

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

Application of Mewbourne Oil for approval of expansion of a unit area,
Lea County, New Mexico

CASE NO. 21418

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

THURSDAY, MARCH 18, 2021

This matter came on for hearing before the New Mexico Oil Conservation Division before Hearing Examiner William Brancard and Technical Examiners John Garcia and Kathleen Murphy, via Cisco Webex Virtual Meeting Platform

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17 2 50

18 3 50

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1 (Time noted 9:52 a.m.)

2 HEARING EXAMINER BRANCARD: All right. We are
3 ready to start Case 21418, No. 24 on our agenda.

4 And we have Mr. Bruce, Holland and Hart,
5 Modrall. Are they all here?

6 MR. BRUCE: I'm here for Mewbourne.

7 Mr. Hough, are you here?

8 MR. HOUGH: Yes. I am entering an appearance
9 from Modrall for the purpose of appearance on behalf of
10 Cimarex Energy Company and Apache Corporation.

11 I'll just say up front at this time I'm
12 just entering an appearance to preserve a right to a de
13 novo appeal to the Oil Conservation Commission, and I just
14 ask that I be excused from the remainder of the hearing.

15 HEARING EXAMINER BRANCARD: Okay. I think I
16 also have you, or at least your firm listed for Conoco
17 Phillips and Marathon.

18 MR. HOUGH: We are actually listed for Marathon,
19 as well. I'll go ahead and note that Deana Bennett is
20 here on behalf of Marathon, but my involvement is on
21 behalf of Cimarex and Apache.

22 Deana can clarify. Conoco Phillips, I was
23 not aware of that.

24 MS. BENNETT: Good morning, Mr. Examiner and Ms.
25 Murphy. Deana Bennett from the Modrall Sperling firm, and

1 I am here on behalf of Marathon Oil Permian, LLC. I don't
2 recall our firm entering an appearance on behalf of Conoco
3 Phillips, but we'll take a quick look at that. I think
4 that may be Holland and Hart.

5 HEARING EXAMINER BRANCARD: That's my mistake.
6 I believe that's Holland and Hart.

7 Holland & Hart. Who is here from Holland
8 and Hart? I have five parties listed for them.

9 MS. LUCK: Kaitlyn Luck with the Santa Fe office
10 of Holland and Hart on behalf of those parties that we've
11 entered an appearance for.

12 HEARING EXAMINER BRANCARD: I have Chisholm,
13 COG, Devon, Chevron and Conoco Phillips. Is that correct?

14 MS. LUCK: That is correct. Thank you.

15 MS. MURPHY: So can you list again who's all
16 entered appearances, the Operators.

17 HEARING EXAMINER BRANCARD: So we have Mewbourne
18 Oil Mr. Bruce; and then we have Chisholm, COG, Devon,
19 Chevron, and Conoco Phillips, which I believe are
20 collectively being represented by Holland and Hart, Ms.
21 Luck.

22 Is that correct?

23 MS. LUCK: That's correct.

24 HEARING EXAMINER BRANCARD: And then Marathon is
25 the Modrall law firm, Ms. Bennett.

1 And Cimarex and Apache is the Modrall Law
2 Firm, Mr. Hough.

3 MR. HOUGH: Uh-huh. Correct.

4 HEARING EXAMINER BRANCARD: Are there any other
5 parties who would like to join this event?

6 Hearing none, I guess -- then I need to,
7 for the record, indicate that the technical examiner for
8 this hearing is Ms. Kathleen Murphy.

9 So, Mr. Bruce, would you like to proceed
10 with what you would like to do today?

11 MR. BRUCE: Sure. I have submitted affidavit
12 testimony by Adriana Salgado the landman, and Nathan
13 Cless, the geologist. I would intend to present them,
14 qualify them, ask them a few questions about their
15 testimony, and then turn it over to the other attorneys to
16 ask questions.

17 But I would ask the other attorneys what
18 they intend to do so I can cover up front what they may
19 want to hear.

20 HEARING EXAMINER BRANCARD: Okay. So let me
21 just start.

22 You're prepared to have live witnesses
23 today, is that correct, Mr. Bruce?

24 MR. BRUCE: Yes, if absolutely necessary, yeah.
25 They are on the line waiting.

1 HEARING EXAMINER BRANCARD: But you also have
2 affidavits from these witnesses?

3 MR. BRUCE: Yeah. They were submitted months
4 ago.

5 HEARING EXAMINER BRANCARD: Okay. So let me
6 start with Holland and Hart on behalf of your client.

7 What is your preference for today?

8 MS. LUCK: Mr. Examiner, at this point we've
9 entered an appearance to preserve our clients' rights to
10 appeal, and we don't have any intent of examining the
11 witnesses at this hearing.

12 HEARING EXAMINER BRANCARD: Okay. So you have no
13 objection to the affidavits?

14 MS. LUCK: That's correct.

15 HEARING EXAMINER BRANCARD: Ms. Bennett?

16 MS. BENNETT: Similar to Ms. Luck, at this point
17 Marathon does not object to the case proceeding by
18 affidavit. Marathon does, however, want to put on the
19 record that Marathon is unwilling to commit its interest
20 to the unit at this time, and it filed a prehearing
21 statement to that effect a couple of -- probably a couple
22 of months ago at this time. So that's in the written
23 record, but I want to also put it on the hearing
24 transcript record that Marathon isn't willing to commit
25 its interests at this time.

1 And I did want to thank Mewbourne's
2 witnesses for updating their exhibit packet to address
3 some Of Marathon's concerns that we raised at the last
4 hearing or status conference regarding whether the
5 targeted interval was limited to the Bone Spring or both
6 the Bone Spring and the Wolfcamp. And I have reviewed
7 Mewbourne's exhibits and they make it much more clear that
8 the unitized interval is limited to the Bone Sprint, and
9 that's the basis for which Marathon is willing to allow
10 the case to proceed, because the exhibits demonstrate that
11 the unitized interval is limited to the Bone Spring
12 Formation.

13 Thank you.

14 HEARING EXAMINER BRANCARD: Mr. Hough, are you
15 still with us?

16 MR. HOUGH: Yes. And for Cimarex and Apache,
17 they are similar in the sense that they do not intend to
18 introduce any type of evidence. They're not objecting to
19 a presentation by affidavit at this time, simply
20 preserving their right to a de novo hearing before the Oil
21 Conservation Commission.

22 HEARING EXAMINER BRANCARD: And are your clients
23 taking a similar position of not committing to participate
24 in this unit?

25 MR. HOUGH: Yes, that's correct.

1 HEARING EXAMINER BRANCARD: I guess I should ask
2 Ms. Luck the same question about your clients and their
3 participation in this unit.

4 MS. LUCK: Uhm, I don't have a statement
5 prepared for each client as to whether or not they are
6 participating in the unit. Each of the clients have
7 indicated to us that they have either worked out an
8 agreement with Mewbourne or they let us know that they
9 didn't intend to oppose this case proceeding today.

10 HEARING EXAMINER BRANCARD: Okay. I guess with
11 that we'll go back to Mr. Bruce, and you may proceed with
12 sort of summarizing what you're proposing to do, and what
13 the evidence that you're presenting in support of it is.

