

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION COMMISSION FOR THE)
PURPOSE OF CONSIDERING:)
)
APPLICATION OF SAMSON RESOURCES COMPANY,) CASE NOS. 13,492
KAISER-FRANCIS OIL COMPANY, AND)
MEWBOURNE OIL COMPANY FOR CANCELLATION)
OF TWO DRILLING PERMITS AND APPROVAL OF)
A DRILLING PERMIT, LEA COUNTY,)
NEW MEXICO)
)
APPLICATION OF CHESAPEAKE PERMIAN, L.P.,) and 13,493
FOR COMPULSORY POOLING, LEA COUNTY,)
NEW MEXICO)
) (Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
WILLIAM C. OLSON, COMMISSIONER

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Volume I
August 10th, 2006
Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, August 10th, 2006, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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* * *

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* * *

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* * *

1 WHEREUPON, the following proceedings were had at
2 9:05 a.m.:

3 CHAIRMAN FESMIRE: The next matter before the
4 Commission is Case Number 13,492, continued from the May
5 18th, 2000 [sic], Commission meeting. It's the Application
6 of Samson Resources Company, Kaiser-Francis Oil Company and
7 Mewbourne Oil Company for cancellation of two drilling
8 permits and the approval of a drilling permit in Lea
9 County, New Mexico.

10 It has been consolidated with Case Number 13,493,
11 the Application of Chesapeake Permian, L.P., for compulsory
12 pooling in Lea County, New Mexico.

13 It's my reading of the two cases that they are
14 competing applications for essentially the same rights; is
15 that correct?

16 MR. GALLEGOS: Yes, Mr. Chairman.

17 CHAIRMAN FESMIRE: With that, we will take
18 entries of appearance in Case Number 13,492 and 13,493.

19 MR. GALLEGOS: Mr. Chairman and Commissioners
20 Bailey and Olson, I'm Gene Gallegos representing Samson and
21 Mewbourne, and I would have the pleasure of introducing to
22 the Commission Mickey Olmstead, who is a member in good
23 standing of the bars of the State of Texas and Louisiana,
24 frequent practitioner before the Texas Railroad Commission,
25 and we ask leave that he be permitted to co-counsel with me

1 in this matter.

2 CHAIRMAN FESMIRE: Would there be any objection
3 from any other party?

4 MR. KELLAHIN: No, sir.

5 MR. COONEY: (Shakes head)

6 CHAIRMAN FESMIRE: Okay. Mr. Olmstead, welcome
7 to New Mexico. I guess you'll be taking part in this
8 hearing --

9 MR. OLMSTEAD: Thank you, Mr. Chair.

10 CHAIRMAN FESMIRE: -- as co-counsel with Mr.
11 Gallegos; is that correct?

12 MR. HALL: Mr. Chairman, Commissioners, Scott
13 Hall, Miller Stratvert law firm, Santa Fe. I'm appearing
14 on behalf of Kaiser-Francis Oil Company this morning. I
15 have no witnesses, and I'll have only brief cross-
16 examination.

17 CHAIRMAN FESMIRE: Is it my understanding of
18 Kaiser-Francis's position that basically no matter who
19 prevails in this case, their position is going to be
20 relatively consistent?

21 MR. HALL: Well, that is, as a matter of fact.
22 Their ownership position will be the same. We support the
23 position of Mewbourne and Samson.

24 MR. KELLAHIN: Members of the Commission,
25 Chairman Fesmire, my name is Tom Kellahin. I'm with the

1 Santa Fe law firm of Kellahin and Kellahin. I'm appearing
2 today in association with Mr. John Cooney and Mr. Earl
3 DeBrine of the Albuquerque law firm -- of the Modrall law
4 firm in Albuquerque. Collectively we represent the
5 Chesapeake interest.

6 CHAIRMAN FESMIRE: Mr. DeBrine, how do you spell
7 your last name?

8 MR. DEBRINE: It's D-e-B-r-i-n-e.

9 CHAIRMAN FESMIRE: Are those the only appearances
10 in this case?

11 MS. MACQUESTEN: Mr. Chairman, my name is Gail
12 MacQuesten. I'm the attorney for the Oil Conservation
13 Division. The Oil Conservation Division is not a party in
14 this matter and does not take a position in this matter,
15 however I would like to enter an appearance because an OCD
16 employee, Jane Prouty, has been subpoenaed to appear as a
17 witness in this case. If she is called as a witness, I may
18 be asking the Commission for permission to participate in
19 her cross-examination.

20 CHAIRMAN FESMIRE: Okay, thank you, Ms.
21 MacQuesten.

22 Anyone else?

23 Mr. Gallegos, would you have an opening
24 statement?

25 MR. GALLEGOS: Yes, Mr. Chairman, thank you.

1 This proceeding involves two basic, separate but
2 very important issues. The first is a matter essentially
3 of undisputed facts but involves questions of what we might
4 call regulatory law and precedent set by this Commission.

5 The other, what we would call the technical side
6 of the case, the pooling applications, very much involves
7 disputed facts on the geology and the particular nature of
8 the Osudo-Morrow formation that's at issue.

9 Let me address the first in particular because,
10 Mr. Chairman, Commissioner Olson and Bailey, there is a
11 very significant precedential issue at stake here in terms
12 of what is the authority of this Commission and what
13 constitutes orderly regulatory control of drilling in the
14 State of New Mexico?

15 We have provided for the Commission -- and if any
16 of the Commissioners do not have readily at hand, I have
17 extra copies, but the parties have agreed to and filed
18 what's called a stipulation by the parties as to undisputed
19 evidence to be considered by the Commission. Let me know
20 if you don't have a copy of that handy, because I will
21 refer to an item or two there.

22 Basically what we've done is taken the Division's
23 statement of undisputed facts regarding what I call the
24 first issue, what we might just broadly call the legal or
25 regulatory issue, and we've essentially incorporated that

1 into this stipulation and then attached to it some of the
2 underlying documentary evidence from which those facts are
3 taken.

4 For your benefit, though, let me try and
5 summarize what those facts were, because we won't be
6 calling witnesses in that regard. The Division hearing had
7 all that testimony in terms of witnesses. Hopefully, we're
8 going to save some time with this stipulation, we'll be
9 able to devote more time to what we call the pooling
10 application.

11 But essentially you're dealing with -- and if you
12 might look at the Stipulated Exhibit Number 1, which is an
13 exhibit prepared by Chesapeake, what it shows is the
14 irregular Section 4 -- the particular target section of
15 land is an irregular 960-acre section -- and it also shows
16 the north half of the underlying Section 9, if you find
17 that.

18 The situation was that the Osudo 9 well that you
19 see in the northeast corner of Section 9 came in in
20 February, 2005, as a very prolific well, with a large
21 section found in the Morrow. And Chesapeake had a small
22 working interest in that well, so when it was logged and
23 went on and was tested, of course, Chesapeake understood
24 what the potential of that well was.

25 Now if you go up and if you look up the map and

1 you look at what I'm going to call the south one-third --
2 normally it would be the south one-half, but in this case
3 the south one-third of this irregular section -- the
4 southwest quarter is a state leasehold held by Chesapeake.
5 The southeast quarter is a state leasehold held by our
6 clients, collectively Samson, Mewbourne and Kaiser-Francis.
7 So you have no interest in the southeast quarter held by
8 Chesapeake.

9 But Chesapeake comes in and at some time in
10 March, shortly after the Osudo 9 well comes in, sometime
11 begins to build a location, and on March 10th of 2005
12 electronically applies for an APD. The application for the
13 APD has no information concerning consolidation of the
14 acreage, although the lease -- the regulation for the APD
15 says if it's multiple leases, you're supposed to indicate
16 what rights you have by communitization, unitization or so
17 forth. That was blank.

18 And on the next day, March 11th, the APD is
19 issued. Location is built, and on April 26th, Chesapeake
20 files a pooling application in this case, and on April 27th
21 the drill bit goes in the ground and the well starts
22 drilling. Our pooling application was then filed, I think,
23 on that same April 27th date.

24 Now, and what is important, what is absolutely
25 crucial, because I think it may be coming to your attention

1 already, that what's happened here is beginning to create a
2 lot of uncertainty out in that field.

3 But basically what the position of Chesapeake is,
4 and what seems to be countenanced by the Division order, is
5 best said by their prehearing statement in which they say
6 that the OCC has determined, and I quote, that an operator
7 can drill first -- drill first -- and obtain a compulsory
8 pooling order afterwards, end quote.

9 Now, then they cite to the TMBR/Sharp case and
10 the Pride Energy case, and you have those orders before
11 you, or citations to them. They cite to those cases, and
12 then the Division decision says, We believe the results
13 here, in which they found for Chesapeake in the pooling
14 application and permitted them to go ahead as operator of
15 the well -- they said, this -- we believe this result is
16 mandated by the Pride Energy case.

17 Now, that is clearly erroneous, it clearly is bad
18 regulatory practice, and it is not what the Commission has
19 said, either in TMBR/Sharp or in Pride Energy. Because
20 what you've done, if that's the case, then basically you
21 reward a trespasser who goes on somebody else's lease with
22 no unitization order, starts drilling, and then obviously
23 they're in a catbird position if there's a pooling
24 application.

25 What the TMBR/Sharp case said is simply this: An

1 operator can file a force pooling application first and
2 apply for an APD second, or an operator can apply for an
3 APD first and then file a force pooling application, that
4 it's not bad faith to do one or the other. That's what the
5 TMBR/Sharp case said.

6 Now what happened in Pride?

7 In Pride there was a section, I think it was
8 Section 12 -- Pride had the southwest quarter, Yates had
9 the north half, and the well that was a target for re-entry
10 was in the northwest quarter, not on Pride's lease but on
11 Yates' acreage. So in that case there was a competing --
12 and I won't go into the details. Pride received an APD.
13 Yates came in and said, You're -- get an APD to re-work a
14 well on our land. The Pride APD was canceled, Yates was
15 issued an APD. And then Pride said, No, theirs should be
16 canceled, we've filed a pooling application. And that's
17 true, they'd filed a pooling application.

18 Now what happened as far as anybody doing
19 anything on that well during the course of the proceeding?
20 Nothing. Nothing. Because Pride said, We want an order,
21 emergency order, to stop Yates from going in to re-work
22 that well, because we've got a pooling application. And
23 Yates said, Don't worry, we just have stipulated -- we
24 agree that we won't touch the well until the pooling
25 application is decided.

