage from U.S. Smelting to form a standard unit for the drilling of a well in Section 32?

A Yes, sir. After we had purchased this lease, we approached U.S. Smelting for a farmout to farm an 80-acre proration unit and drill a well and offered them one-eighth override, reverting to one-fourth interest after payout.

Q And how was that offer accepted?

A It was rejected.

MR. KELLAHIN: If the Examiner please, I object to this line of questioning. It has not been shown that U.S. Smelting has anything to do with this case, and the fact that they may have attempted to form an agreement with U.S. Smelting has no bearing on their failure to agree with Mr. Stoltz, and this is the only issue before the Commission at this time, is the forced pooling or the interest held by Mr. Stoltz under the farmout.

MR. NUTTER: Mr. Kellahin, I think that he's talking about a period of time prior to the acquisition of the lease by Mr. Stoltz.

MR. KELLAHIN: This is correct, but --

MR. NUTTER: And this was an attempt at that time by Burleson and Huff to form a standard unit, I think.

MR. KELLAHIN: This is correct, but Mr. Stoltz had nothing to do with that, and that's why I say --

MR. NUTTER: Right.

MR. KELLAHIN: -- and U.S. Smelting is not a party to this proceeding and I object to the testimony as having no bearing on the issue before the Commission.

MR. MORRIS: If the Examiner please, it has a bearing in this sense, that it has been, I think, the thrust of Mr. Kellahin's cross examination of Mr. Huff which was that we



just wanted to drill on our 40 and that was the only interest that we had, and I thought it was incumbent upon us to show that we had made an effort to acquire additional acreage from U.S. Smelting at what we considered to be a reasonable override and a reasonable farmout arrangement and what we're really -- one of the things we are talking about here is whether the offer made by Mr. Stoltz to us is reasonable, and I think we're entitled to show our version of what is reasonable, as well as Mr. Stoltz is entitled to show the Commission what he thinks is reasonable.

MR. NUTTER: I think it's germane to the hearing, inasmuch as we have discussed the 40-acre non-standard unit, to find out if an effort was made to form a standard unit prior to filing for the non-standard unit.

Q (By Mr. Morris) Did you answer the question, Mr. Burleson?

A That U.S. Smelting turned down our offer of one-eighth override to pay out and reverting to one-fourth of the working interest.

Q Was any further effort made to continue negotiations with U.S. Smelting?

A Yes, sir. We wrote back and said we would still like to work out some kind of deal with them and they said that a

one-half carried interest through the tanks would be acceptable to them, and we rejected this as too much penalty to pay for almost a -- too much penalty to pay for that other 40 acres. They also stated that, if they decided to farm out this acreage they would get back in contact with us.

MR. KELLAHIN: If the Examiner please, I object to this. There's nobody here we can examine from U.S. Smelting. We don't know what their offer was. We are getting one side of the story. It's purely hearsay evidence on the proposition made by U.S. Smelting, who is not a party to this proceeding and we object to it.

MR. MORRIS: I have no further questions.

MR. NUTTER: Do you have any questions, Mr. Kellahin?

MR. KELLAHIN: I move that the testimony be stricken in regards to U.S. Smelting.

MR. MORRIS: If the Examiner please, I think that Mr. Burleson's statements here concern his efforts to negotiate, and we're not here to prove the truth or falsity of what U.S. Smelting said. All that we intend to show by this testimony is that negotiations were attempted by us with U.S. Smelting and the testimony being offered for that purpose, it would not be hearsay, and the testimony is proper.

MR. NUTTER: Mr. Burleson is testifying as to his own

actions and what he, himself, was told --

MR. MORRIS: That's right.

MR. NUTTER: -- and that testimony will stand. Are there any questions of Mr. Burleson?

MR. KELLAHIN: Yes, I have some questions.

CROSS EXAMINATION

BY MR. KELLAHIN:

Q Mr. Burleson, you testified as to a telephone conversation on September 6 with Mr. Stoltz?

A Yes.

Q That was not your first conversation with Mr. Stoltz, was it?

A No, sir, it was not.

Q In fact, there had been a number of different discussions about farming out this acreage, hadn't there, or forming a unit?

A Yes, there has.

Q Were they with you?

A Not altogether, no, sir.

Q They were either with you or with your partner, Mr. Huff, were they not?

A Yes, sir, they were.

Q And you were aware of these discussions, were you not?

A Yes, sir, I was.