14 MR. BRUCE: Okay. I submitted a package of
15 exhibits.

16 Exhibit 3 is the Application and proposed
17 ad in this case.

18 In this there is an existing unit in Lea
19 County, the North Wilson Deep Unit area, which originally
20 covered about 2,000 acres, it only covers about 1,000
21 acres right now. Mewbourne seeks to extend the unit only
22 as to the Bone Spring Formation to encompass collectively
23 about 12,000 acres of land.

24 Submitted as Exhibit 1 is the Affidavit of
25 Adriana Salgado, the land witness. And what I'll do is

1 I'll tell you what's in here, and then if anybody wants to
2 have any questions of Ms. Salgado, I will bring her on and
3 present her for questioning.

4 Her affidavit contains a number of
5 exhibits. It contains the Revised Proposed Unit Area.
6 When the application was first filed it covered some
7 additional acreage which various companies asked to be
8 excluded from the unit, and Mewbourne did so. So the
9 correct acreage is described at page 3A of the Unit
10 Agreement. It is the State Land Office form under which
11 participation in the unit is simply on an acreage basis.

12 It contains Exhibit A, which is a land plat
13 of the unit;

14 Exhibit B to the Unit Agreement, which is
15 all of the interest owners within the unit area, whether
16 or not they have committed their interest;

17 and Exhibit C to the Unit Agreement is a
18 Schedule of Tract Participation, which I said is by
19 acreage only.

20 There is at the end of the Unit Agreement a
21 page of Unit Participation Table, and it does discuss some
22 of the parties who have entered appearances in this
23 matter, and it gives the current status of those parties.

24 Exhibit 1-B is the Proposed Unit Operating
25 Agreement, which is, you know, standard AAPL Form 610,

1 1989 form of -- and these operating agreements get longer
2 every year, I think.

3 There are sample Proposal Letters as
4 Exhibit 1C.

5 Exhibit 1D contains the C-102s for the
6 initial unit wells which are identified in those C-102s.

7 And Authorizations for Expenditure for the
8 initial wells is 1E.

9 And finally, Exhibit 1F is a Letter of
10 Preliminary Approval for the unit expansion from the
11 Commissioner of Public Lands. The Commissioner of Public
12 Lands has indicated interest in getting this area
13 unitized. There have been virtually no horizontal Bone
14 Spring wells drilled in this unit area, and so obviously
15 the State could use the revenue at this point.

16 The next exhibit, originally the geologist
17 was going to be Jordan Carrell. He is unavailable for
18 this hearing, so last week I filed an affidavit for Nathan
19 Cless, a replacement exhibit. He is Mr. Carrell's
20 supervisor and is familiar with the geology in this unit
21 area. He has previously testified before the Division as
22 an expert petroleum geologist.

23 As in most of these areas, or I should say
24 cases contains a regional -- his exhibit attachments are:
25 A regional map; a structural map; four cross sections; and

1 a Bone Spring Gross Thickness Plat. It shows -- there is
2 a Bone Spring Activity Map that shows to the west and to
3 the south of this unit. West and southwest there are a
4 fair number of Bone Spring wells, but again you can see
5 there are none in the 12,000 acres of the proposed
6 expansion unit.

7 There are four cross sections showing the
8 uniformity and presence of the Bone Spring Formation in
9 this area, together with certain location maps. Their
10 development proposal, the horizontal wells, where the
11 general placement, and showing the number of wells they
12 intend to drill.

13 And it contains all the usual information,
14 almost the same as the pooling hearing.

15 There are two more exhibits. One is my --
16 the Notice materials. I did send out a Notice Letter to
17 the working interest owners in the proposed unit area.
18 This is an exploratory unit, and strictly speaking Notice
19 is not required. I enclosed a copy of the Notice Letter.
20 I did not include all the green cards and any return mail
21 I received. I didn't feel like that was necessary, or to
22 consume another small ream of paper.

23 And then there is an Affidavit of
24 Publication. Again I do not believe that was necessary
25 but to answer a question Mr. Garcia might have, this

1 Affidavit of Publication, this is one I specifically
2 remember where I never received the actual publication
3 affidavit, and I asked the Hobbs newspaper a couple of
4 times to send it to me and they never did. But I've also
5 attached the payment notice showing that the ad was paid
6 for.

7 So people were given Notice both
8 constructively and by Certified Mail, which I think is
9 really unnecessary in an exploratory unit.

10 But I think all the materials are there. I
11 would move the admission of Exhibits 1, 2, 3 and 4.

12 But Ms. Salgado and Mr. Cless are on the
13 line, and if there are any questions of them I would turn
14 it over to the other counsel.

15 HEARING EXAMINER BRANCARD: Okay. That's your
16 testimony today?

17 MR. BRUCE: Yes, unless the Division wants more.

18 HEARING EXAMINER BRANCARD: Well, that's
19 entirely possible, but let's start with what you have.

20 So I will then turn to the other parties,
21 see who has questions, concerns, et cetera.

22 Ms. Luck.

23 MS. LUCK: Thank you. And we don't. None of
24 the clients I represent have any questions or objections
25 to the exhibits being admitted at this time, with the

1 understanding that each of them do preserve their right to
2 a de novo hearing, if necessary.

3 HEARING EXAMINER BRANCARD: Okay. Ms. Bennett.

4 MS. BENNETT: Thank you. I don't have any
5 questions of the witness. I would just note, however,
6 that in looking through the OCD's files for this case, the
7 most recent set of exhibits that Mr. Bruce, I think,
8 submitted in mid February, I want to say, aren't -- yeah,
9 he submitted those on February 11th. They don't appear in
10 the case file and those are the exhibits that were amended
11 to make clear that the targeted -- or the unitized
12 interval is only the Bone Spring interval.

13 So I would ask that those exhibits be
14 included in the case file and that those be the exhibits
15 that the Division, along with the exhibits that Mr. Bruce
16 of course is using today, which I believe are probably the
17 same set as what he submitted in February, except for the
18 geology affidavit.

19 MR. BRUCE: Yes.

20 MS. BENNETT: I would ask those be the exhibits
21 the Division use when reviewing the materials, to make
22 sure they are the most recent exhibits, even though those
23 don't yet appear in the OCD case file.

24 MR. BRUCE: Well, I apologize, Mr. Examiner; I
25 filed two sets of exhibits. And I got to believe Ms.

1 Bennett. I did not realize. I know I emailed them in,
2 because I copied all of the opposing counsel at the same
3 time when I filed that four weeks ago.

4 MS. BENNETT: Yes, I -- this is Deana. I
5 definitely received them, and that's what made me realize
6 in the case files that those are not in the OCD case
7 files.

8 So I reviewed them, and they were sent to
9 OCD Hearings, so there's no question in my mind that Mr.
10 Bruce emailed them. I think it's just probably a
11 technical oversight that they didn't get uploaded to the
12 case files, but I would just ask that those exhibits be
13 uploaded and be the ones that the Division reviews.