1 So there's no precedent there that says you can
2 go ahead before there has been an orderly proceeding to
3 decide, as the statute requires. The statute says that
4 when it comes to force pooling, the Division or the
5 Commission decides what the unit is, decides whether there
6 will be a unitization, and designates the operator.

7 What's the -- Think of the difference when a
8 trespasser designates itself the operator. There's no
9 statutory authority for that, and no Commission precedent.

10 And what's interesting is, there is a Pride II
11 that isn't mentioned by Chesapeake; but what I call Pride I
12 was the case I mentioned, and in that case the Commission
13 found -- these are Commission decisions -- said, Pride,
14 you're right, you get a standup west half, and you get to
15 go in and rework the well; we think your geology is
16 superior to Yates' geology.

17 Well, what happened as time went by, there were
18 mechanical difficulties and Pride was not able to rework
19 the well. The APD ran out, and they came back in again.

20 And I think what's interesting is when you look
21 at Pride II, it really supports exactly I'm saying, and
22 Commissioner -- Chairman Fesmire's order in that case,
23 which is Order R-12,555, Pride comes back in -- it's the
24 very same thing, it's the west half of Section 12, Yates
25 has the northwest quarter, Pride has the southeast quarter,

1 come back in, they have a hearing again.

2 And without going into the details, the Examiner
3 has considered the evidence and he says, The evidence
4 presented at the hearing demonstrates that Pride, by virtue
5 of owning a 50-percent working interest in the proposed
6 unit well, if its application is granted, will have the
7 right to re-enter the State X Well Number 1. If its
8 application is granted.

9 And that's exactly what the orderly processes,
10 call for, that yes, you can file for an APD and then a
11 pooling application, but you don't go start drilling the
12 well, you don't name yourself the operator. There is no
13 Commission precedent that supports the decision of the
14 Division, the action of Chesapeake. And indeed, the
15 Commission precedent is to the contrary.

16 What should have happened here: APD, force
17 pooling application, and then if the application were
18 granted for Chesapeake it would have the right to go
19 forward. If it were not, instead the Commission found for
20 Samson, named it the operator, pooled the 320, the standup
21 320, the lower east half, two-thirds, then it would go
22 forward.

23 That is the orderly process. If not, as I say,
24 you basically have chaos. You basically say, Go out there,
25 you find somebody else's lease, you found out that there's

1 an offsetting great well, you've got some acreage, put that
2 drill in the ground.

3 And then what's going to happen when it comes in
4 for hearing? I mean, there's a bias built up, a weight in
5 favor -- the Division says, Somebody's already out there,
6 they spent money, they've invested. And I think that's
7 exactly what happened in the Division proceeding, because
8 the leg was up due to the trespass of Chesapeake.

9 We basically believe that it's unnecessary to
10 hear the pooling application, because we think the APD
11 should be revoked on the undisputed facts, on your own
12 precedent, and on the statute, 70-2-17.C, on the provisions
13 of that pooling statute.

14 With that, we don't intend to call any witnesses
15 because we think the stipulation provides all you need to
16 have in order to make the decision on what we call the APD
17 cancellation case.

18 Thank you.

19 CHAIRMAN FESMIRE: Mr. Hall, do you have anything
20 to add?

21 MR. HALL: No, sir.

22 CHAIRMAN FESMIRE: Mr. Kellahin?

23 MR. KELLAHIN: Thank you, Mr. Chairman.

24 There is much to dispute in this case. Mr.
25 Gallegos refers to chaos. We think if you read the

1 prehearing statement we filed, that provides a concise
2 summary of the legal position that in fact supports the
3 Examiner's decision on the law and the application of your
4 precedents to this case. I don't intend to go through that
5 now. If you want to have arguments about the law, you can
6 do that. I would like to confine my arguments, or my
7 discussion, to the facts that you're about to be presented
8 here.

9 While there is much in dispute, and we certainly
10 can be distracted by the events surrounding the permitting
11 and the competition among the owners in Section 4, there is
12 an orderly progression about this case.

13 As you see from the map, Section 4 is an
14 irregular section. You've got 660-acre tracts, they're
15 stacked one on top of the other. The bottom -- the south
16 third is the proposed spacing unit that Chesapeake has
17 advanced. If you stand up the spacing unit, the west two
18 160s, which is -- not west, the east-half -- the east-half
19 standup is not a full standup, it's two stacked 160s. That
20 is the Samson orientation of their spacing unit.

21 And all of this started with the well Mr.
22 Gallegos mentioned in Section 9. It was the Osudo 9 well.
23 Mewbourne completed that well in the north half of Section
24 9 in March of '05. The well had produced in 64 days 0.88
25 BCF of gas, with daily rates of 21 MMCF. A tremendous

1 well. Once knowledge in the area was received for that
2 well, the race then was on.

3 The first party to act was Chesapeake. On March
4 9th of that year Chesapeake, based upon its own independent
5 geologic study, proposed to Kaiser and Samson the formation
6 of the south half laydown for the southern third and to
7 drill what we now know is the KF State Well Number 1. That
8 well is located in the southeast quarter of that section.

9 Chesapeake has never contended that it had any
10 interest in that tract. Our contention was based upon the
11 permitting and the consolidation of the southwest quarter
12 section to the spacing unit. That process allowed us to
13 put the well on a tract in which we had no interest and
14 notice.

15 Our application was filed for permit to that well
16 on March 11th. And as you'll see from Mr. Kautz's
17 testimony from the Examiner Hearing that's been stipulated
18 for your consideration in this case, Mr. Kautz found
19 nothing wrong with how that process was done, and it's
20 consistent with how he's done hundreds of these.

21 Then on March 21st Mewbourne, trying to obtain a
22 permit for a well it's proposing in the southeast quarter
23 of 4, files the permit. And that permit is denied because
24 the Division has previously approved the Chesapeake permit.

25 Interesting activity around this. In the south

1 half of 9 now, Kaiser spuds the Hunger Buster Number 3
2 well, down in the south half of 4, and they do that April
3 1st. So there's wells being proposed north of the big
4 Osudo 9 well. Kaiser's doing a well south of the Osudo 9.
5 And as we move to the east, there's more wells in
6 competition being drilled. And I think in July, Apache
7 starts one in Section 10.

8 By April 21st, then, Chesapeake files its force
9 pooling case that's now before you for consideration. And
10 on that same day, then, Samson files an application to
11 rescind the Chesapeake APD and have you approve -- or have
12 the Division approve -- the APD filed by Mewbourne.

13 And then on the next day, on April 26th -- 27th
14 -- Chesapeake in fact spuds the KF State well.

15 And then on May 4th there's processes -- as you
16 can see from the file, they're just full of stuff -- there
17 was hearings, emergency hearings before the Director's
18 assigned representative to hear that matter on an
19 application by Mewbourne for an emergency order to stay the
20 drilling of Chesapeake. That matter was heard, and they
21 put forth a request to have that matter stayed, and it was
22 denied.

23 On May 3rd, then, Samson has gone to district
24 court in an application for a restraining order against
25 Kaiser-Francis -- against Chesapeake, and the district

1 court declines to enter a restraining order.

2 Then we get to August 9th of last year, and
3 Chesapeake by then has drilled and tested the KF State
4 well, and it comes in at a rate of 2.6 MMCF a day. They
5 shut that well in pending a resolution of the disputes
6 before the Hearing Examiner.

7 And then on August 21st and 22nd, Examiner Jones
8 hears the dispute among the parties, much of which is being
9 repeated in this process today.

10 And then finally in January, on the 10th of
11 January of this year, Mr. Jones enters the order signed by
12 the Division approving the action taken by Chesapeake and
13 denying the request by Samson, Kaiser and Mewbourne. We
14 have included a copy of that order in our discussion in the
15 prehearing statements, and we would invite you to review
16 it. It's a nice summary. We are again using part of it
17 today to give you a summary of the facts, and I think it is
18 a well done piece of documentation to give you a sense of
19 the components of the process.

20 But be that as it may, at this point today the
21 well has been drilled. As much as Mr. Gallegos says that
22 it creates chaos and it's a big problem, I contend it's not
23 an issue.

24 The issue now is to do what you do in other cases
25 like this, is make a decision on which orientation of the

KF
shut
in

1 spacing unit has got the greatest potential maximum
2 recoverable reserves associated with it. And if you track
3 through the history of your orders and how you ultimately
4 resolve disputes like this, regardless of who's done what,
5 how, the ultimate decision required by the statute, we
6 contend, is to maximize the dedicated acreage that is
7 potentially productive to the spacing unit in which the
8 well exists.

9 So that is where we suggest that you go with your
10 interest and discussion and involvement with the science,
11 is ultimately you have to figure out the orientation. In
12 order to get there, there's a whole bunch of pieces to this
13 geologic puzzle that you need to identify and to hold onto
14 and see if they all fit together.

15 Of these multiple pieces, it's our contention
16 that the evidence that Samson and Kaiser are going to
17 present to you is only one of the pieces, and their piece
18 doesn't fit into the puzzle.

19 Our evidence will demonstrate that Samson is
20 relying very heavily on a north-south orientation of this
21 channel sand. The main target sand we're worried about is
22 the middle Morrow. They are going to tell you, and
23 apparently they believe, and we disagree, that that is
24 oriented north-south. And the trigger point that makes
25 that happen is their belief in the source area for that

1 sand deposition, and they tag it to the Pedernales uplift.

2 The other choice is to see what, if any, local
3 influence has occurred as a result of the Central Basin
4 Platform, which is just to the east. As I understand the
5 facts, Samson takes the position that there is no localized
6 influence of sand deposition from the Central Basin
7 Platform; their focus is to dismiss that and to concentrate
8 on the Pedernales uplift as the source.

9 We disagree with that, we think the Central Basin
10 Platform is a key component to the puzzle, and you're going
11 to see discussion about that. So we start off with looking
12 at the puzzle pieces, and we're already disagreeing on the
13 pieces.

14 One of the next things to do, then, is to study
15 the technical literature. Before the Examiner we presented
16 lots of technical literature in support of the concept that
17 our geologist, David Godsey, will present to you on his
18 theory of the geology. In the filings made by Samson we
19 now see literature support that they tend to -- they
20 suggest may support their position. So there's a conflict,
21 apparent conflict, in some of the technical papers.