Q Did you ever, at any time, make a proposal to Mr. Stoltz on what basis you would give him a farmout or join with him on drilling a well?

A No, sir, we were not calling Mr. Stoltz. Mr. Stoltz was calling us.

Q I'm not worried about that, but did you ever make such an offer --

A No, sir, we did not.

Q -- in connection with your discussions? Now, at one stage, Mr. Burleson, Mr. Stoltz informed you that he was ready to move a rig on that acreage, was he not? He was going to move, directly

A Mr. Stoltz talked about moving a rig, in our first conversation with him, and I was under the opinion that he was trying to get this acreage wrapped up before he dug the Una Well. In our first conversation, I did not know the Una Well was digging, at that time, and he wanted to move a rig in the area, and I thought -- and certainly then -- for himself; I misconstrued that I was going to move it on that location.

Q Now, this was long before the Una Well was completed, was it not?

A Yes, sir.

Q And he was proposing to move it on to your acreage, was he not?

A I did not think his offer was --

Q What did you think his offer was?

A His offer was to try to get our acreage tied up so he could dig the Una, which is an offset to that well.

Q You didn't understand that he offered to move a rig onto your acreage?

A No, sir, I did not understand.

Q Are you familiar with the position that U.S. Smelting has taken in regard to the 80-acre spacing?

A No, sir, I have no knowledge of what U.S. Smelting has.

Q You testified, and at least your counsel stated that the point of your testimony was to show what you considered a fair offer. What do you consider a fair offer, Mr. Burleson, in regard to pooling or unitization?

A Would you elaborate some more on what my basis for an answer will be?

Q The basis of your answer will be -- on what basis would you be willing to pool or unitize this acreage?

A Our main thrust, since we had been unable to make an 80-acre unit, we asked for a 40-acre unit so that we could drill

on our acreage that we had purchased in June.

Q In other words, you won't consider any offer under any circumstance, is this your testimony?

A I could never say I would consider any offer under any circumstance.

Q Mr. Burleson, you presented testimony in questioning by Mr. Morris, which Mr. Morris, in response to my objection, stated was designed to show what you considered a fair pooling offer. Now, what do you consider a fair pooling offer, involving this acreage and the Stoltz acreage?

MR. MORRIS: If the Examiner please, I object to the question. I think it's been made abundantly clear here several times that our position here in this hearing is in objection to a pooling order, that we have other objections, however, and one other objection is that the pooling orders that were made, number one, were not -- well, they are not fair for several reasons. One, it was not even on a good a deal as Mr. Stoltz with U.S. Smelting, but to try to put words in this witness's mouth and make him come up with an offer as to try to make him take the position that he's not taking here in this hearing --

MR. KELLAHIN: If the Examiner please, in response to my objection to this line of questioning that Mr. Morris has stated -- and I think the record will support me on this -- that

the purpose of this testimony is to show what they considered to be a fair offer, and I don't know what they considered to be a fair offer. Mr. Stoltz has testified as to what he offered them, and they have testified they made no counter-offer, and Mr. Morris opened the question up. I didn't. And I think I'm entitled to pursue it on cross examination.

MR. NUTTER: I think we ought to be entitled to know what Burleson and Huff would consider a fair offer.

Q (By Mr. Kellahin) Can you answer the question, Mr. Burleson?

A I would say a fair offer would fall somewhere in between what Mr. Stoltz has offered us and one half carried interest through the tanks.

Q What do you mean by "somewhere in between"? Those are two entirely different proposals. How can they fall in between?

A And I'm speaking for myself and I'm not in council with my partners: I would say the offer would have to be somewhere in between those two values.

Q But you can't come up with any different proposal that you would consider fair, although you say Mr. Stoltz's proposal was unfair?

A Mr. Kellahin, I own an undivided one-fourth in this on my own, and, as I testified, that we would like to dig this well ourselves. We tried to get an 80-acre unit to get to dig it,

and I would still like to dig our own well. I don't want to be forced to make a deal on it.

Q You never tried with Mr. Stoltz, did you, to make an 80-acre deal?

A Well, you just remember that we did not know --

Q Just answer the question.

A No, we didn't try to.

MR. KELLAHIN: That's all I have. Thank you.

MR. NUTTER: Are there any other questions of Mr. Burleson?

MR. MORRIS: That's all.

MR. NUTTER: He may be excused.

MR. MORRIS: Mr. Merren.

KEM E. MERREN

called as a witness, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Merren, please state your name and where you reside.