14 MR. BRUCE: I will do that immediately after the
15 hearing.

16 HEARING EXAMINER BRANCARD: Is that your only
17 concern, Ms. Bennett?

18 MS. BENNETT: Yes. Yes. And then I mean I
19 would defer to Examiner Murphy on this, and Examiner
20 Garcia. They may have the exhibits in front of them.
21 They likely do.

22 I'm not trying to say Mr. Bruce did
23 anything wrong here. That's not my point. My point is
24 that there's another set of exhibits, the set of exhibits
25 we are all likely looking at today, that aren't in OCD's

1 case file. No finger-pointing at all.

2 HEARING EXAMINER BRANCARD: That's all right.
3 We allow finger pointing.

4 Thank you. Well, I'll go to -- if
5 Mr. Hough is still on the line, go to him quickly before
6 we get back to that issue.

7 MR. HOUGH: No questions or concerns from
8 Cimarex and Apache. Thank you.

9 HEARING EXAMINER BRANCARD: Okay. Let me go to
10 the technical examiners. I believe Ms. Murphy you have
11 the lead, but Mr. Garcia you're still on the line, so
12 please jump in if necessary.

13 MS. MURPHY: Thank you.

14 So I do have a question about the exhibits
15 that were submitted.

16 So you submitted exhibits in January for
17 the January 21st hearing that did not go, and then you
18 submitted a set for the February -- it's dated February
19 18th. And then you have revised that with the geology
20 section for this hearing.

21 Is that correct, Mr. Bruce?

22 MR. BRUCE: That is correct. The geology
23 testimony is virtually identical. It's just a different
24 witness preparing the affidavit.

25 MS. MURPHY: So my question to you is on the

1 exhibit that it says it's for February 18th but it's
2 actually for this hearing. On page 3 it states, there's a
3 paragraph No. 10, and it says: Several working interest
4 owners do not approve of the unit expansion.

5 And this is the same paragraph that was in
6 the January exhibits, and it has not changed at all. And
7 I believe that some of it has, and I'm confused about who
8 is committed to the unit and who is not, and I'd like to
9 clear that up.

10 MR. BRUCE: With that, Ms. Salgado, are you on
11 the phone?

12 (Note: No audible response.)

13 MR. BRUCE: Okay. If I could ask her a few
14 questions, Madam Examiner.

15 MS. MURPHY: Please.

16 HEARING EXAMINER BRANCARD: Oh, yes. Sure.

17 MR. BRUCE: Could you please state your name for
18 the record.

19 THE WITNESS: Adriana Salgado.

20 MR. BRUCE: Where do you reside?

21 THE WITNESS: Midland, Texas.

22 MR. BRUCE: Who do you work for and in what
23 capacity?

24 THE WITNESS: I am a landman for Mewbourne Oil
25 Company.

1 MR. BRUCE: And have you previously --

2 HEARING EXAMINER BRANCARD: Mr. Bruce, just
3 quickly has Ms. Salgado been sworn in previously?

4 MR. BRUCE: Oh, only via affidavit, which is why
5 I was asking the questions. So If we can get her sworn
6 in, I would -- yeah.

7 HEARING EXAMINER BRANCARD: So, Ms. Salgado, do
8 you promise the testimony you are about to give is the
9 truth and nothing but the truth?

10 THE WITNESS: I do.

11 HEARING EXAMINER BRANCARD: Please go ahead.

12 DIRECT EXAMINATION

13 BY MR. BRUCE:

14 Q. Ms. Salgado, you have not testified live before
15 the Division; is that correct?

16 A. That's correct.

17 Q. Could you summarize your educational and
18 employment background for the examiners.

19 A. I graduated from the University of Texas of the
20 Permian Basin in 2009. I have ten years of land
21 experience. I have been a landman with Mewbourne Oil
22 Company since 2014, and prior to that I was at Apache.

23 Q. Does your area of responsibility at Mewbourne
24 include this portion of Southeast New Mexico?

25 A. Yes, sir.

1 **Q. And are you familiar with the land matters**
2 **involved in this application?**

3 A. Yes, sir.

4 **Q. And you've been working on this pretty much for**
5 **quite a number of months now, haven't you?**

6 A. Yes, sir.

7 MR. BRUCE: Mr. Examiner, I tender Ms. Salgado
8 as an expert petroleum landman.

9 HEARING EXAMINER BRANCARD: Are there any
10 objections from the other parties? (Note: No response.)

11 Hearing none, so accepted.

12 MR. BRUCE: Well, first I would ask the
13 examiners, if they have it, to go to Attachment 1-A to Ms.
14 Salgado's affidavit, which is the Unit Agreement, and go
15 to the very end of that right before the Unit Operating
16 Agreement starts. And the very last page is a
17 participation table. Not everyone in the unit is listed
18 but it's listed by those who have showed up and originally
19 might not have agreed.

20 **Q. But Ms. Salgado, could you answer Ms. Murphy's**
21 **question, about at least as to the parties who have**
22 **entered appearances today, what the current status is with**
23 **those parties?**

24 A. Uhm, currently we have some -- we have agreed --
25 Chisholm has agreed to participate, and I have already

1 received their signed agreement.

2 Concho and Conoco Phillips, or COG
3 Operating and Conoco Phillips have agreed to participate.

4 Devon, we have submitted a Term Assignment
5 Offer, and they have declined but they have given us no
6 counteroffer. I'm waiting to hear back from them.

7 Chevron has agreed to participate, and I
8 have agreed their signed forms.

9 Apache has not responded.

10 Cimarex had early on agreed to participate
11 but have no longer responded to my correspondence.

12 Let's see. Marathon Oil, we are currently
13 negotiating. They stated that they were not going to
14 protest. We are working on an agreement with them, as
15 well.

16 MR. BRUCE: Thank you.

17 Ms. Murphy, I turn the witness over to you
18 at this point.

19 CROSS EXAMINATION

20 BY MS. MURPHY:

21 Q. So you have agreements with Chisholm, COG,
22 Concho and Chevron.

23 A. And Marathon.

24 Q. They --

25 A. Yes, ma'am.

1 Q. **Although Ms. Bennett said that they have not**
2 **committed.**

3 A. We don't have anything signed yet. We've been
4 negotiating with them, waiting a to hear back on a final
5 word. But we did agree to terms.

6 Q. **Apache would be, since they are nonresponsive,**
7 **they have not agreed?**

8 A. Right.

9 Q. **Devon has not agreed, and neither has Cimarex.**

10 A. Cimarex early on did verbally agree, and is no
11 longer responding.

12 Q. **And do you know is there a certain reason why**
13 **you see that people are not joining?**

14 A. No, ma'am, I can't answer that. I mean -- and
15 we do have other parties that have signed up, as well, not
16 just these parties.

17 Q. **Right. Right. But on page 3 of the affidavit,**
18 **on page 3 there's a statement that several working**
19 **interest owners do not approve of the unit expansion, and**
20 **so I would think that that paragraph would need to be**
21 **revised.**

22 REDIRECT EXAMINATION

23 BY MR. BRUCE:

24 Q. **Well, Ms. Salgado, haven't Apache and Devon --**
25 **they said they wouldn't join; isn't that correct?**

1 A. Uhm, yes, that is correct.

2 **Q. At least those two --**

3 MS. MURPHY: In that paragraph it says, the
4 paragraph says: COG, Apache, Marathon, we're waiting to
5 hear back from them.