22 Mr. Godsey in doing his work did some things that
23 Samson did not do. The evidence will demonstrate that not
24 only did Mr. Godsey rely upon a regional mapping and the
25 literature, he did some gross mapping of this middle

1 Morrow.

2 And then he took it to the next step. He took
3 that middle Morrow and subdivided it into three logical
4 subdivisions. And when you see his maps, you're going to
5 see a geologic analysis using the upper portion of the
6 middle Morrow, the middle portion of the middle Morrow and
7 the basal portion of the middle Morrow. And so the details
8 of his geologic science, we think, are convincing and is a
9 point of difference between our presentation, between our
10 geologist and the Samson technical people.

11 When you get to this point, there is going to be
12 a difference on identifying the pay target. The analysis
13 is slightly different. We believe Samson has made material
14 changes in their geologic picture from the Examiner Hearing
15 last year.

16 You will find that our testimony will show you
17 that Chesapeake has not changed its theory, its position.
18 It has found that the new data developed since then
19 continues to support their ultimate conclusion.

20 There continues to be differences. The log data,
21 how the parties have handled the log data, is going to be a
22 factual difference for you to decide if it matters. The
23 differences between Chesapeake and Samson on the methods
24 used for determining sand content within the well. They
25 differ on some of the tops -- on how they pick the tops of

1 the key wells.

2 So you have to make sure as you go through the
3 evidence, to make sure that if you see an isopach, that
4 you're understanding what is the top and the bottom of the
5 isopach'd interval that you're to make a judgment about,
6 because there's differences.

7 We contend, and we believe the evidence will
8 demonstrate, that Chesapeake has been consistent and its
9 results are repeatable in terms of its log analysis, and it
10 is supported by sound science.

11 You're going to get to the isopachs, and when you
12 look at the isopachs you're going to see this building
13 block of pieces, as a consequence, gives you a different-
14 shaped isopach. You're going to see that the Samson
15 isopachs are oriented north-south. You're going to see Mr.
16 Godsey's isopachs, as he did last year, are still
17 essentially the same. He's got an east-west orientation to
18 them and a logical explanation of why that fits together
19 and is consistent with all the known data.

20 And as you fit all those pieces together you're
21 going to see an influence by the structure maps. The
22 geologists have a difference of opinion about the structure
23 maps.

24 And when you get all said and done with the
25 geology, what do you do?

1 We suggest that you're going to have the
2 opportunity in this case, unlike others, to resolve that,
3 based upon the fact that Chesapeake has sound petroleum
4 engineering studies based upon performance, pressure and
5 production that validate the Chesapeake geology and
6 specifically the Chesapeake theory. And it's the ultimate
7 trump card that petroleum engineers sitting as Examiners or
8 others want to look at when they test the adequacy of the
9 geologic interpretations, which we all know can be very
10 confusing, different and uncertain.

11 In this case we have the comfort to tell you that
12 we believe our engineering presentation will absolutely
13 persuade you to do what the Examiner did, approve our
14 application, and in doing so deny the opposition by Samson
15 and others.

16 And finally, by approving our orientation you
17 will therefore satisfy your responsibilities to maximize
18 recoverable hydrocarbons associated with that wellbore and
19 approve the south-third spacing unit.

20 Thank you, Mr. Chairman.

21 CHAIRMAN FESMIRE: Thank you, Mr. Kellahin.

22 Mr. Gallegos, your first witness?

23 MR. GALLEGOS: Mr. Chairman, what I'd like to do
24 -- because I've just concentrated on the cancellation of
25 APD and at the time that our technical evidence is to be

1 put on, which I suspect isn't even going to be today, Mr.
2 Olmstead will probably have some opening remarks.

3 But basically for our case, I just have one short
4 witness and three exhibits, because we have the stipulation
5 of facts.

6 And I'm wondering, so that the record is
7 complete, if we don't want to have a copy of it just made
8 as a joint exhibit. Would that be all right, to make sure
9 that the reporter has it?

10 MR. DEBRINE: Yeah, but could we look at it
11 first? Because there was some confusion as to whether all
12 the right exhibits got appended to the --

13 MR. GALLEGOS: Oh --

14 MR. DEBRINE: -- stipulation.

15 MR. GALLEGOS: -- okay.

16 CHAIRMAN FESMIRE: Mr. Gallegos, while opposing
17 counsel checks that out, why don't we go ahead and have the
18 witnesses who intend to testify today stand to be sworn?

19 MR. GALLEGOS: All right, well, we're going to --
20 I'm going to assume ours are called today. They probably
21 won't be. But anyway, we'll have Ron Johnson, Ken
22 Krawietz, Lynn Charuk, Rita Buress, if you -- we call those
23 witnesses.

24 CHAIRMAN FESMIRE: Mr. Kellahin, can we swear
25 your witnesses at the same time?

*Sampson
K-F
Witnesses*

1 (Thereupon, the witnesses were sworn.)

2 MR. GALLEGOS: While counsel is looking at the
3 stipulation, we'd like to call Rita Bures, please.

4 CHAIRMAN FESMIRE: Okay. Mr. Kellahin, would you
5 all have any objection to that? Can you look and listen at
6 the same time?

7 MR. GALLEGOS: Or do you want -- do you want a
8 moment --

9 MR. DEBRINE: That's fine. No, go ahead.

10 MR. KELLAHIN: I believe we can do that, Mr.
11 Chairman. Mr. DeBrine is going to be handling this portion
12 of the case for us.

13 CHAIRMAN FESMIRE: Okay. Ms. Bures?

14 Ms. Bures, may the record reflect that you've
15 just been sworn?

16 MS. BURESS: Yes.

17 MR. GALLEGOS: And members of the Commission, we
18 will be referring to Exhibit 58, 59 and 60, if you want to
19 take a moment to locate those.

20 RITA A. BURESS,
21 the witness herein, after having been first duly sworn upon
22 her oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. GALLEGOS:

25 Q. State your name, please.

1 A. Rita A. Buress.

2 Q. Are you employed, Ms. Buress?

3 A. I am, I'm employed as a senior landman for Samson
4 Resources.

5 Q. Would you give the Commission a little bit of
6 your work history?

7 A. I received a bachelor's degree from the
8 University of New Mexico in 1983 in economics and a
9 master's degree in business in 1984, also from the
10 University of New Mexico.

11 And in 1984 I started working as a petroleum
12 landman with ARCO Oil and Gas Company, and with the company
13 as a landman for 10 years, and then worked as an
14 independent from 1994 until 2005 when I was hired by Samson
15 Resources.

16 In my experience as a landman I've worked in all
17 phases of land work, negotiating contracts, writing
18 contracts, buying leases, curing title, selling and
19 purchasing producing properties.

20 Q. Do your duties and responsibilities pertain to
21 Samson's oil and gas activities in the State of New Mexico?

22 A. They do.

23 MR. COONEY: Mr. Chairman, I hate to interrupt.
24 John Cooney, representing Chesapeake.

25 Mr. Gallegos, the copies of the exhibits that we

1 got from your office don't have 58, 59 and 60. They stop
2 at 57.

3 MR. GALLEGOS: No, but then I sent these
4 additional ones to you when I sent them to the Commission.
5 But I've got extra copies.

6 MR. COONEY: Do you have an extra copy?

7 MR. GALLEGOS: I'm sorry, yeah --

8 MR. COONEY: Thank you.

9 MR. GALLEGOS: -- when we supplemented the
10 Commission I -- do you need -- Do you need a minute?

11 MR. COONEY: These are two of them, 58 and 59.
12 What is 60?

13 MR. GALLEGOS: 60 is some photographs, location,
14 the KF location.

15 MR. COONEY: Okay.

16 Q. (By Mr. Gallegos) Okay, Ms. Buress, let me
17 address your attention to Exhibit 58. Would you identify
18 what that is?

19 A. That's an approved application for permit to
20 drill for the Cattleman 4 State Com Number 1 well.

21 Q. Would you orient the Commission members to the
22 location of the Cattleman 4 State Com well in relationship
23 to the Osudo 9 well and the KF State well?

24 A. The Cattleman 4 State Com Number 1 well is
25 located directly north of the current disputed well, the KF

1 well, in lot 16 of the same Section 4. The spacing unit
2 for the Cattleman well is comprised of the standup 320-acre
3 spacing unit north of the laydown 320 for the KF well.

4 Q. Okay. Have you followed on electronic website of
5 the New Mexico Oil Conservation Division the status of this
6 APD?

7 A. I have.

8 Q. And what has been the status?

9 A. The APD was approved and remained on the NMOCD
10 website as approved until it expired by its own terms.

11 Q. And that would be one year from the date of
12 issuance?

13 A. Correct.

14 Q. Okay. Did -- In checking that website, has the --
15 -- Chesapeake blocked any other locations on the -- Section
16 9 -- I mean Section 4, this irregular Section 4?

17 A. There was one other permit covering the standup
18 320 directly west of this permit for the Cattleman 4 State
19 Com Number 1.

20 Q. Okay. And is it the -- your understanding of the
21 practice of the Division that if a permit is issued such as
22 this one for the Cattleman State 4, no other operator can
23 obtain a permit while that one is outstanding?

24 A. That's correct.

25 Q. What is Exhibit Number 59?

1 A. Exhibit Number 59 is copies of invoices that
2 Samson was provided with relating to the costs of the KF
3 well.

4 Q. Okay. And were these provided by Chesapeake
5 Operating --

6 A. They were --

7 Q. -- to Samson?

8 A. They were.

9 Q. Okay. And do they reflect dates of service for
10 work on the KF 4 State well?

11 A. They do. The first invoice is for staking the
12 well. It's dated March 10th of 2005 and shows that the
13 well was staked, and subsequent invoices dated April 19th,
14 the next one, indicates some equipment for the well that
15 was delivered, and so on.

16 There's one for April 22nd. Again, this was for
17 actually drilling -- beginning to drill the mouse hole for
18 the surface casing.

19 Q. And just so the record is clear, is this speaking
20 of activity on the southeast quarter of Section 4, which is
21 leased by the State of New Mexico to Samson, Mewbourne and
22 Kaiser-Francis?

23 A. That's correct.

24 Q. All right. Go ahead and -- if you want, just --

25 A. Okay.

1 Q. -- summarily review what these invoices show,
2 that were provided by Chesapeake.

3 A. Okay, and then the next invoice is a delivery
4 ticket from P&D Petroleum, dated April 23rd, for some fuel
5 that was delivered to the location of the KF 4 State Number
6 1 well.