A Kem Merren, Midland, Texas.

Q What is your profession, Mr. Merren?

A Independent Petroleum Geologist.



Q Would you briefly state your education and experience in the petroleum industry?

A I received a B.S. in Geology from the University of Oklahoma. Following that, I worked twelve years for McCallister Field Company as a staff geologist, and the last four years as district geologist. Then, I have been an independent geologist for the last eight years.

MR. MORRIS: Are the witness's qualifications acceptable?

MR. NUTTER: Yes, they are.

Q And you are one of the partners in the ownership of the 40 acres being the northeast quarter of the southeast quarter of Section 32 that we have been talking about here?

A Yes, I am.

Q Have you prepared an exhibit showing your interpretation of the structure in this area?

A Yes, sir. Mr. Burleson and I prepared this structural map contoured on the top of the Middle Penn Zone. The title block in the lower right-hand corner shows that the contouring is 50 feet and shows that the dip is generally to the west. It also shows that the dip is steeper toward the south.

Now, this map is not complete, because we do not have the information on three wells close to this 40 acres; the three

wells being the southwest southwest of Section 29, the northeast northwest of Section 32, and the southwest northeast of Section 32. And the tops that we have for those first two, as indicated by the question mark, those are recorded tops and we have not seen the logs on those two wells, nor on the third well that is the diagonal offset to us.

Now, the red figures as shown in the legend in the lower right-hand corner show the net pay in feet for the Upper Pennsylvanian and the main zone in the Lower Pennsylvanian. These figures show that porosity decreases to the south in both of these zones. The net pay is thinner to the south in both zones.

Q Mr. Merren, when you say to the south, what area are you referring to?

A Specifically, from the northeast northeast of Section 32 down to the well in Section 5 in the next township, and to the well in -- where the value is shown in Section 4 of the next township. And also, as shown from the Amerada map, this well in Section 33 down to the south and as shown from the old dry hole in the southwest southwest of 32 down to the southwest.

Q All right. Now, what are the figures shown in green?

A The figures shown in green is the August, 1968

production in barrels and this also shows a very sharp decrease to the south. Specifically, from the area around the north line of Section 32 of the northeast line of Section 32, down into Section 5 where you have a drop there from 8800 down to 695 barrels, and we feel that this is a reflection or a result of the decrease in porosity as you come south. They go together.

Q Excuse me, but what conclusions can you draw from this information as to the relative desirability of your 40 acres as compared to the 40 acres to the south of you that Mr. Stoltz seeks to force pool with you into a unit?

A We feel very strongly that our 40 is better located from the standpoint of porosity and potential in production. Also, I would like to point out that, as you come south of our 40, the dip increasing, the dip is steeper, the rate of dip increases. It's steeper and the reserves, therefore, should be accordingly less in this area of steep dip.

Q Do you have an estimate of what the reserves are under your 40 acres?

A Yes. Using the latest API reserves that I have available, it would be 179,500 barrels under our 40.

Q In your opinion, is a well drilled on your 40-acre tract, and expecting to recover only the reserves from under

your 40-acre tract, economically justified?

A Yes, sir, it certainly is. We also feel that the risk factor in the southeast southeast of Section 32 would be considerably more than the risk factor on our 40.

Q In other words, if the well were drilled down in Mr. Stoltz's acreage, there would be more risk involved in it than on your acreage? You feel that your acreage is a better prospect?

A That's right.

MR. MORRIS: At this time, Mr. Examiner, I'd like to offer into evidence Huff Exhibit Number 3.

MR. NUTTER: Huff Exhibit Number 3 will be admitted into evidence.

(Whereupon, Huff Exhibit Number 3 was admitted in evidence.)

Q Mr. Merren, if any risk factor were fixed by the Commission in connection with a well drilled by Mr. Stoltz, what would you recommend as being a fair and realistic risk factor, bearing in mind that the maximum factor that can be awarded by the Commission for wildcat wells or the rankest wildcat, is 50 per cent?

A I would say ten per cent.

MR. MORRIS: That's all I have.

MR. NUTTER: Do you have any questions of this witness?

MR. KELLAHIN: Yes.

CROSS EXAMINATION

BY MR. KELLAHIN:

Q Mr. Merren, what risks are you taking into consideration in arriving at your ten per cent risk factor?

A I would say that the risk, being a field well, is certainly low. You have production to the east and to the north and indicated porosity in the southwest corner of Section 32, and some degree of porosity down to the south.