6 MR. BRUCE: If I may, that was, you know, as of
7 four to six weeks ago, and really the COG/Conoco Phillips
8 agreement occurred in the last day or two.

9 MS. LUCK: And if I may. Kaitlyn Luck for
10 COG/Conoco Phillips.

11 It's my understanding that the parties are
12 still working through the agreement, that nothing has been
13 signed at this point.

14 MR. BRUCE: Ms. Murphy, we would be glad to
15 revise that specifically, but I mean it's generally a
16 correct statement of facts. Uh --

17 MS. MURPHY: So Ms. Luck listed several
18 companies that she's representing. So they have all
19 committed? Chisholm, COG, Devon, Chevron and CP have all
20 committed, then?

21 MR. BRUCE: No, they --

22 MS. LUCK: I'm sorry. No. No.

23 It's my understanding, sorry, that Devon
24 has not committed and that COG and Conoco/Phillips are
25 still working through the agreement with Mewbourne at this

1 time. So there has not been a signed agreement at this
2 point between Mewbourne and COG/COP because they are still
3 finalizing the deal.

4 **Q. (BY MR. BRUCE) And, Ms. Salgado, is Mewbourne**
5 **continuing to work with any parties who want to after this**
6 **hearing?**

7 A. Yes, sir.

8 And I'd just like to state COG and Conoco
9 Phillips, we've met all the conditions they have asked
10 for. So we are still working with them.

11 MS. MURPHY: Maybe another question that I can
12 ask is:

13 EXAMINATION (continued)

14 BY MS. MURPHY:

15 **Q. What percentage are participating and what**
16 **percentage are not participating?**

17 A. Uhm, currently right now we've agreements with
18 partners totaling approximately 69 percent, and hopefully
19 through the continuance of negotiations with COG and
20 Conoco Phillips, once they join the State Unit we will be
21 at a little over 79 percent participation.

22 **Q. How much acreage? How much percentage of**
23 **acreage does Mewbourne own in the unit?**

24 A. We are just shy of 40 percent working interest.

25 **Q. SO with your 79 percent total that you hope to**

1 get, what will you do with the nonparticipating interest
2 owners?

3 A. Uhm, we are going to pool them on a unit basis.

4 MR. BRUCE: A well-unit basis.

5 A. (Continued) A well-unit basis.

6 Q. So you'll compulsory pool when you need to?

7 A. Yes, ma'am.

8 Q. So when a unit -- if the unit is approved there
9 will be tracts that may have nonparticipating working
10 interest owners in them. So they won't be included in the
11 unit.

12 A. That is correct.

13 Q. So will those be islands in the unit?

14 MR. BRUCE: If I could answer that, Ms. Murphy.

15 They may be islands or they may be
16 undivided interests in certain tracts that are otherwise
17 committed to the unit. And under the State Land Office
18 regulations, Mewbourne does need to get 75 percent working
19 interest approval overall.

20 Q. So if you drew the unit, though, and you drew
21 the unit boundaries, would you have separate islands or
22 tracts in there where you don't have participating working
23 interest owners?

24 A. Possibly.

25 Q. So --

1 A. We will pool on a well-unit basis, though.

2 Q. So even if there's tracts that are not
3 participating it may never matter because you may not have
4 a well that you'll need to pool those nonparticipating
5 working interest owners.

6 A. Yes. And we need to pool them.

7 Q. Another question I had is: This is an expansion
8 of an existing unit, the North Wilson Deep Unit, and that
9 was confirmed by order R-2621 in 1963, and that said the
10 unitized interval was between 5200 feet and 14,725 feet.

11 And so when you do a unit expansion, you're
12 expanding the unitized interval, and so I don't understand
13 how an Order could be written just for the Bone Spring.
14 You're expanding an existing unit, you're not writing an
15 Order for a new Bone Spring unit.

16 A. I'd like to defer that question to Nate Cless.

17 MR. BRUCE: Mr. Cless, are you there?

18 MR. CLESS: Hello.

19 MR. BRUCE: Mr. Cless, identify yourself for the
20 record.

21 MR. CLESS: My name is Nathan Cless. I'm a
22 geologist for Mewbourne Oil Company here at Midland,
23 Texas.

24 MR. BRUCE: Have you previously testified before
25 the Division as a geologist?

1 MR. CLESS: I have.

2 MR. BRUCE: Mr. Examiner, perhaps you should
3 swear him in.

4 HEARING EXAMINER BRANCARD: I should.

5 NATHAN CLESS,

6 having been duly sworn, testified as follows:

7 MR. BRUCE: And he has previously testified live
8 many times before the Division, and I would tender him as
9 an expert petroleum geologist.

10 HEARING EXAMINER BRANCARD: Are there any
11 objections?

12 Hearing none, he is so qualified.

13 DIRECT EXAMINATION

14 BY MR. BRUCE:

15 Q. Mr. Cless could you discuss that question, and
16 was that discussed with the State Land Office?

17 A. Yeah. Whenever we were talking about this unit
18 and negotiating with the State Land Office we came to an
19 agreement to basically exclude all depths outside of the
20 Bone Spring, and so all the other depths will be removed
21 and the unit will just be expanded -- uh, will just
22 include the Bone Spring interval.

23 MS. MURPHY: I just don't understand how you can
24 write an expansion order for a unit and exclude what was
25 originally in the unit.

1 If you were coming for a new unit that was
2 a Bone Spring, then you could write the Order. I just
3 don't see how you can exclude what was in the original
4 Order from 1963.

5 HEARING EXAMINER BRANCARD: Mr. Bruce, maybe you
6 can try to address this question.

7 MR. BRUCE: Well, I think, you know, the
8 original Order pertains as to those other depths, but it
9 is an expansion of the unit areawise horizontally, and
10 I -- and the -- many times in these units, of course, as
11 time goes by acreage isn't drilled, acreage falls out, and
12 even depths might be contracted in these units, but I --
13 I -- I really, uh, -- I myself see no issue with expanding
14 it and just saying that the expanded North Wilson Deep
15 Unit only covers the Bone Spring, and all other depths
16 would be subject to Order, what is it, R-2621.

17 And I believe the unit -- you know, quite
18 some time ago it was contracted as to area, and I think
19 there are Orders, and I would have to look at those,
20 contracting units to depth, also.

21 I suppose the simple way would be to -- I
22 would ask that this unit be approved. I could file a
23 subsequent application to contract the -- to contract the
24 unit to exclude -- the existing unit acreage to exclude
25 the Bone Spring.

1 HEARING EXAMINER BRANCARD: But that's not your
2 proposal at this point. Your proposal is to keep the
3 existing 1,000-whatever acres.