7 Then there's an invoice from B&L Equipment dated
8 April 25 of '05, again for some products delivered to the
9 location.

10 There's an additional invoice from A&B Transport,
11 Inc., dated April 25, 2005, for some brine that was
12 delivered. Another one from the same company, dated April
13 25 of '05, for more products delivered to the location.
14 Still another one dated April 25 of '05. Another one for
15 the same date -- there are a number from that same company,
16 same date. Yet another one for products delivered to that
17 location on April 25th from A&B Transport. Another
18 invoice, and yet another one dated April 25th from A&B
19 Transport. One more dated April 25, '05, from A&B
20 Transport.

21 And then the final invoice is from P&D Petroleum,
22 Inc. That one is dated April 25 of '05, and that was for
23 some propane delivered to the location.

24 Q. Okay, what is Exhibit 60?

25 A. Exhibit 60 is an e-mail and some attached

1 photographs. It's internal Samson communication.

2 Q. And who took the photographs?

3 A. The photographs were taken by Mr. Floyd Steed,
4 our production foreman in the Osudo field.

5 Q. Was he directed to make photographs of the
6 location of the KF 4 State well that Chesapeake was
7 operat- --

8 A. He was.

9 Q. -- or working on?

10 A. He was. Samson had been informed by Mewbourne
11 that on this date, on April 26th, that location had been
12 built on our jointly owned lease. We had Mr. Steed go out
13 and take a look and take some photographs to substantiate
14 that, and these are the photographs that he took that date,
15 April 26th.

16 The first one shows that the surface casing is
17 set, the location is ready to be drilled, ready for a rig
18 to move in.

19 And the next photograph is that of the location
20 marker.

21 Again, a closer-up -- the third one is a closer
22 picture of the surface casing.

23 The next one is a picture of the leveled
24 location.

25 The next one is a picture of the surface casing

1 there, with the equipment that was used to build the
2 location.

3 A picture of the pits with the liners in place.
4 Another picture of the pits with the liners in
5 place.

6 And while Mr. Steed was taking these pictures he
7 was asked to please step aside, because the rig was on the
8 way, on the road. He needed to move out of the way.

9 Q. And just so the record is clear, were these
10 photos taken on April 26th, 2005?

11 A. They were.

12 MR. COONEY: Mr. Chairman, I would move to strike
13 all this testimony concerning the photographs. It's
14 obvious that this witness had nothing to do with them, she
15 wasn't there. She's basing her testimony totally upon
16 hearsay about what she understood somebody did and what
17 happened while he was out there.

18 MR. GALLEGOS: Okay, we pass the witness and move
19 the admission of the --

20 CHAIRMAN FESMIRE: Well, let's deal with the
21 objection first.

22 MR. GALLEGOS: Okay.

23 CHAIRMAN FESMIRE: I have a tendency to agree
24 with him, but I don't think the objection was timely. I
25 don't think --

1 MR. COONEY: Well, he's just now moving the
2 admission of the exhibit. He has not moved it previously,
3 so I believe the objection is timely.

4 CHAIRMAN FESMIRE: Okay. And that objection
5 would just go to Exhibit 60; is that correct?

6 MR. COONEY: Exhibit 60 and her testimony
7 concerning Exhibit 60.

8 CHAIRMAN FESMIRE: We'll go ahead and sustain the
9 objection with respect to the testimony on Exhibit 60 and
10 Exhibit 60 itself.

11 MR. GALLEGOS: We move the admission of Exhibit
12 58, 59 and 60, then. We understand that 60 is not being
13 admitted.

14 MR. COONEY: We object also to 58 and 59. Fifty-
15 eight, Mr. Chairman, is the application for permit -- two
16 applications for permit to drill wells which are not
17 involved in this proceeding. Chesapeake stipulated at the
18 Examiner Hearing that we are not proceeding with those
19 applications at this time. They have nothing to do with
20 the land issues described by Mr. Gallegos and Mr. Kellahin.
21 They are not in the -- located in either of the units that
22 we're talking about, the geologic orientation, and
23 therefore have nothing to do with this proceeding.

24 CHAIRMAN FESMIRE: Okay, we'll overrule the
25 objection with respect to Exhibit 58 and 59, sustain the

1 objection with respect to 60 and the testimony relating to
2 Exhibit 60.

3 MR. COONEY: Just for the record, I would also
4 like to point out that these were not provided with the
5 preliminary statement filed by Samson.

6 CHAIRMAN FESMIRE: I understand that. I do think
7 that's -- That one isn't timely.

8 MR. COONEY: Okay.

9 MR. GALLEGOS: Okay, we pass the witness for
10 cross-examination.

11 CHAIRMAN FESMIRE: Mr. Kellahin?

12 MR. COONEY: I will conduct the cross-
13 examination, if that's satisfactory.

14 CROSS-EXAMINATION

15 BY MR. COONEY:

16 Q. Ms. Buress, I'm John Cooney. I represent
17 Chesapeake. Good morning.

18 A. Good morning.

19 Q. Ms. Buress, one of the stipulated exhibits is the
20 communitization agreement. It's Exhibit 9 of the
21 stipulated exhibits. Do you happen to have a copy of that
22 with you?

23 A. No, here I don't.

24 (Thereupon, Mr. Gallegos handed a document to the
25 witness.)

1 Q. (By Mr. Cooney) Now it's your understanding,
2 isn't it, that Chesapeake proposed the KF State 4 Well to
3 Samson on March the 9th --

4 A. That's correct.

5 Q. -- is that right? And that Chesapeake filed its
6 APD with respect to this well with the Division on March
7 10th?

8 A. That's correct.

9 Q. And the Division approved the APD on March 11th?

10 A. That's correct.

11 Q. The communitization agreement was first signed by
12 Kaiser-Francis on April 4th; is that correct?

13 A. I'm not --

14 Q. If you look at the --

15 A. Okay, I can -- Yeah, I can see that.

16 Q. Okay. And then it was signed by Samson on April
17 12th?

18 A. That's correct.

19 Q. And then it was signed by Mewbourne, the last of
20 the parties to sign, on April 20?

21 A. That's correct.

22 Q. This all occurred after Samson was aware that
23 Chesapeake had proposed the well and had filed the APD;
24 isn't that correct?

25 A. That's correct. We didn't know that they were

1 building location, however.

2 Q. Did you check with the OCD to determine whether
3 the APD had been approved?

4 A. We did know that there was an APD at this time, I
5 believe.

6 Q. You knew that the APD had been approved by the
7 Division?

8 A. I have a timeline of my own that I can check to
9 find the date that we discovered that APD was approved.

10 Q. Are you able to tell the Commission today whether
11 you knew that the APD had been approved before you signed
12 and circulated this communitization agreement?

13 A. I can if I can look at my time line.

14 Q. Sure.

15 A. Yeah. On March --

16 CHAIRMAN FESMIRE: Mr. Gallegos, would you make
17 sure that the court reporter has a copy of 58 and 59?

18 MR. GALLEGOS: Yes, sir, we'll do that.

19 CHAIRMAN FESMIRE: And he does have a copy of the
20 stipulated package, doesn't he?

21 MR. GALLEGOS: We were going to hand him a copy,
22 and Mr. DeBrine wanted a chance to make sure it was what we
23 had agreed to.

24 MR. DEBRINE: There was just one difference from
25 what I could tell in an exhibit.

1 The Exhibit 11 didn't have a complete
2 correspondence between Chesapeake and Samson. I think
3 theirs just has the one letter.

4 CHAIRMAN FESMIRE: Was that --

5 MR. DEBRINE: -- and our intent was to include
6 both of those that were -- that comprise Chesapeake Exhibit
7 -- I don't know if you want to substitute --

8 MR. GALLEGOS: Why don't we at a break --

9 MR. DEBRINE: I think we can --

10 MR. GALLEGOS: -- make sure that that's in there,
11 and then we'll get Steve a copy for the record.

12 MR. DEBRINE: Yeah, what we've done, we've
13 prepared a couple notebooks of the stipulated exhibits, and
14 with Mr. Gallegos's position [sic], after a break we can
15 review and then we can submit that one as the --

16 CHAIRMAN FESMIRE: Okay, so at the break you'll
17 clear up the difference and --

18 MR. DEBRINE: Yes.

19 CHAIRMAN FESMIRE: -- make sure that the reporter
20 gets one? Okay. I'm sorry there, Mr. --

21 MR. COONEY: That's fine, thank you.

22 THE WITNESS: Okay, on March 30th, 2005, we were
23 aware that the NMOCD had approved an APD --

24 Q. (By Mr. Cooney) All right.

25 A. -- for the KF 4.

1 Q. Now when you received -- when Samson received the
2 proposal from Chesapeake, that proposal was dated March the
3 9th. That's Stipulated Exhibit 11. Does your chronology
4 confirm that the date of that proposal was March 9th?

5 A. Yes, it does.

6 Q. All right. And Samson elected to participate in
7 the KF State 4 Number 1 well, did it not?

8 A. Initially Samson did --

9 Q. All right.

10 A. -- and then subsequently revoked that election.

11 Q. All right, and in between the time that it
12 elected to participate and revoked the election, it began
13 to enter into the communitization agreement with Kaiser-
14 Francis and Mewbourne?

15 A. I'm checking the dates. Yeah, we opted to join
16 in the well on March 22nd, and then on March 30th we
17 revoked that election.

18 Q. Well my question was, when did you begin the
19 process of negotiating a signature of the communitization
20 agreement with Kaiser-Francis and Mewbourne?

21 A. On March 29th Mewbourne had proposed the well
22 covered by the Com agreement to Samson.

23 Q. Okay, so I think if I -- Let's see if I
24 understand this correctly. Chesapeake proposes the well
25 March the 9th --

1 A. Correct.

2 Q. -- to Samson. March 22nd, Samson agrees to
3 participate in the well?

4 A. Right.

5 Q. Then March 29 Mewbourne proposes a different well
6 in the southeast quarter; is that correct?

7 A. That's correct --

8 Q. And March --

9 A. -- with a different orientation.

10 Q. And March 30, then, Samson attempts to -- we can
11 argue about whether it did or it didn't, but it sent a
12 letter attempting to withdraw its election to participate?