Q You have stated that you have porosity in the southwest quarter. That would include the Stoltz and Company property, wouldn't it?

A Yes.

Q Now, I believe you stated that the risks were higher on that 40 acres than it would be on the 40 acres owned by your group. What is the difference?

A Well, now let me be sure which 40.

Q Well, I'm saying, as I understood your testimony, you stated that the risk factor for a well drilled on the acreage owned by -- that is, the 40-acre tract, that is the southwest of the southwest, carried a higher risk factor than the southeast of the southeast.

A No, I didn't say that at all.

Q What did you say?

A I said that a well drilled in the southeast southeast carried a higher risk factor than a well drilled in the northeast southeast.

Q Northeast southeast?

A Right.

Q Well, I misunderstood your testimony, then. Would you say that a well drilled on the northeast of the southeast and the southeast and the southeast would be the same?

A No, sir, I would not.

Q What's the difference, then?

A The southeast southeast is further away from production. Therefore, there's more risk on that.

Q Then if Mr. Stoltz was to drill a well on that acreage, he'd be entitled to a greater risk, would he not, assuming that the Commission sees fit to force-pool this acreage?

A Greater than on the northeast southeast.

Q And you intend to set a risk factor, I assume, based on a well on your acreage, is this correct?

A No, that would be a well on Mr. Stoltz's acreage.

Q Well, there's not much of a risk, then, in drilling on Mr. Stoltz's acreage, either, in your opinion, is there?

A Not a great deal, but more than on our acreage.

Q Now, you stated your reserves underlying your tract, as I understood you to say, is based on an API estimate, is that correct?

A Yes.

Q Where were those estimates made? Who makes them?

A Those estimates are made up by the major oil companies, as far as I know.

Q And what major oil companies?

A Oh, it's my understanding they are in it together. They work in it together in arriving at these reserves.

Q Do you know how they arrive at them?

A They use core analyses and productive history and pay thickness and all information that might be available to them.

Q Do you know of any cores taken in this pool, to your own knowledge?

A No, I can't point out a well that was cored.

Q Now, in making these estimates, do they attribute production to each 40-acre tract? How do they do this?

A They usually set it up on barrels to the acre foot or sometimes by just barrels to the acre.

Q Well, how did they do it in this instance?

A Barrels per acre.

Q And barrels per acre for what area?

A For all of the pay zones.

Q All of the pay zones?

A In the field.

Q I'm talking about surface area. What area?

A Well, it's not set out in any way that I know of.

It's just listed as the North Bagley.

Q In other words, you have distributed the same reserves to Mr. Stoltz's acreage on a 40-acreage basis as you would your own acreage?

A No, sir, I would not.

Q Well, would API?

A That is hard for me to say. I don't know.

Q You don't know. Where did you get this figure for this 40-acre tract, is what I'm trying to arrive at.

A By taking the API reserves total for 80 acres and then taking half of that.

Q Well, what 80 acres? Any 80?

A Using their total barrels per acre for the different pay zones.

Q Well, if that's the way you're going to arrive at reserves, you'd do exactly the same thing for the southeast of



the southeast, wouldn't you --

A No.

Q -- if that's all the information you're going to use?

A No, I wouldn't do that at all.

Q Well, what would you do?

A Well, I would expect that in the better part of the field, the reserves might be higher than that, and in this worse part of the field, they might be less.

Q Mr. Merren, would you please just stick to my question, limiting all of your information to the API estimates, without regard to what you know about this field, how much would you allocate to each 40-acre tract in Section 32? I'm not talking about the better part of the field, or the worse part of the field. I'm talking about the API figure which you've used.

A I couldn't allocate the same figure to all of Section 32.

Q Well, it's the only figure you have, isn't it?

A In a sense, it is, but it doesn't mean that the whole field is --

Q Well, Mr. Merren, in that sense, then, you're attempting to apply your judgment to the API figure, aren't you?

A No. The API figures take that into consideration.

Q Well, how do they take it into consideration? What is the figure on the southeast southeast?

A They just know that at the edge of the field and at the other edge, the recoveries are not going to be very much. They know that from experience of the field.

Q How do they know this? Where do they get these figures?

A You have to make certain deductions on your own.

Q Well, I'll come back, again, to my original question: if all you have is the API figure, nothing else, then the allocation is the same for every 40-acre tract in the pool.

A I do not agree.