4 MR. BRUCE: Yeah. That's what the State Land
5 Office wanted. I suppose --

6 MS. MURPHY: But my question is: The State Land
7 Office had plans of development for -- in that they wanted
8 both the Bone Spring and the Wolfcamp developed, and if
9 you expand a unit, the unitized interval is there, what is
10 to keep Mewbourne from saying three years from now, which
11 I mean I don't see that there's an issue, to test the
12 Wolfcamp.

13 **Q. Well, they would have to come in and seek**
14 **another unit for the Wolfcamp.**

15 MS. MURPHY: No. If you're expanding a unit
16 that the unitized interval is 5200 feet to 14,700, it
17 covers the Bone Spring, the Wolfcamp, Morrow, Atoka, who
18 knows? And this is not just a unit for the Bone Spring.
19 This is an expansion of a previous unit. I mean, in
20 theory you could say maybe you should have just applied
21 for a Bone Spring unit, but this is an expansion of an
22 existing unit with a unitized interval, and I am confused
23 how I would write an Order that would say just the Bone
24 Spring for the unitized interval.

25 MR. BRUCE: For the expanded unit?

1 MS. MURPHY: For the expanded unit.

2 But it says in the 1963 unitized Order:
3 All land committed to this agreement shall constitute land
4 referred to as unitized land or land subject to this
5 agreement.

6 MR. BRUCE: (Note-pause.) Well, in my book
7 there is a new unit agreement submitted as one of the
8 exhibits which would supersede that language as to the
9 lands in the expanded unit.

10 The original -- well, it's not original
11 acreage anymore. There's only about -- I believe about
12 1,000 acres left in that North Wilson, the original North
13 Wilson Unit.

14 MS. MURPHY: I'm still at the same place that
15 the Order would -- because you're expanding in an existing
16 unit, the unitized interval that's in the original Order
17 would also be in this Order.

18 HEARING EXAMINER BRANCARD: I guess, Mr. Bruce,
19 I believe the question is: Why amend a very old Order
20 when you're wanting to increase the size of the unit by 10
21 times? Why not just a new unit?

22 MR. BRUCE: Well, that was the agreement with
23 the State Land Office.

24 HEARING EXAMINER BRANCARD: Okay. And that's
25 what the Land Office wants?

1 MR. BRUCE: Yes.

2 MR. CLESS: If I may also say this. The new
3 proposed expansion unit would cover the existing North
4 Wilson Deep Unit. So when we were negotiating with the
5 State Land Office I believe it was part of their
6 recommendation just to expand this current unit.

7 HEARING EXAMINER BRANCARD: Ms. Murphy, do you
8 have additional questions?

9 MS. MURPHY: I don't have additional questions,
10 but I find this unit application extremely frustrating,
11 and it's not very clear and I'm not certain that I won't
12 have several more questions for the whole lot of you. I
13 think a lot of homework has not been done by the time this
14 has been brought.

15 That's my statement.

16 HEARING EXAMINER BRANCARD: Mr. Garcia, do you
17 have any questions?

18 MR. GARCIA: Thank you. Maybe. And I forgot to
19 write down your name.

20 CROSS EXAMINATION OF MS. SALGADO

21 BY MR. GARCIA:

22 Q. You stated you had approximately 69 percent
23 participating now and hopes you would become 79 percent,
24 and you said that you would compulsory pool everyone that
25 wasn't participating in a unit well basis.

1 It looks like roughly 34 wells in this
2 proposed unit. Are you going to have to compulsory pool
3 30 percent of those wells? Wouldn't that kind of defeat
4 the purpose of the unit?

5 A. No. No, sir. It would be a case-by-case basis.

6 Q. For instance, say Company A owns 20 percent,
7 they don't participate, then you would have to compulsory
8 pool them if they own -- I don't know, 20 percent is a lot
9 of acreage. Say the delta section. You would have to
10 compulsory pool, on some of these situations, up to eight
11 wells. Isn't that --

12 A. It depends on where they are. They don't own
13 throughout. It would just be on the tract that they own
14 in.

15 Q. I understand that. That's kind of my next
16 question. Do you have -- I was looking at your schematic
17 Exhibit A, in terms of ownership breakdown.

18 Could we get a clearer copy? When I zoomed
19 in trying to read the company names it became unreadable,
20 and that's why I'm having a rough time seeing what would
21 need to (inaudible) when you have Apache, Cimarex and
22 Devon not wanting to participate. It's labeled Exhibit A,
23 the map unit area. It's page 18 on the January exhibits.

24 A. Yes, sir.

25 Q. So do you know how many wells you would have to

1 compulsory pool then?

2 A. No, sir, we don't know.

3 Q. And so if some of these companies own, looking
4 at this map, quite a bit of land, they could propose to
5 drill a one-mile well and that would become a contested CP
6 case. How would that work with a unit area?

7 MR. BRUCE: If I could answer that.

8 I mean, if the unit is completely
9 voluntary, if they don't join they can try to make
10 development plans on their own acreage, and you are
11 correct, Mr. Garcia. But on the other hand, I suppose
12 there might be -- if Mewbourne proposes a two-mile
13 lateral, which they are intending to do, including that
14 land, then they would have to compulsory pool, and of
15 course the company could fight that compulsory pooling.

16 MR. GARCIA: And if the opposing company won its
17 contested compulsory pooling case, would you have to
18 retract your unit area if it was approved?

19 MR. BRUCE: Well, if the land wasn't pooled then
20 Mewbourne would have to alter its drilling plans if that
21 company got approval to drill a one-mile lateral on its
22 own 100-percent-operated land.

23 MR. GARCIA: But that land would be in the unit
24 you're proposing.

25 MR. BRUCE: It will be within the outer

1 boundaries of the unit area, yes.

2 MR. GARCIA: I think that's all the questions I
3 have.

4 MS. MURPHY: I have a tagalong question with
5 Mr. Garcia's question.

6 FURTHER EXAMINATION

7 BY MS. MURPHY:

8 Q. So if a tract of land was not committed and an
9 operator wanted to drill a Wolfcamp well, they would
10 absolutely be allowed to do that, if they had the interest
11 in there and they agreed. Is that true, Mr. Bruce?

12 MR. BRUCE: That's correct.

13 MS. MURPHY: So I mean kind of the thing about a
14 unit is you get everybody in there so that, you know, it's
15 a business arrangement to develop a resource. You have
16 less surface disturbance. There's definite features and
17 goals of a unit.

18 And so having several different operators
19 within a unit is not generally the goal of a unit.

20 MR. BRUCE: Well, there's a couple of things.

21 I mean, this is an exploratory unit, so you
22 can't use statutory unitization to force 100 percent of
23 all interest owners into it.

24 Secondly, if you look at the unit
25 agreement, Exhibit B, which is the Schedule of Ownership,

1 in a lot of instances the parties that are objecting to
2 the unit or haven't joined in, they don't own all of a
3 particular tract. There's Tract 5 in the unit area covers
4 about a half section of land, I believe, and five
5 different interest owners own in that, including Apache
6 Corporation owns a small interest that is apparently not
7 going to be unitized.