13 A. That's correct.

14 Q. Okay. And after that, you entered into the
15 communitization agreement?

16 A. That's correct.

17 Q. Okay. Now the State Land Office was asked to
18 approve the communitization agreement; is that correct?

19 A. Uh-huh.

20 Q. And that approval happened on April the 27th, as
21 shown by Exhibit -- Stipulated Exhibit 9?

22 A. That's correct.

23 Q. And in fact, isn't it true, Ms. Buress, that
24 Chesapeake had filed its pooling application the day
25 before, on April 26th?

1 A. We were not aware they had filed it on the 26th.
2 We then found out that it had been, after -- after we knew
3 the com agreement was approved on the 27th, we were
4 informed that Chesapeake could file for compulsory pooling
5 on the 26th.

6 Q. In fact, isn't it true, Ms. Buress, that before
7 Samson elected to participate in this well with Chesapeake,
8 Tim Reece of Samson had talked with Linda Townsend of
9 Chesapeake?

10 A. That's correct. I understood from Tim that he
11 talked to --

12 Q. I was just asking you if he had talked.

13 A. Yes.

14 MR. COONEY: Okay.

15 THE WITNESS: He was confirming the --

16 MR. COONEY: Well --

17 THE WITNESS: -- revocation --

18 MR. COONEY: -- that's okay, I'm just asking you
19 if there had been contact between Mr. Reece and Ms.
20 Townsend.

21 Nothing further.

22 CHAIRMAN FESMIRE: Mr. Gallegos, redirect?

23 MR. GALLEGOS: Do you have some cross?

24 CHAIRMAN FESMIRE: Oh, I'm sorry.

25 MR. HALL: Mr. Chairman.

DIRECT EXAMINATION

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BY MR. HALL:

Q. Ms. Buress, with respect to the first formal well proposal by Mewbourne to Samson, again, what date was that?

A. That was on March 29th, 2005.

MR. COONEY: Mr. Chairman, as a matter of procedure, Mr. Gallegos entered an appearance and filed a preliminary statement on behalf of Kaiser-Francis, Mewbourne and Samson, and we would think, therefore, that there ought to be one set of lawyers acting for those three parties, not two acting for them.

CHAIRMAN FESMIRE: Well, I think Mr. Hall has indicated that he does have a different client than Mr. Gallegos.

MR. COONEY: Not according to the preliminary statements that have been filed with this Commission.

MR. GALLEGOS: Well, Mr. Hall was on that preliminary statement as counsel for Kaiser-Francis.

MR. COONEY: As you were.

MR. GALLEGOS: As I was, yes.

MR. HALL: I would point out, Mr. Chairman, I filed an application for hearing de novo on behalf of Kaiser-Francis's well. So I'm not sure of Mr. Cooney's point here.

CHAIRMAN FESMIRE: His point is that you're

1 double team hitting, that you're --

2 MR. COONEY: That's right.

3 CHAIRMAN FESMIRE: And I think the way to cure it
4 right now is to go ahead and let you continue with your
5 direct and allow him to cross on the subject of your
6 direct, and that's the way we'll do it this time.

7 You are -- Who is your client, I guess?

8 MR. HALL: Question to me? I represent Kaiser-
9 Francis.

10 CHAIRMAN FESMIRE: Okay. And Mr. Gallegos, your
11 clients are -- ?

12 MR. GALLEGOS: Samson and Mewbourne.

13 CHAIRMAN FESMIRE: Okay, and not Kaiser-Francis.

14 MR. GALLEGOS: And not Kaiser-Francis.

15 CHAIRMAN FESMIRE: Okay. From here on out, we'll
16 let -- on your direct witnesses, we'll let you and then Mr.
17 Hall direct. But we will let Mr. Cooney recross on the
18 subject of Mr. Hall's direct.

19 MR. GALLEGOS: Okay. I think, if it please the
20 Chair, what happened here was that the cross was really off
21 of -- was not off of the direct testimony. I mean, we went
22 off into a completely different area with the cross, so
23 we've opened up something else that we need to tackle. But
24 if we're confined to Mr. Hall doing that, then we'll --

25 CHAIRMAN FESMIRE: We're not confined to letting

1 Mr. Hall do that. You can do that under a redirect --

2 MR. GALLEGOS: Okay.

3 CHAIRMAN FESMIRE: -- on the same subjects. But
4 he has to be able to cross when Mr. Hall goes --
5 representing a different client, makes different points.

6 MR. GALLEGOS: Thank you, Mr. Chair.

7 MR. COONEY: Mr. Chair, I'm sorry, I don't mean
8 to keep interrupting here, but I didn't understand that
9 Mewbourne had requested a *de novo* hearing, and that the
10 only two parties who are here today on the other side of us
11 are Kaiser-Francis and Samson; is that not correct?

12 MR. GALLEGOS: Well, Mewbourne was a party to the
13 Division proceeding. The application for *de novo*, I
14 believe, stated Samson and Kaiser-Francis, but Mewbourne
15 has asked for the opportunity to be a party, does not
16 intend to present any witnesses or any separate exhibits,
17 but wants to be a party of record.

18 CHAIRMAN FESMIRE: Okay.

19 MR. COONEY: Well, we would object to that. I
20 think under the rules and the statute, if you want to --
21 you have to ask for one and not just show up and ask to
22 participate.

23 CHAIRMAN FESMIRE: Let me check with counsel,
24 just --

25 MR. HALL: Mr. Chairman, I think it's been the

1 agency's practice that if you enter an appearance at the
2 Division level, that entry is good throughout the entire
3 proceeding, even *de novo* proceedings.

4 (Off the record)

5 CHAIRMAN FESMIRE: We'll go ahead and overrule
6 the objection and allow him to continue. Like I said, you
7 will get a chance --

8 MR. COONEY: Thank you.

9 CHAIRMAN FESMIRE: -- to recross.

10 Mr. Hall, go ahead.

11 Q. (By Mr. Hall) Ms. Buress, prior to the time that
12 Samson received a well proposal from Mewbourne, were
13 Mewbourne, Kaiser-Francis and Samson engaged in verbal
14 negotiations for a standup unit in the east half of the
15 section?

16 A. It's my understanding that negotiations began
17 when Mewbourne came to Samson's office on the 29th of March
18 and proposed the well.

19 Q. When Samson received the well proposal from
20 Chesapeake, Chesapeake's well proposal, did Chesapeake ever
21 specify an exact well location?

22 A. No, it was in the south half -- the south 320
23 acres of Section 4.

24 Q. Did Chesapeake lead Samson to believe that the
25 well would be commenced on Chesapeake's acreage in the

1 southwest quarter?

2 MR. COONEY: I'm going to object to that. I
3 don't think this witness has any personal knowledge of
4 that. I would ask that I be -- Can I ask a couple of
5 questions on voir dire to establish that, since I don't
6 want to lose my opportunity to object by objecting too
7 late?

8 MR. HALL: Let's see if she does have knowledge
9 of that, answer that question.

10 CHAIRMAN FESMIRE: Then phrase the question that
11 way to start with.

12 Q. (By Mr. Hall) Did -- Was it Samson's
13 understanding that Chesapeake intended to drill the well on
14 its own acreage in the southwest quarter of the section?

15 MR. COONEY: Object to that question.

16 CHAIRMAN FESMIRE: Sustained.

17 Ms. Buress, do you have personal knowledge of the
18 facts that Mr. Hall is attempting to discuss with you?

19 THE WITNESS: It's my understanding that
20 Samson --

21 CHAIRMAN FESMIRE: Okay --

22 THE WITNESS: -- was aware --

23 CHAIRMAN FESMIRE: -- do you have personal
24 knowledge? Understanding is a little bit ambiguous here.

25 THE WITNESS: No, what I have is a copy of the

1 proposal, which does not stipulate a location.

2 CHAIRMAN FESMIRE: Okay.

3 THE WITNESS: Merely a spacing unit.

4 MR. HALL: That concludes my examination of Ms.
5 Buress.

6 CHAIRMAN FESMIRE: Okay. Mr. Cooney, within the
7 confines of Mr. Hall's direct, you may recross.

8 MR. COONEY: I have no questions, thank you.

9 CHAIRMAN FESMIRE: Are you through with this
10 witness, Mr. Hall?

11 MR. HALL: Yes, sir.

12 CHAIRMAN FESMIRE: Okay. Ms. Buress, thank you
13 very much.

14 Mr. Gallegos, do you intend to call another
15 witness?

16 MR. GALLEGOS: Not on our case for the
17 cancellation of the APD, Mr. Chairman, and I'm going to
18 hand the reporter Exhibits 58, 59 and 60 --

19 CHAIRMAN FESMIRE: Realizing that 60 has not --

20 MR. GALLEGOS: -- has been objected to and the
21 objection sustained.

22 CHAIRMAN FESMIRE: Correct.

23 MR. GALLEGOS: And we will be submitting this
24 portion of the case, then, on the stipulation of undisputed
25 facts. And there's already been discussion that Mr.

1 DeBrine wanted to, I think, add one more document to that,
2 and I think rather than taking time now, we'll do that as a
3 break. Thank you.

4 CHAIRMAN FESMIRE: Okay. A procedural matter
5 that we need to address now is, do we want to continue with
6 the geologic portion, the geologic testimony, at this time,
7 or allow you all to argue on the second one? Does counsel
8 have any feeling one way or the other on that?

9 Mr. Hall?

10 MR. GALLEGOS: Mr. Chairman, I think we should
11 proceed into what we'd call the geologic or technical side
12 of the case, then.

13 CHAIRMAN FESMIRE: I agree.

14 MR. HALL: Mr. Chairman, for purposes of the
15 proceeding here, the proper presentation order, since
16 Chesapeake is the applicant for the compulsory pooling
17 phase of its case, I believe it's incumbent upon them in
18 the *de novo* setting to proceed first with their geology
19 case as well.

20 CHAIRMAN FESMIRE: Mr. Gallegos, you seem to be
21 arguing with two minds here.

22 MR. GALLEGOS: No, no, I -- not at all. But it
23 just occurred to me on the APD cancellation portion of the
24 case that there may be evidence that Chesapeake wants to
25 present. I --

1 CHAIRMAN FESMIRE: Uh-huh.

2 MR. GALLEGOS: -- didn't occur to me, but we've
3 presented what we will present, along with the stipulated
4 facts, on that portion of the case.