Q You do not agree. Well, I think I made it clear that you are applying your judgment to the API figure, isn't that correct?

A Judgment based on past experience in other fields.

Q In other words, you won't answer my question based on the API figure, is this correct?

A Not in the affirmative, no.

Q Now, you made some reference to a well in Section 32, lying to the south of Section 32, producing 898 barrels of water. Do you know the condition of that well when it was completed?

A It's in Section 5.

Q In Section 5. Pardon me. Yes, Section 5.

A I have seen the log on that well and the completion report on it.

Q How was it -- what zone was it in?

A In the Upper Penn.

Q Was an effort made to complete it, or do you know?

A Yes, there was an effort made and it was considered non-commercial.

Q When was that effort made? How long ago?

A Oh, approximately three or four months ago.

Q Was that by the present operator of the well?

A Yes.

Q Now, there is a well in Section 29 designated as Sunray Well in the eastern, upper eastern portion of the section.

A Yes.

Q Do you know what that well produces?

A That well produces in the range of, I would say, approximately 5500 barrels a month.

MR. NUTTER: Which well are you talking about, Mr. Kellahin? The one that's right under 29?

MR. KELLAHIN: I'm talking about the southwest of the northwest that shows completion.

THE WITNESS: Oh, the southwest of the northwest?

Q (By Mr. Kellahin) Yes, southwest, northwest.

A That doesn't show Sunray on the exhibit.

Q But Sunray owns the section. I don't know whose well

it is.

MR. STOLTZ: We designated it. It's our well.

Q Do you know what that well produces?

MR. NUTTER: Let's be sure we're talking about the same well. Is that the one that says 5593 on it, Mr. Kellahin?

MR. KELLAHIN: That's the well I had reference to, yes.

A I know that it is, I would say, a good well.

Q It produces in excess of 9,000 barrels, doesn't it?

A I couldn't say, definitely, what --

Q You will agree it's a good well. Structurally, it's lower than the well we have been discussing in Section 5, isn't it?

A Yes, but it has more and better porosity.

Q It's also lower than the south half of Section 32, isn't it, a major portion of the south half of 32?

A That's right, but I feel that porosity governs this situation more than structure.

Q How many wells do you operate in the North Bagley area,

Mr. Merren?

A Not any.

Q How many wells have you drilled in this area?

A We have not drilled any wells in this area.

Q Now, on porosity, what percentage do you usually cut off a figure in evaluating net pay?

A These figures were based on any porosity that was five per cent or above.

Q And how did you determine this porosity?

A By the electric logs.

Q You had no cores available, is that correct?

A That's correct.

MR. KELLAHIN: That's all I have. Thank you,

Mr. Merren.

MR. NUTTER: Are there any other questions of

Mr. Merren?

MR. MORRIS: No, sir.

CROSS EXAMINATION

BY MR. NUTTER:

Q Mr. Merren, this well down here in Section 5, was it just completed a couple or three months ago?

A Approximately three months ago.

Q And the Lower Pennsylvanian was non-commercial and the

well was completed then in the Upper Pennsylvanian. What type of pumping equipment do they have installed in that well?

A I don't know definitely what type they have. I do know that this same operator is producing other wells in this field that are making -- I know of one that's making 8,000 barrels a month.

Q What was the potential of the well when it was originally completed?

A I believe we have that. Potential was 347 barrels.

Q What was the date of that?

A I can look that up, but I'm guessing, approximately three months ago. I believe that's -- it was logged on May the 19th and they spent some time trying to complete it, so I believe it would have been in June, some time.

Q Probably around the first of June?

A Or a little bit after the first.

Q And it has fallen from 370 barrels per day down to 22 and a half barrels per day?

A That's right.

Q Do you know if the well has produced every day in the month of -- what month is this, August?

A That's August.

Q Has the well produced every day in the month of

August, do you know?

A Yes, it did.

Q Now, this French TP State Well over here in Section 4, that's a relatively new well, too, isn't it?

A The French TP State was drilled in 1963.

Q Oh.

A And was plugged and abandoned.

Q Now, there is a location shown directly west of that.

Is someone drilling that well?

A Yes, there is a drilling well there.

Q Who is drilling it, do you know?

A Metco.

Q And they are the same ones that operate the well in

5, is that correct?

A Yes.

Q Now, do they also have a well down here in Section 9?

A Yes, they have a well down there.

Q What kind of a well is that?

A That is a Pearl well that is quite a bit like the well in Section 5.