8 So that tract would -- if or when a well is
9 drilled on it would have to be force pooled, but it's not
10 necessarily a situation -- and I think if you look at the
11 ownership schedules you see that the objecting parties
12 generally own undivided interests in specific tracts
13 rather than 100 percent in a particular tract that could
14 be fully developed by a horizontal well, whether one mile
15 or two miles.

16 So it's hard to say.

17 I suppose I could probably sit down with
18 the geologist plat, who shows the proposed development
19 zones, and spend four or five hours figuring out which
20 tracts -- which wells in the future might have to be force
21 pooled, but I don't see that there are a lot of tracts
22 that would be fully excluded from the unit because of lack
23 of voluntary participation. It's generally small
24 undivided interests in the tracts.

25 MS. MURPHY: You know, but Tract 11 is 480

1 acres, and it's 100 percent owned by Marathon. And that's
2 3 percent of the total. And if you do not get Marathon to
3 participate, you know, could their acreage be stranded? I
4 have not looked at that tract. Could -- they may want to
5 do a north/south well or an east/west well, and are they
6 going to be limited because of adjacent ownerships?

7 MR. BRUCE: They could always make that
8 proposal. They can -- you know, Mewbourne might propose a
9 well including some or all of -- make proposals including
10 some or all of that acreage, or Marathon may try to do all
11 of it itself.

12 MS. SALGADO: If I may interject.

13 We have a term assignment agreed upon with
14 Marathon. We are just papering the deal right now.

15 MR. BRUCE: But it all depends on who eventually
16 joins, ends up joining.

17 Thank you, Ms. Salgado for that. I forgot
18 about Marathon.

19 But, for instance, there are a lot of 160-
20 and 320-acre tracts of land in this area, but generally
21 most of them will be committed with some minor percentage
22 interest not committed. As you go through that Exhibit B
23 you will see that. So you would have to compare this
24 ownership tracts to Mr. Cless's plat showing future
25 development plans to see how that may cross certain

1 uncommitted tracts.

2 MS. MURPHY: You know, --

3 MR. BRUCE: Partially committed tracts.

4 MS. MURPHY: -- I disagree.

5 Some of these interest owners are -- they
6 are not, you know, the small .3 or small percents.
7 There's some large percentage of these people in here, and
8 when we don't really have a clear understanding of who is
9 committed and who's not, it's kind of hard to see how a
10 development plan that you have would actually work.

11 MR. BRUCE: Well, that's really the operators'
12 problem. And it's happened before in voluntary units.
13 It's happened ever since I've been doing this stuff. It
14 happens in the Big Eddy unit, which is, what, 80,000
15 acres.

16 MS. MURPHY: And the Big Eddy unit has one
17 operator. There's not these -- there's not these islands
18 in there.

19 MR. BRUCE: But there are a lot of island tracts
20 in there that are owned by other people, plus there in the
21 past has been acreage that would otherwise be excluded
22 from a regular unit where I have force pooled Big Eddy
23 unit acreage 10 or 12 times in my career. It's not
24 forbidden. It's not forbidden for an uncommitted interest
25 owner to seek to force pool the unit acreage, and vice

1 versa.

2 MS. MURPHY: I'll just ask for one more thing
3 from Ms. Salgado as Mr. Garcia mentioned, Exhibit A you
4 can't read the tracts. So you will fix that.

5 And there's a -- I think it's the
6 Operations, and it lists who's all participating and the
7 percentages. If you could color code that in some sort of
8 way.

9 And then also a map of the tracts that are
10 participating, superimposed on the Plan of Development,
11 that might help us see if there is an issue or if there is
12 not.

13 MS. SALGADO: Yes, ma'am.

14 MS. MURPHY: Thank you.

15 MR. BRUCE: Two things. Ms. Murphy, would you
16 like Ms. Salgado to revise her affidavit, and we can
17 submit that with these other materials showing the current
18 status of the -- who among the parties who have entered
19 appearances are objecting to the unit?

20 MS. MURPHY: Please.

21 MR. BRUCE: Then maybe give us a couple of weeks
22 to submit the revised materials, color-coded materials.

23 MS. MURPHY: Thank you.

24 HEARING EXAMINER BRANCARD: Any further
25 questions? I may have a few but any other questions from

1 the technical examiners?

2 MS. MURPHY: No.

3 MR. GARCIA: I don't have any more.

4 HEARING EXAMINER BRANCARD: So, Mr. Bruce, I
5 think your understanding is sort of what my understanding
6 is, which is just because acreage is in a unit doesn't
7 mean that they aren't still subject to OCD jurisdiction
8 for compulsory pooling. Correct? That's what you just
9 said, I believe.

10 MR. BRUCE: Correct. Either way. The
11 non-joining party force pooling Mewbourne and the other
12 interest owners or Mewbourne force pooling the non-joining
13 parties.

14 HEARING EXAMINER BRANCARD: So I guess that sort
15 of leads to my basic question. And this sort of shows my
16 ignorance in the history of oil and gas regulation in New
17 Mexico, but what is the point of OCD approving a unit
18 agreement?

19 MR. BRUCE: Uhm, it is a policy embedded in the
20 regulations of the State Land Office. And Jamie Bailey,
21 both when she was at the Division and at the State Land
22 Office, was on the record stating that as a matter of
23 policy they were prepared to defer to the OCD before they
24 make their final approval. They have preliminarily
25 approved it, and that's part of Ms. Salgado's package.

1 Strictly speaking -- you know, this is 100
2 percent unit, 100 percent state unit. You know, if it's
3 100 percent federal unit you are not required, an operator
4 is not required to get approval from the Division, the BLM
5 will just go ahead and approve it. But as a matter of
6 policy and a matter of its regulations -- I don't have the
7 regulations right in front of me -- they say they
8 will defer and see what the OCD says.

9 HEARING EXAMINER BRANCARD: Yes, I think it's
10 Regulation 19.2.100.51, which is the Land Office
11 regulation on unit agreements.

12 MR. BRUCE: Yeah.

13 HEARING EXAMINER BRANCARD: It sort of
14 references OCD hearing but doesn't really necessarily
15 require it.

16 MR. BRUCE: But I've been through enough of
17 these where they always say -- they have always told me
18 verbally, "Go get OCD -- go to the OCD first."

19 MR. FELDEWERT: Mr. Examiner, this is Michael
20 Feldewert. Can I step in real quick?

21 HEARING EXAMINER BRANCARD: I assume you're
22 representing Ms. Luck's clients.

23 MR. FELDEWERT: Yes.

24 HEARING EXAMINER BRANCARD: Okay. Love to hear
25 from you.

1 MR. FELDEWERT: And the other thing -- because I
2 have the same question, but the other thing you'll find,
3 if you look at the whereas clause of the State form, it
4 specifically instructs that the Division approves the unit
5 agreement.

6 HEARING EXAMINER BRANCARD: Right. And I
7 appreciate that, but I think, Mr. Feldewert, you may have
8 been in hearings with me before dealing with BLM
9 agreements where they said, BLM said, "Oh, go get OCD's
10 approval," but it's like, "So?"