5 CHAIRMAN FESMIRE: Mr. Cooney, can you -- Mr. --

6 MR. KELLAHIN: Mr. Chairman, we suggest you do
7 what the Examiner did, and because they've gone first they
8 went ahead and continued with their presentation of the
9 geology and engineering, and we would prefer to do it that
10 way.

11 CHAIRMAN FESMIRE: They do have a point in that
12 the Applicant generally proceeds initially.

13 Mr. Cooney?

14 MR. GALLEGOS: Mr. Chairman, we're the Applicant
15 in the -92 case, and we've gone first. They're the
16 Applicant in the -93 case, and they would go first.

17 CHAIRMAN FESMIRE: That's correct, which would
18 lead us to have to bifurcate, essentially, the cases and
19 proceed with the rebuttal on the first application.

20 Mr. Cooney, are you prepared to do that? Mr.
21 Kellahin?

22 MR. KELLAHIN: No, we're not prepared to do that,
23 Mr. Chairman. We need to decide or have you tell us what
24 the time frame is you've set aside for the hearing process.

25 CHAIRMAN FESMIRE: We have today. And if we

1 can't get it done today, we're going to have to continue it
2 for -- until early September, at least.

3 MR. KELLAHIN: My concern is, and I'm sure Gene
4 shares that with me, is, by mid-afternoon whoever has
5 proceeded may have been completed, or at the end of the day
6 completed, and the other side then has a substantial break
7 in which to examine what occurred by the opposition and a
8 long time to manage their case.

9 Gene and I both agreed that this was a two-day
10 case, and somehow that didn't get communicated very well to
11 the Commission.

12 It would be my preference to go ahead and
13 complete the land portions for today and have you schedule
14 a special hearing time to come back and come back and let
15 us put on the technical science, and do it that way.
16 Without a substantial break at this point, we're not
17 prepared to now sort out our rebuttal case from our direct
18 case. We've merged it in PowerPoint under the assumption
19 that we would follow the process done before the Examiner,
20 and so we'll need to delay in order to re-formulate our
21 presentation.

22 So I'm sorry for the confusion, but it's a
23 difficult one for us.

24 CHAIRMAN FESMIRE: Okay. Mr. Gallegos?

25 MR. GALLEGOS: Mr. Chair, I thought we were

1 saving a lot of time by this stipulation of facts. We have
2 the evidence, basically, on what I would call the APD case.
3 We have that.

4 Clearly Chesapeake is the applicant on the force
5 pooling case. We expected that that would be the procedure
6 and we'd go forward and we'd get as much done today as we
7 can get done. And if they finish their case today in time
8 for us to put on our technical case, we're certainly
9 prepared to do that. But they are the applicant, and if
10 there's anything more on the APD case, then maybe it was a
11 mistake to do the stipulation of facts if we're going to go
12 all over that. We basically have the facts on that case
13 with its stipulation.

14 MR. KELLAHIN: Mr. Chairman, if that was Mr.
15 Gallegos's intent, he did not communicate it to any of us.

16 CHAIRMAN FESMIRE: Okay. How long would it take
17 you all to prepare -- to present the rebuttal portion?

18 MR. KELLAHIN: If we wait and do it at the end,
19 we're straight. If we have to re-sort our exhibits, it
20 would be after lunch before we could get ready. We'll need
21 two or three hours.

22 CHAIRMAN FESMIRE: Okay. Well, we obviously
23 don't have two or three hours to prepare for that.

24 MR. KELLAHIN: Suggestion, Mr. Chairman. We
25 could put on our rebuttal response to the permitting case,

1 let you have that as a full package, and then schedule a
2 time where we would come back, and if it's your desire to
3 hear our presentation from the pooling case first then
4 we'll be prepared to do that and do it in a logical fashion
5 that doesn't waste your time.

6 CHAIRMAN FESMIRE: So you are prepared to rebut
7 the land case, then?

8 MR. KELLAHIN: Yes.

9 CHAIRMAN FESMIRE: Okay. Let's go ahead and
10 prepare the land case. He is correct in that the applicant
11 should go first in the technical case also, and I think we
12 can divide it out that way.

13 Let's finish what we've got in the land case, see
14 where we are timewise, and determine how to go from there.
15 Okay?

16 MR. KELLAHIN: Thank you, Mr. Chairman.

17 CHAIRMAN FESMIRE: You bet.

18 Mr. Kellahin, do you have witnesses? Oh, Mr.
19 DeBrine?

20 MR. DEBRINE: Mr. Chairman, Chesapeake calls
21 Lynda Townsend.

22 CHAIRMAN FESMIRE: Okay, Ms. Townsend?

23 Ms. Townsend, for the record you have been
24 previously sworn; is that correct?

25 MS. TOWNSEND: Yes, I have.

1 Q. And so with respect -- if you turn your attention
2 to the stipulated facts -- Do you have that notebook --

3 A. Yes.

4 Q. -- in front of you? Could you then amend that to
5 -- with respect to the current ownership of the lease at
6 issue that was previously owned by Chesapeake Permian,
7 L.P.?

8 A. Yes.

9 Q. And could you just -- It's on page 2, paragraph
10 B.

11 A. Okay. On B.(2), the southwest quarter is now
12 owned by Chesapeake Exploration Limited Partnership, and
13 the northern one-third, which would B.(4), which was a
14 Chesapeake Permian, L.P., is now owned by Chesapeake
15 Exploration Limited Partnership.

16 MR. DEBRINE: Mr. Chairman, to the extent it's
17 necessary we would move to amend the pooling application to
18 reflect the entity that owns the interest in the lease
19 that's the subject of the Application.

20 CHAIRMAN FESMIRE: Mr. Gallegos, do you have any
21 object?

22 MR. GALLEGOS: No objection, no.

23 CHAIRMAN FESMIRE: Ms. Townsend, have you done
24 the paperwork with the OCD to change the ownership?

25 THE WITNESS: I do not do that, the regulatory

1 department does that, and yes, I believe that's been done.

2 CHAIRMAN FESMIRE: Okay. We'll make that change
3 to the exhibit, Mr. DeBrine.

4 Q. (By Mr. DeBrine) Ms. Townsend, the APD that was
5 applied for on the KF 4 State was done by what Chesapeake
6 entity?

7 A. It was done by Chesapeake Operating, Inc.

8 Q. Could you describe the relationship between
9 Chesapeake Operating, Inc., and Chesapeake Exploration that
10 owned the working interest in the lease?

11 A. Chesapeake Operating, Inc., is the general
12 partner for both -- it was the general partner for
13 Chesapeake Permian and is now the general partner for
14 Chesapeake Exploration Limited Partnership, and it is the
15 bonded operating company in the State of New Mexico.

16 Q. Can you explain for the Commission, why was it
17 Chesapeake Operating applied for the APD?

18 A. The bonded operating company has always applied
19 for all the APDs on all the wells we have drilled in the
20 State of New Mexico.

21 Q. And is Chesapeake Operating also the entity that
22 has the oil and gas registration number that's been issued
23 by the Division?

24 A. Yes, sir.

25 Q. And that's the entity that's provided the

1 financial assurances to the Division with respect to its
2 oil and gas operations in New Mexico?

3 A. Yes, sir.

4 Q. Is Chesapeake Operating also the entity that's
5 filed a bond with the state and federal governments with
6 respect to its oil and gas operations in the State?

7 A. Yes, sir.

8 Q. Have you previously testified before the Division
9 and Commission as an expert in land matters?

10 A. I have.

11 Q. As a result of your experience for Chesapeake and
12 your prior testimony, have you become familiar with the
13 OCD's requirements concerning filing of applications for
14 permit to drill, C-101 form, C-102 forms?

15 A. Yes, sir.

16 Q. And also the compulsory pooling of interests?

17 A. Yes, sir.

18 MR. DEBRINE: We would tender Ms. Townsend as an
19 expert in land matters.

20 CHAIRMAN FESMIRE: Any objection --

21 MR. GALLEGOS: No objection.

22 CHAIRMAN FESMIRE: -- Mr. Gallegos, Mr. Hall?

23 MR. HALL: (Shakes head)

24 CHAIRMAN FESMIRE: She'll be so accepted by the
25 Commission.

1 Q. (By Mr. DeBrine) Were you responsible for the
2 filing -- overseeing the filing of the APD for the KF 4
3 State Number 1 well?

4 A. Yes, I was responsible to oversee that. I did
5 not do the actual filing.

6 Q. Where was the APD filed?

7 A. It was filed from our Midland office at the Hobbs
8 Office.

9 Q. And what was the form of filing? Was it done by
10 paper or online?

11 A. I think it was done both ways. It was done
12 online, and there may have been a paper copy also.

13 Q. And have you reviewed that APD filing that's at
14 issue in this case?

15 A. I have looked at the online filing, yes.

16 Q. And have you determined whether there's been any
17 deviation from Chesapeake's practice in its land department
18 with respect to how that filing was made?

19 A. No, there was no deviation.

20 Q. Did Chesapeake personnel participate in workshops
21 that were held around the Basin by the OCD, explaining how
22 to engage in online permitting?

23 A. I believe the regulatory department did take part
24 in that.

25 Q. And the testimony of Paul Kautz has been admitted

1 by stipulation in this proceeding, and he testified -- Let
2 me strike that.

3 Were you present when Mr. Kautz testified before
4 the Division?

5 A. Yes, I was.

6 Q. Do you recall his testimony with respect to the
7 mandatory fields on the online permitting form?

8 A. Yes, sir, most of it.

9 MR. GALLEGOS: Objection to this line going
10 further, Mr. Chair. The witness has said these are matters
11 for the regulatory department. This is not part of her
12 responsibilities.

13 CHAIRMAN FESMIRE: I think the proper question
14 is, do you have personal knowledge of this, or are you
15 testifying --

16 THE WITNESS: Of his testimony I do, yes.

17 CHAIRMAN FESMIRE: Of his testimony.

18 THE WITNESS: Yes.

19 CHAIRMAN FESMIRE: Okay, and his testimony has
20 been admitted by stipulation.

21 MR. GALLEGOS: Well, if she's going to testify as
22 to what he's testified to, we already have his testimony,
23 which is a better source of the evidence.

24 CHAIRMAN FESMIRE: Well, I don't think there's
25 any problem in highlighting certain parts of his testimony

1 to make a point. I'll overrule the objection.

2 Q. (By Mr. DeBrine) Do you recall Mr. Kautz's
3 testimony that only certain fields are mandatory on the
4 online C-102 form?