Q Now, getting to these reserves that Mr. Kellahin was asking you about, is this an API figure for 40 acres, this 79,500 barrels, or did you take an API number and adjust it to

come up with this figure for your 40-acre tract?

A That's what I did. I took their total reserves per acre and multiplied it by 40 to arrive at this figure.

Q And is that the number that came out, or, then, did you apply a factor to adjust it?

A No, I didn't apply any factor to this.

Q In other words, you used their figure of recoverable reserves per acre for the Bagley Pennsylvanian Field?

A Yes, sir.

Q And multiplied that figure by 40?

A Yes, sir.

Q You haven't made any estimate of the net feet of pay you would have here in your 40-acre tract, Mr. Merren?

A Yes, sir, I would expect us to have somewhere in the neighborhood of, I would say, eight to nine feet.

Q Would that be in the --

A In each one of these zones that's shown on this exhibit.

Q In the upper and lower?

A In the upper and the main zone of the lower.

Q What per cent porosity do you think you will have in that eight or nine feet of pay, average porosity?

A I would think it would be fairly high, as high as



12, possibly 15 per cent.

Q What's the point of water saturation in this field, do you know?

A No, sir, I don't know that.

Q Do you know what the formation volume factor is for the field?

A No, but I could get that. I do know that in practically all of the well, some water's produced.

Q I was wondering if we had enough information to try to arrive at some volumetric reserves here, but apparently, we don't have enough information.

MR. NUTTER: Are there any other questions of Mr. Merren? He may be excused. Do you have anything further, Mr. Morris?

MR. MORRIS: Not by way of evidence, but I would like to make a short statement.

MR. NUTTER: Do you have anything further, Mr. Kellahin?

MR. KELLAHIN: No.

MR. NUTTER: Go ahead, Mr. Morris.

MR. MORRIS: Without attempting to review all of the evidence that has been presented in this hearing, I think, as I understand the applicant and his position, he takes the position that he has an absolute right to come in and to bring

a forced pooling action, regardless of the fact that neither he nor his predecessor and interest in the south half of this section made any objection to the application for non-standard proration unit that was filed by Mr. Huff and his group. Now, the equities fairly scream out against this position.

As testimony here has shown, Mr. Huff and his group paid a sizeable consideration for their 40 acres. As soon as they received it, they attempted to make a deal for the formation of a standard unit with U.S. Smelting. This was rejected. They took the alternative of applying, pursuant to the special rules and regulations that are in effect for this pool and the ones that were proposed by Mr. Stoltz, for a non-standard unit and this was granted without objection from either U.S. Smelting or Mr. Stoltz, both of whom received notice of the application.

The application for a non-standard unit clearly states that it is an application under the field rules for administrative order without notice and hearing, a common procedure under the special rules that are in effect in various pools in New Mexico. Now, this non-standard unit was granted and the Commission is now being asked, not just to force pool, but to, in effect, rescind. He's asking the Commission to rescind the previous non-standard unit that was issued. We believe that not only is this not fair to Mr. Huff and his group, who have here

expressed the continuing desire to want to drill a well on their own acreage and pursuant to this administrative order, but the applicant, by failing to object to the application for non-standard unit and bring it to a hearing when he had the opportunity to do so, is now -- I don't know how you want to look at it. There's two ways of expressing it. He waived his right to do it, or, conversely, he is now estopped. He has put himself in such an inequitable position that he is now estopped to bring this forced pooling case before this Commission.

In this regard, I'd like to just point out how applications of this sort would open the way to unfair practices and improper use of the compulsory pooling law. There are many, many areas in the state of New Mexico where proration units are the rule, rather than the exception. For instance, I'm referring to the Eumont-Jalmat-Tubb and other pools that immediately come to mind. Under the position that the applicant attempts to take in this case, an operator could come in at any time after non-standard proration units were entered by this Commission, and seek to force-pool a standard unit, and in the interest of finality and in the interest of fairness and in the interest of planning and so forth, there have to be orders entered, non-standard proration units adopted that can be relied upon by the operators.

The long and the short of the whole thing is that whether, by inadvertence or simply inaction, Mr. Stoltz has sat on his hands, has watched an application come before him for creation of this non-standard unit and simply did nothing about it. I strongly suggest to the Commission that Mr. Huff and his group be permitted to enjoy the non-standard proration unit order that has been entered, and that I would recall to the Examiner, Mr. Huff's testimony that a well will be commenced in the immediate future if this forced pooling is denied. I would also like to point out the testimony that this is not an unnecessary well in this pool.