11 MR. FELDEWERT: Right.

12 HEARING EXAMINER BRANCARD: What authority do we
13 have under the Oil and Gas Act to approve this?

14 And unfortunately the 1963 Order is fairly
15 sparse in its factual and legal findings justifying this
16 unit.

17 MR. BRUCE: Mr. Brancard -- and I don't have the
18 case number in front of me, but there was a hearing on the
19 Bennett Ranch unit -- which is Otero County, and I could
20 dig that up. And there were -- the commissioners, the
21 case went up to the Commission level. The
22 commissioners -- there was federal and state acreage in
23 the unit, and I think one small fee tract, and the
24 chairman asked the counsel about authority for pooling
25 when it's a voluntary unit, authority of OCD approval.

1 And I think there is some memos or briefs
2 in that file which I would be glad to look up for you.

3 It was my point -- one issue that came up
4 was why do you need -- you know, why does the BLM or State
5 Land Office need approval, because they're big enough kids
6 to look after their own interest. But the Commission did
7 conclude, I believe, that it did have jurisdiction under
8 the Oil and Gas Act to approve these agreements.

9 HEARING EXAMINER BRANCARD: That would be great.
10 I'd love to see that. I don't want you to waste a lot of
11 time doing that, but that would be helpful to us, because
12 these are popping up. And as I mentioned earlier, we've
13 got quite a busy docket here, and so, you know, why do we
14 need to put a lot of resources into figuring out, you
15 know, whether this is a good idea or not.

16 And certainly, you know, the Land Office,
17 they've stolen enough employees from us they should have
18 all the expertise they need to review those on their own.

19 So...

20 MR. BRUCE: I would be more than glad to work
21 with my clients to answer Ms. Murphy's questions a little
22 further, as well as getting her the additional types of
23 exhibits she wants. I would even -- uh, if you would like
24 a Draft Order to address some of these things, I would be
25 glad to do that.

1 HEARING EXAMINER BRANCARD: Yes. Actually, I
2 think that might be helpful to move this process along.
3 You know, because (A), what findings do we have to make
4 here?

5 I assume, you know, we are being asked to
6 do the usual incantation magic words, prevention of waste,
7 protection of correlative rights, but what triggers that?
8 What do we have to find in order to get there, I think is
9 sort of what is intriguing. And that's why I mentioned
10 the '63 Order, because it doesn't really help us in terms
11 of what they found to get there.

12 MR. BRUCE: Yeah. Well, things were rather
13 perfunctory in many of those Orders back then.

14 One thing, I didn't really bring it up
15 much, but in these types of hearings, one thing that has
16 come up specifically is of course, regardless of the type
17 of land, you know, but federal surface and state surface,
18 both agencies concerned really like to minimize land use,
19 and unitization of surface use. And unitization of course
20 means you can limit your facilities and limit surface use,
21 and that is one thing that comes up.

22 HEARING EXAMINER BRANCARD: On that point, Mr.
23 Bruce, nothing I'm saying here is intended to disparage
24 the concept of unitization, it's just that under New
25 Mexico law, you know, our authority focuses on --

1 MR. BRUCE: Right.

2 HEARING EXAMINER BRANCARD: -- enhanced recovery
3 unitization under the statutory Unitization Act. We don't
4 have explicit authority for what you're referring to as an
5 exploratory unit -- which is an interesting concept.

6 You're drilling horizontal wells in an exploratory unit.

7 In other words, that's a lot of money for exploration.

8 But anyway, besides that, I think you have
9 also addressed my other concern, which is that by
10 approving this unit or giving it our papal blessing, or
11 whatever we are doing, we are not in any way boxing
12 ourselves in or obligating us to any future actions or
13 inactions. In other words, we still have all the
14 compulsory pooling authority. You still have to come up
15 with spacing units, et cetera, for your wells.

16 MR. BRUCE: Yes. You have to, you know, file
17 the APDs with the traditional well-spacing unit, whether
18 it's a one-mile or two-mile or -- et cetera. Maybe even a
19 proximity tract. You have to file the C-102 with the APD.

20 So it all -- all this stuff doesn't go
21 away.

22 HEARING EXAMINER BRANCARD: Correct. And I
23 would note that, you know, if you look at the State Land
24 Office statutes that talk about this, 19-10-48, it says:
25 Nothing herein modifies in any way the power of the OCC,

1 under laws now existing or hereafter enacted, with respect
2 to the proration, and conservation of oil and gas and the
3 prevention of waste.

4 MR. BRUCE: Correct.

5 HEARING EXAMINER BRANCARD: So, in other words,
6 the Land Office can unitize, whatever it wants, but it
7 doesn't in any way impinge on the authority under the Oil
8 and Gas Act or other statutory authority that the
9 Commission and Division have.

10 MR. BRUCE: Correct.

11 HEARING EXAMINER BRANCARD: I just wanted to
12 make that clear here.

13 So where are we? I'll defer to the
14 technical examiners in terms of what other issues you
15 think we need to have addressed by these parties. Again,
16 since it's clear that, you know, we are just sort of
17 giving a blessing to this unit, correct?

18 MR. BRUCE: That's all it's ever been
19 considered, regardless of the type of land, federal, state
20 or fee, or in the northwest Indian lands. It's a
21 blessing. It has no binding effect on anyone.

22 HEARING EXAMINER BRANCARD: Right. So on the
23 one hand, you know, we don't need to be going into extreme
24 detail, but we do, I think, need to have enough assurances
25 that what's going on here is something that we recognize

1 as being beneficial for the development of the oil and gas
2 and the protection of the mineral interest owners in the
3 area.

4 With that I'll turn it back to the
5 examiners.

6 I think there were a few things we wanted
7 further from the applicant, is that correct, Ms. Murphy,
8 Mr. Garcia?

9 MS. MURPHY: I think they have a list and they
10 understand it.

11 MR. BRUCE: I think so. Yeah, I took down notes
12 and I believe my clients did. If we have any questions on
13 it we'll email the Division.

14 HEARING EXAMINER BRANCARD: Okay. And so how
15 would you like to proceed, Mr. Bruce? Would you like to
16 sort of submit an amended application or supplement or
17 whatever, we have another hearing on this, or do you think
18 this can be handled administratively? How would we
19 want to go with this?

20 MR. BRUCE: I would prefer to handle it
21 administratively, but if the Division sees otherwise...

22 HEARING EXAMINER BRANCARD: I guess I'll throw
23 that back to the other parties whether they have any
24 concerns if we handle something administratively they are
25 kind of no longer in the discussion, I guess.

1 Mr. Feldewert or Ms. Luck?

2 MS. LUCK: Nothing further from me for our
3 clients. Thank you for that.

4 HEARING EXAMINER BRANCARD: Okay. Ms. Bennett,
5 I think you had sort of a larger interest in this in terms
6 of the concerns of your client. Do you have any concerns
7 about us proceeding administratively with Mewbourne on
8 answering our questions?

9 MS. BENNETT: No concerns. I would just ask,
10 and I know probably goes without saying, that all of the
11 parties be cc'd on any future correspondence with the
12 Division.