5 A. Yes, sir.

6 Q. Is it Chesapeake's practice when it applies for
7 APDs in the State of New Mexico to only fill out the
8 mandatory forms --

9 A. Yes.

10 Q. -- that the computer designates?

11 A. Yes.

12 Q. And is that the practice that was followed in
13 this case?

14 A. Yes.

15 Q. Are you aware of any circumstances in which the
16 Division has rejected an APD or a C-102 form because a non-
17 mandatory field had not been filled out?

18 MR. GALLEGOS: Objection, this is not her area of
19 responsibilities. Now we're going into the area of the
20 regulatory people.

21 CHAIRMAN FESMIRE: I'll sustain that objection,
22 that is correct.

23 Q. (By Mr. DeBrine) Even though you don't -- you're
24 not involved in the regulatory field, have you personally
25 been involved in filing APDs in the State of New Mexico?

1 A. I have.

2 Q. And have you overseen the filing of other -- of
3 APDs by other people in the land department, in the State
4 of New Mexico?

5 A. Yes.

6 Q. And have you ever -- are you aware of any
7 instance in which the Division rejected an APD because a
8 non-mandatory form had been filled out?

9 A. No.

10 Q. Are you aware of any instance in which a C-102
11 form was rejected because it did not denote the form of
12 ownership for the spacing unit for the well?

13 A. No, I'm not.

14 Q. Are you aware of C-102 forms that have been filed
15 by any other operators that didn't include the
16 consolidation code, that were approved by the Division?

17 A. I don't know.

18 Q. Okay. Have you ever experienced a situation
19 where another operator filed for an APD on acreage that was
20 owned by Chesapeake --

21 A. Yes.

22 Q. -- before the KF 4 State application --

23 A. Yes.

24 Q. -- was filed? And what was -- What do you recall
25 that situation?

1 A. Read and Stevens --

2 MR. GALLEGOS: Well, I object to the relevancy of
3 that unless it has to do with the parties to this
4 proceeding.

5 CHAIRMAN FESMIRE: Overruled.

6 Q. (By Mr. DeBrine) You can continue.

7 A. Read and Stevens had filed a permit on our
8 acreage in -- I can't remember the section. It was either
9 Section 12 or Section 9 in about 11-31, and we allowed them
10 to go ahead and operate because they had the majority
11 interest in the unit.

12 Q. And did you challenge in the Division the
13 issuance of the APD to Read and Stevens on your acreage?

14 A. No, sir.

15 Q. And why not?

16 A. They had the majority interest in the unit, and
17 we wanted to see the well drilled.

18 Q. Did you consult with counsel to determine whether
19 they had a right to do that under the Division's rules and
20 prior precedent?

21 A. No, because I had consulted beforehand with
22 counsel and solved that question.

23 Q. When you applied for -- when Chesapeake applied
24 for the KF 4 State Number 1 APD, were you aware of orders
25 issued by the Commission regarding the requirement to file

1 an APD and seeking a compulsory pooling of interest?

2 A. Yes.

3 Q. What was your understanding of what the
4 Commission's prior orders had authorized when an operator
5 filed for an APD on acreage it proposed to pool to form a
6 spacing unit for the well?

7 MR. GALLEGOS: Object to the relevancy of what
8 her understanding is of the Commission precedent. That's
9 not relevant for her to try to testify to be an interpreter
10 of the Commission orders.

11 CHAIRMAN FESMIRE: I think it is relevant to some
12 of the questions before the Commission today. I'll
13 overrule that objection.

14 THE WITNESS: Well, it was my understanding that
15 in the Pride case, that it was relevant to the Oil and Gas
16 Act that would allow pooling after a well was drilled.

17 Q. (By Mr. DeBrine) And so you understood that the
18 Pride case had been issued, and that had authorized what
19 you were seeking to do in this case, which is file for an
20 APD on acreage that Chesapeake didn't own?

21 MR. GALLEGOS: I --

22 THE WITNESS: Yes --

23 MR. GALLEGOS: -- object --

24 THE WITNESS: -- sir.

25 MR. GALLEGOS: -- both to the leading question,

1 very leading, and the expertise of this witness to testify
2 as to this interpretation of law.

3 CHAIRMAN FESMIRE: I'll sustain the first part of
4 the objection. The questions are exceedingly leading, and
5 I think we've exceeded what we need to do here. I'll
6 overrule the second part of the objection as to relevance.

7 MR. DEBRINE: Okay, I'll move on.

8 MR. GALLEGOS: So the answer will be stricken --
9 She got the answer out before we --

10 CHAIRMAN FESMIRE: Is there a motion to strike?

11 MR. GALLEGOS: Motion to strike.

12 CHAIRMAN FESMIRE: That will be granted.

13 Q. (By Mr. DeBrine) Before Chesapeake filed its APD
14 for the KF 4 State Well Number 1, did it obtain the consent
15 of the surface lessee --

16 A. Yes, it did.

17 Q. -- in order to conduct operations on the lease?

18 A. Yes.

19 Q. And did it have the full consent of the surface
20 lessee to conduct those operations?

21 A. Yes, sir.

22 Q. And we're going to be calling another witness who
23 negotiated with the surface lessee, and so we'll go into
24 the details in connection with Mr. Gutierrez's testimony,
25 but was there any deviation from Chesapeake's standard

1 practice when it drilled the KF 4 State Number 1 well, with
2 regard to the approvals and consent that it sought to
3 obtain before drilling the well?

4 A. No, sir.

5 Q. Could you explain to the Commission what steps
6 that you took, and others at Chesapeake took, in order to
7 try and obtain the consent of parties who own the working
8 interest in the bottomhole location for the KF 4 State,
9 before filing your compulsory pooling application?

10 A. Proposal letters were sent out on March the 9th,
11 proposing the south-half unit. There were numerous
12 telephone calls. A JOA was sent -- Samson elected in the
13 well, the JOAs were sent out after their election into the
14 well. It was a pretty standard procedure for what we do
15 and how we conduct that, and it was -- bottom line was, we
16 were probably not going to get everyone to consent to join
17 in the well, and then we filed the pooling.

18 Q. I want to direct your attention to the Stipulated
19 Exhibit 11, which is the March 9 letter sent to Mona Ables
20 of Samson Resources, and it's stipulated that a similar
21 letter went out to Kaiser-Francis; is that correct?

22 A. Yes.

23 Q. The "Re:" line on that letter describes the
24 location of the proposed well; is that correct?

25 A. Yes.

1 Q. Is there a reason why the letter does not
2 describe the exact footages for the well?

3 A. Yes, there is, because when we propose a well we
4 usually do not put the footages, because many times they're
5 not exactly known, or they are not put in case they have to
6 be moved a little. If you go out to stake a well and there
7 are some surface problems or whatever and you have to move
8 it and you have already filed for a pooling, then you have
9 to go back and start the process all over again because
10 your footages are incorrect.

11 So we do this as a normal practice. It's done to
12 us as a normal practice. We have no problem telling anyone
13 what the footages are when they call, nor do we have a
14 problem getting footages from other operators when we call
15 them.

16 Q. Did you have subsequent conversations with anyone
17 at Samson or Kaiser-Francis with respect to the March 9th
18 proposal letter?

19 A. Yes, I had several conversations with Jim
20 Wakefield with Kaiser-Francis, and I had a conversation
21 with Tim Reece at Samson.

22 Q. And what is the date that Chesapeake had filed
23 its APD for the well?

24 A. March 11th, I -- We filed on March the 10th, and
25 it was granted on March the 11th.

1 Q. And did all of those discussions that you had
2 with either Mr. Wakefield or the person at Samson take
3 place after the APD had been filed?

4 A. I believe the majority of them did, yes.

5 Q. Okay. Were there any that occurred before the
6 APD was filed?

7 A. I can't remember, it's been so long. Sorry.

8 Q. Did you prepare a chronology as --

9 A. I did.

10 Q. -- part of your testimony in this case?

11 A. (Nods)

12 Q. Do you have that in front of you?

13 A. I do.

14 Q. Could you just refer to that to see if it helps
15 refresh your recollection as to the sequence of events?

16 A. It looks like I did not have any -- On June 1st I
17 talked to Jim Wakefield. I had talked with Tim Reece
18 before that, but I believe the APD had been filed before I
19 talked to any of the people because it was shortly after
20 the proposal was sent out.

21 Q. In any of your conversations with Mr. Wakefield
22 or Samson, did you specify the location of the well that
23 was being drilled?

24 A. I did --

25 Q. And so there was no --

1 A. -- conversations.

2 Q. You weren't trying to hide where the well was --

3 A. No, sir.

4 MR. GALLEGOS: Objection --

5 THE WITNESS: No, sir.

6 Q. (By Mr. DeBrine) -- being drilled?

7 A. No, sir.

8 MR. GALLEGOS: -- constant leading of this
9 witness.

10 CHAIRMAN FESMIRE: Mr. DeBrine, it's okay to
11 lead, we do have relaxed rules here. We need the witness
12 to testify.

13 MR. DEBRINE: I'll try and rephrase my questions.
14 Thank you, Mr. Chairman.

15 Q. (By Mr. DeBrine) Did you disclose to Kaiser-
16 Francis all the information that they asked for in
17 connection with the letter?

18 A. In my conversation with Kaiser-Francis and with
19 Samson both, after the APD, after they got the proposal
20 letter and after the APD was filed, they were both told the
21 footages on the location. In fact, my conversation with
22 Kaiser-Francis was that that was on their acreage, and we
23 could not -- let me see, exactly how did that go? -- we
24 could not get an approved APD, and I told them we already
25 had one that had been approved by the OCD.

1 And that's when he told me, I believe, that
2 Mewbourne had talked with him then and at that point had
3 told him they had been very successful in overturning four
4 or five of those permits. And that was basically my con-
5 -- my first conversation with him.

6 Q. In any of your conversations, did anyone at
7 Kaiser-Francis or Samson disclose to you that they were
8 going to try and form a competing unit for the well and
9 enter into a com agreement?