Now, here, I am not attacking the pool rules that have been adopted for the pool as a whole, that one well may efficiently and economically drain and develop 80 acres, but this does not mean that the Commission cannot take into consideration, in a case of this sort, whether a particular well is an unnecessary well or whether it isn't. Our forced pooling statute says that forced pooling can be granted to prevent the drilling of unnecessary wells to protect correlative rights and to prevent waste. Our supreme court has said, in the case of Sims versus Mechem, that the order must be predicated upon a finding of waste. I see no testimony in this case from which such a finding could be made that waste would be caused

unless compulsory pooling is ordered. I would suggest to the Examiner that the facts in the Sims versus Mechem case were thought well in mind or review of that case would be in order because it smacks very closely to some of the points that are involved in this case. I am not saying that it is entirely similar in regards to this case, but you recall in the Sims case, there was a proration unit, a non-standard proration unit established by order. Later, there was a request for compulsory pooling of a standard proration unit which would carry with it, rescinding the order, creating the non-standard unit. The Commission order rescinded the non-standard unit and ordered compulsory pooling of a non-standard, and this order was declared void by the supreme court of this state on the grounds that there was no showing that waste was involved or would be caused under the existing order. In effect, the court said: You can't strike down, you can't change the existing non-standard proration unit without a substantial change and without a showing that waste would occur until this is done. There's been no showing of this effect in this case.

As the witnesses we presented showed, there are ample reserves. There's good structure here and the drilling of a well on a 40-acre tract in this particular location is justified and could not be considered an unnecessary well.

Now, I hate to even discuss or to take the position here of what we would like to see done if the Commission should order pooling, but on the other hand, if, for some reason, the Commission should disagree with our interpretation of the right of the applicant to pooling, we certainly would like to have our position stated as to how we think we could next best be protected. If an 80-acre unit is formed here, the best location for a well is on our acreage. Here again, this relates back somewhat to the inequity of this pooling application; but if pooling is ordered, the well should be located on our 40 because that is the best possible location for it.

Now, there is minimum risk involved in drilling a well at this location as shown by everybody's testimony. At the most, it would be ten per cent. I would suggest to the Examiner, it would be none. There's no requirement in the statute that any risk factor be assigned in a pooling order. Certainly, if the applicant should choose or should be given the option to choose the location, if he should choose to locate on his acreage, there should be no risk factor involved, as this would be a matter of his own choice.

We would expect that if a pooling be ordered, that Mr. Huff and his group be given the order options as required by the statute of deciding whether to pay their share of well costs

in advance, or being a carried interest with a risk factor, whatever amount, if any, that's fixed by the Commission.

Thank you. That's my statement.

MR. NUTTER: Mr. Kellahin.

MR. KELLAHIN: If the Examiner please, I'll try to be as brief as possible, but I think Mr. Morris has brought out certain things here that I think are deserving of answer.

First, he predicates his position primarily, as I understand it, on the fact that a non-standard location or unit was approved by the Commission in its Order NSP-798. This was granted on September the 4th, and by the statement of Mr. Huff, no notice of intention to drill has been filed. In other words, the applicant in this case has not changed his position in reliance on this order, and he has suffered no detriment whatever by the bringing of this forced pooling action by Mr. Stoltz and his company at this time.

The forced pooling statute of the State of New Mexico, and I'm sure the Examiner is quite as familiar with that as I, if not more so, provide that they shall permit -- and all of the statutes of the Commission under which the Commission operates, are designed to permit each operator to recover his just and equitable share of the oil and gas underlying his tract. Now, the Huff interests own a 40-acre tract and they are certainly entitled to recover their fair share of the oil and gas underlying

their 40-acre tract.

Mr. Morris, in his statement, and the testimony of the witnesses completely ignored the fact that Stoltz and Company has the entire south half of Section 32, and by the testimony of Mr. Stoltz here today, desires to develop that entire south half on 80-acre spacing as required by the Bagley Pool rules. If you say that the well to be drilled by Burleson and Huff and their partners is not an unnecessary well, that begs the question. The drilling of a well there will result in waste, and whether it is waste to them or waste to us, it is waste in the Bagley Pool and it is waste which this Commission is instructed by the statute to prevent in that it will require drilling another well on a 40-acre tract which is an unnecessary well.