13 And again I know that goes without saying.

14 And based on the discussion here today it
15 sounds like the materials that Mewbourne will be
16 submitting will be in the vein of assisting the Division
17 and also assisting the other parties to answer some of the
18 questions that remain outstanding, so with that I don't
19 have any issues with proceeding administratively.

20 HEARING EXAMINER BRANCARD: Okay.

21 MR. BRUCE: Cool. I promise I will copy, make
22 sure copies of everything gets to everyone.

23 HEARING EXAMINER BRANCARD: Okay. So there's
24 one thing that you did offer, Mr. Bruce, that sort of goes
25 beyond a bit of the technical issues, and that's a

1 Proposed Draft Order. And I would like to have the other
2 parties look at that and comment, if necessary.

3 MR. BRUCE: That's no problem.

4 HEARING EXAMINER BRANCARD: Okay. I think, you
5 know, the concerns that were raised here that, you know, I
6 think may end up getting discussed a bit in the Proposed
7 Order is just, (A), what is the scope of this unit, both
8 in terms of vertical and horizontal extensions of this.
9 You know, what area is in, what area is out, what
10 formations are in, what formations are out.

11 So that kind of needs to be clear on that.

12 On the other hand, you know, that '63 Order
13 says basically any time you change the boundaries of the
14 unit you got to come back through the Division. Uhm, you
15 know, that's just a lot more work for us. So I mean I'm
16 wondering, as it's clear that this '63 unit has changed,
17 I'm not sure if that went through the Division or not --
18 or the Commission which existed back in '63 only.

19 And so maybe that's something that, you
20 know, I can discuss with the technical examiners about
21 maybe there's a threshold beyond which we need to be
22 involved in this, particularly when we're about 12,000
23 acres, putting things in and out of that. There could be
24 a lot of that.

25 MR. BRUCE: Yeah. Well, it's -- when it's a

1 voluntary unit, especially when it's got federal -- when
2 it's more of a federal unit rather -- I should take a step
3 back.

4 When it's a state unit under Section 10 of
5 the unit agreement, anyone who joins the unit, voluntarily
6 joins or ratifies the unit agreement, their interests are
7 spread out throughout the entire unit, so they will
8 participate in production from wells that are on tracts in
9 which they own no interest.

10 On a federal unit you got to form
11 participating areas, and expand the participating areas,
12 and those it always said it had to go through the BLM, the
13 State Land Office, if that was -- if there was some state
14 land in there, and through the OCD. And I can't remember
15 exactly when this is, but Ray Johnson used to be assigned
16 to do all that, and he said the OCD is unnecessary to this
17 procedure and isn't doing it anymore, so probably for at
18 least 15 years now the OCD has not looked at participating
19 areas and things like that.

20 So the Division's touch on voluntary units
21 is quite light anyway.

22 HEARING EXAMINER BRANCARD: Okay.

23 So we can look at language on that. My
24 only concern is that, you know, in the new revisions to
25 the horizontal drilling rule -- not so new anymore, almost

1 three years now -- there's specific reference to unitized
2 areas in here. So that's the only concern I have, whether
3 that triggers -- whether this unitization triggers
4 anything under that.

5 MR. BRUCE: I will look at that. I remember
6 looking at that three or four -- uh, more than that,
7 probably five months ago, and I didn't see where that did
8 anything, as long as the State Land Office was kept
9 apprised of what was going on. Yeah.

10 HEARING EXAMINER BRANCARD: I'm talking 19-15,
11 16-15 (sic). Let me see here. C7 for one example.

12 MR. BRUCE: Okay. I'll look at that.

13 One others thing, and this could be
14 confirmed by Mr. Cless. I should have brought it up
15 earlier. I did reference it that the Land Commissioner,
16 the Land Office generally is quite interested in seeing
17 this acreage developed, because it has been at least ten
18 years since there has been any development on this
19 acreage, which is pretty unusual, I think, for New Mexico,
20 Southeast New Mexico. And I will make that statement.
21 Mr. Cless can confirm it if the Division wants
22 confirmation.

23 HEARING EXAMINER BRANCARD: Well, it is
24 interesting that this sudden interest in this, given that
25 the first unit agreement was 58 years ago.

1 But I guess we'll blame that on
2 British-American or whatever the company was.

3 MR. BRUCE: Yeah, I forget what that...

4 HEARING EXAMINER BRANCARD: Let me go back to
5 the examiners to make sure that I'm correctly
6 understanding that Mewbourne will provide more information
7 that has been requested and we will review that
8 administratively.

9 And I guess if we think there's a need to
10 put you on a hearing docket we could do that.

11 MR. BRUCE: I would think that would be the best
12 way to go about it.

13 HEARING EXAMINER BRANCARD: I'll check back with
14 Mr. Garcia, Ms. Murphy if you think that's okay.

15 MR. GARCIA: I'm okay with it.

16 MS. MURPHY: I'm okay with it also.

17 HEARING EXAMINER BRANCARD: Okay. So at this
18 point we are going accept the exhibits and the testimony
19 into the record on this Case 21418. We have a series of
20 requests of issues, and we may just clarify -- Ms. Murphy
21 you can clarify by email, I think, what you have asked for
22 here from Mewbourne, and when that gets clarified I think,
23 Mr. Bruce, at that point we would be looking for a Draft
24 Order to be circulated to the Division and the other
25 parties.

1 MR. BRUCE: Yes.

2 HEARING EXAMINER BRANCARD: Okay. I'll go back
3 to the other parties.

4 Are there any other concerns on how we are
5 proceeding with this matter? I hear nothing.

6 MS. BENNETT: This is Deana Bennett just
7 confirming no concerns.

8 MR. HOUGH: Lance Hough here. No concerns.

9 MS. LUCK: Kaitlyn Luck the same. Thank you.

10 HEARING EXAMINER BRANCARD: Mr. Bruce, do you
11 have sufficient marching orders?

12 MR. BRUCE: Be safe, Commander.

13 HEARING EXAMINER BRANCARD: Okay.

14 Are there any other issues to be brought
15 before us for the good of the Order? (Note: No
16 response.)

17 MR. BRUCE: Like I said, if we have, Mewbourne
18 has questions, we'll email the Division, and then I would
19 anticipate maybe the Division getting back to us and
20 saying, you know, they might want to see something else.

21 HEARING EXAMINER BRANCARD: Okay. There may be
22 a little back and forth here. That's to be expected.

23 MR. BRUCE: Okay.

24 HEARING EXAMINER BRANCARD: All right. Are
25 there any other matters before I take the dog for a walk?

1 Hearing none, I believe today's examiner
2 hearing before the Oil Conservation Division is completed.

3 Thank you all for your participation.

4 (Time noted 10:52 a.m.)

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STATE OF NEW MEXICO) .

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COUNTY OF TAOS)

REPORTER'S CERTIFICATE

I, MARY THERESE MACFARLANE, New Mexico Reporter
CCR No. 122, DO HEREBY CERTIFY that on Thursday, March 18,
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taken before me; that I did report in stenographic
shorthand the proceedings set forth herein, and the
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I FURTHER CERTIFY that I am neither employed by
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disposition of this case in any court.

/s/ Mary Macfarlane

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