The Commission has already found that one well will adequately drain and develop, efficiently drain and develop 80 acres in this pool, and by the very nature of that finding, two wells on an 80-acre tract constitute at least one unnecessary well.

Now, in regard to the risk factor, Mr. Morris has proposed that the well should be drilled on the Huff acreage. The witnesses for Stoltz and Company have testified that that is immaterial. They'll drill on either 40-acre tract and will be happy to do so. They have shown a sincere effort to reach



some pooling effort with Burleson and Huff, and Burleson and Huff have admitted they made no effort to pool their acreage. They didn't desire to pool their acreage. They wanted to drill their acreage on 40 acres and get a half of the allowable, and I think that the reason for this is quite apparent. When you look at our Exhibit Number 3 showing the productive history of the well in the Bagley Pool, 50 per cent allowable is just approximately what a well in this pool will make, although it drains a wide area. Therefore, by the very circumstances here, to permit the drilling of one well on a 40-acre tract, gives that operator an unfair advantage in that he is getting the same production that a well on 80 acres gets, and by doing so, prevents the full development of the pool and denies the other operators the right to recover their fair share of the oil and gas underlying their tract unless they, likewise, go in and drill an unnecessary well on a 40-acre tract. Certainly, there is adequate testimony here to support a finding of a waste.

Also, it is the duty of this Commission under the statute to protect correlative rights, and to permit such a thing to occur as to the assignment of half an allowable when that is approximately the ability of the well to produce in the first place, results in an impairment of the correlative rights of Stoltz and Company in that it will take gas or oil

under their land unless they drill an offsetting well, which is an unnecessary well.

We submit that the fact that the unit has been approved and Mr. Morris quoted at length from the Sims case, that the basis of the Sims case simply is this: the court said that there was no finding that waste would be prevented and no testimony on which such a finding could be predicated. That is certainly not the situation here. There is ample testimony before the Commission at this time to show that waste will occur if the forced pooling order is not granted and if, as Mr. Morris has said, the effect of it is to -- even if it is to vacate the non-standard unit order, there's nothing new about this. Forced pooling has gone on under these circumstances before, and the Commission has granted forced pooling orders and, in that connection, we should bear in mind where the statute says where the owner with the right to drill on a portion of the tract has drilled or desires to drill, he can bring a forced pooling action, and this is certainly the situation here. If you talk about equities, there's been no change of positions. Nobody's been damaged by the fact that a non-standard unit has been approved and no well has been drilled. Mr. Stoltz's testimony is to the effect that he has asked them to farm out to them. He has asked to farm out to them. He will join with them in

drilling a well on his acreage or their acreage. He can drill it or they can drill it, and yet, he can make no agreement with them and this is certainly a case for the exercise of the forced pooling statutes in order to insure the orderly development of the North Bagley Pool on the 80-acre spacing to prevent waste and protect correlative rights of the operators in the area and permit them all to recover their fair share of the oil underlying their land.

MR. NUTTER: Thank you both. Does anyone else have anything to offer in this case?

MR. HATCH: I have some communications from Sunray DX Oil Company and Metco Properties. There is one also from United States Smelting and Refining Company. They all agree and express their support for the applicant. U.S. Smelting does mention that -- well, I'll read that one, because I think it does establish some interest.

"United States Smelting and Refining and Mining, the record owner of State of New Mexico Oil and Gas Lease Number K-4478, covering the southwest quarter, the northwest quarter of the southeast quarter, the south half of the southeast quarter, Section 32, Township 11 South, Range 35 East, concurs with the Stoltz application of the compulsory pooling."

MR. NUTTER: Thank you, Mr. Hatch. Does anyone else have anything to offer in Case 3871? We'll take the case under advisement, and call the meeting adjourned.

STATE OF NEW MEXICO     )  
                                   ) ss  
 COUNTY OF BERNALILLO    )

I, CHARLOTTE MACIAS, Court Reporter in and for the  
 County of Bernalillo, State of New Mexico, do hereby certify  
 that the foregoing and attached Transcript of Hearing before  
 the New Mexico Oil Conservation Commission was reported by me;  
 and that the same is a true and correct record of the said  
 proceedings, to the best of my knowledge, skill and ability.

*Charlotte Macias*  
 Court Reporter

I do hereby certify that the foregoing is  
 a complete record of the hearing held on  
 the Drivener hearing of Case No. **3871**  
 heard by me on **9/25**, 19**68**  
*[Signature]*  
 New Mexico Oil Conservation Commission