10 A. Yes, Kaiser-Francis told me that they were making
11 a deal with Mewbourne.

12 Q. Do you recall the date of that conversation?

13 A. No, it would have been during that same
14 conversation which was after the APD was filed and
15 approved.

16 Q. Did you send an election letter out to Mewbourne
17 on March 9th?

18 A. No, because they were not an owner of record.

19 Q. Do you know what date they acquired an interest
20 in the south half of Section 4?

21 A. It was -- I believe it was reported the end of
22 April, the assignment from Kaiser-Francis into Mewbourne.

23 Q. With regard to the pooling application that was
24 filed, what was the date that that was done?

25 A. April the 26th.

1 Q. And what was the reason for the period of time
2 between the filing of the APD and the time that Chesapeake
3 filed the compulsory pooling application?

4 A. Making every effort to try to get Samson, Kaiser-
5 Francis and -- or Kaiser-Francis and Mewbourne to join in,
6 because we still felt we had an election by Samson.

7 Q. Did Samson raise any objections to the AFE that
8 had been appended to the March 9 letter?

9 A. No.

10 Q. Did they raise any objections with regard to the
11 proposed location of the well, in any of your
12 conversations?

13 A. No.

14 Q. Did they articulate to you the reason why they
15 attempted to withdraw their election, in any of their
16 conversations?

17 A. They told me that they had -- they had done
18 another deal. That was my conversation with Tim Reece,
19 that they were going to withdraw their election because
20 they had done another deal.

21 Q. In your experience, have you ever had a working
22 interest owner who had made an election to participate in
23 the cost of drilling a well attempt to withdraw it in the
24 manner that Samson did?

25 A. No.

1 Q. Has Chesapeake ever done that or attempted to
2 withdraw an election in the manner that Samson did?

3 A. No, sir.

4 Q. I want to turn your attention to the Stipulated
5 Exhibit 1, which shows the map of the different leases
6 owned by the parties in this case. What are the pools that
7 are applicable with respect to the pooling application of
8 Chesapeake?

9 A. It would be the Morrow Pool.

10 Q. And are there any special rules that are
11 applicable for that pool?

12 A. It would be 660 from the lease line, it would be
13 an orthodox location.

14 Q. And is the well that had been proposed and then
15 subsequently drilled with the Division's approval
16 consistent with the rules for that pool?

17 A. Yes, sir.

18 Q. After Chesapeake's application for the KF 4 State
19 Number 1 was approved by the Division, did Chesapeake send
20 out a statement of costs it incurred in drilling and
21 deviating the well?

22 A. Yes, sir --

23 Q. And what was --

24 A. -- that was in accordance with the pooling order.

25 Q. And what response did you receive from Kaiser-

1 Francis, Samson and Mewbourne?

2 A. After the pooling order was issued, then a letter
3 went out covering that. And we received a signed AFE and
4 dryhole cost money from Kaiser-Francis and from Mewbourne,
5 and we received a check for dryhole costs from Samson under
6 protest.

7 Q. Now during Mr. Gallegos's opening statement, he
8 suggested that a ruling by the Commission for Chesapeake
9 will throw the oil industry in New Mexico in turmoil. Have
10 you -- How many wells does Chesapeake operate in New
11 Mexico, approximately?

12 A. I don't know for sure, because we have done so
13 many acquisitions since this started. I'm going to guess
14 somewhere between 300 and 350 wells.

15 Q. Are you aware of any problems that have developed
16 as a result of the Division's January order authorizing the
17 -- what Chesapeake did in this case and designating it as
18 the operator of the KF 4 State Number 1 well?

19 A. No, I am not.

20 Q. Are you aware of any change in forms by the
21 Division 102 since we had the hearing last August --

22 A. I --

23 Q. -- that would prevent someone from filing an APD
24 on acreage it didn't own?

25 A. I believe the C- -- is it the 102? It's the plat

1 that was revised in October of 2005, I believe, that has
2 the little statement up above the signature that you should
3 either have a working interest or a mineral interest in the
4 bottomhole location. I mean, that paraphrases it, but
5 that's basically what it says.

6 Q. And is that a mandatory form in the -- is that a
7 mandatory field in the form, that operator's certificate?

8 A. Yes.

9 Q. And so as a result of the change in the form, the
10 circumstances of this case are unique and are unlikely to
11 be repeated?

12 A. Exactly.

13 MR. DEBRINE: No further questions.

14 CHAIRMAN FESMIRE: Mr. Gallegos?

15 MR. GALLEGOS: Yes, Mr. Chairman --

16 THE WITNESS: Sir, may I request a small break
17 before we do -- Five minutes? I can't swallow.

18 CHAIRMAN FESMIRE: At the request of the
19 witness --

20 THE WITNESS: Please.

21 CHAIRMAN FESMIRE: -- which is a first for me,
22 we'll take a 10-minute break. We'll reconvene at a quarter
23 till 11:00.

24 CHAIRMAN FESMIRE: Thank you, I can't talk.

25 (Thereupon, a recess was taken at 10:32 a.m.)

1 (The following proceedings had at 10:45 a.m.)

2 CHAIRMAN FESMIRE: Let's go back on the record.

3 Let the record reflect it's a quarter till 11:00. I
4 believe, Mr. Gallegos, you're -- you are prepared to cross-
5 examine this witness?

6 MR. GALLEGOS: Yes, Mr. Chairman, thank you.

7 CROSS-EXAMINATION

8 BY MR. GALLEGOS:

9 Q. Let's turn to Stipulated Exhibit 11, Ms.
10 Townsend, which is on your letterhead, and it's dated March
11 9th, 2005, directed to Ms. Mona Ables at Samson Resources.
12 Do you have that in front of you?

13 A. I do.

14 Q. All right. Now in this industry when we speak of
15 sending another lessee an AFE, an authority for
16 expenditure, and an election letter, that typically is
17 associated with the parties having entered into a joint
18 operating agreement; isn't that true?

19 A. Not necessarily.

20 Q. Well, is it generally the practice that that's
21 done because the parties have entered into a written JOA?

22 A. No, not always.

23 Q. Not always, but sometimes?

24 A. Sometimes.

25 Q. All right. (So this particular letter does

1 reference the south half of Section 4, 21 South, 35 East,
2 and says no more as to the location of the well; isn't that
3 true?

4 A. Right.

5 Q. When this letter was sent, it was clear, was it
6 not, that the southeast quarter of that south half was a
7 160-acre tract in which Chesapeake had no interest
8 whatsoever?

9 A. Exactly.

10 Q. There was no joint operating agreement in effect
11 between Chesapeake and Samson Resources relating to the 320
12 acres in the south half of that section; isn't that true?

13 A. No, there was not.

14 Q. And is it true that you sent a similar letter to
15 Kaiser-Francis, but Kaiser-Francis did not respond?

16 A. Yes.

17 Q. Okay. Now, let's look at the content of the
18 letter. You say that if Samson elects to participate, it's
19 to execute the AFE and return it along with a check in the
20 amount of \$76,812.50?

21 A. Yes.

22 Q. That's what you said?

23 A. Yes.

24 Q. And if you look at the bottom of it, the last
25 sentence of the last paragraph says, However, please be

1 advised that entering into negotiations to sell Samson's
2 interest does not excuse or allow Samson to delay the
3 required election under this well proposal.

4 What required Samson to make an election?

5 A. It was not really required, that was probably a
6 little too strong a word to use. But it was a form letter
7 that we send out all our proposals on, and the requirement
8 being within the 30 days a pooling will be filed.

9 Q. Where does it say that?

10 A. It doesn't say that anywhere.

11 Q. No, but if you had a JOA with the parties, it
12 would be standard, and it would be terms of the JOA, the
13 party who is AFE'd and asked to elect would have 30 days to
14 make the decision; isn't that true?

15 A. Yes.

16 Q. Okay. So this language spoke within terms of
17 there being a JOA between the parties, does it not?

18 A. Not necessarily, no.

19 Q. Well, so then there really was nothing that
20 required Samson to make an election, and so this
21 misrepresented what the circumstances were --

22 MR. DEBRINE: Objection, argumentative.

23 Q. (By Mr. Gallegos) -- is that true?

24 A. Well, the requirement is the 30-day notice --

25 CHAIRMAN FESMIRE: Overruled.

1 THE WITNESS: -- period in order to file a
2 pooling.

3 Q. (By Mr. Gallegos) The 30-day notice in order to
4 file a pooling?

5 A. Yes, after 30 days -- That's the notice period
6 for the proposal for a well in which you can come back and
7 file a pooling.

8 Q. Under what? What are you referring to?

9 A. I'm sorry, I don't understand what you're --

10 Q. Well, what is the source of your saying that
11 that's what's required? Thirty days and if you don't
12 elect, you file a force pooling?

13 A. Because it's conversation with our counsel and
14 advice from him.

15 Q. And who is that? Who was that?

16 A. Tom Kellahin.

17 Q. Okay, so Tom Kellahin told you that Samson had 30
18 days --

19 MR. DEBRINE: I'll object and caution the witness
20 not to disclose Counsel's advice to her.

21 CHAIRMAN FESMIRE: I'll sustain that.

22 MR. GALLEGOS: Well, she relies on it, but then
23 we're not supposed to be able to question her? I mean,
24 once you've opened the door, you've waived that.

25 CHAIRMAN FESMIRE: Yeah, I'm afraid the witness

1 has already answered, and they're able to explore from this
2 point.

3 Q. (By Mr. Gallegos) Okay. So you're telling us
4 that Tom Kellahin told you that if you send this letter to
5 Samson, that if they don't elect to participate within 30
6 days, then you file a force pooling application?

7 MR. DEBRINE: And I'll --

8 THE WITNESS: Tom Kellahin --

9 MR. DEBRINE: -- object as mischaracterizing the
10 witness's testimony.

11 CHAIRMAN FESMIRE: The record will stand for
12 itself.

13 THE WITNESS: He did not tell me that if in 30
14 days I did not get an election from Samson that I could
15 file a pooling. He has told me when we have talked about
16 pooling cases, there is a 30-day notice requirement,
17 period.

18 Q. (By Mr. Gallegos) After you file an application
19 for pooling? Is that what you're saying?

20 A. After you propose a well.

21 Q. Okay. So if you propose a well, you have to wait
22 30 days before you file a pooling application?

23 A. Yes --

24 Q. That's --

25 A. -- that's --

1 Q. -- what your testimony --

2 A. -- our standard practice.

3 Q. I see. When was the location staked for the
4 KF 4?

5 A. I'm not sure, I'd have to look at the chronology.
6 May I look at that?

7 Q. Yes. It might help that you filed for an APD
8 describing the property on March the 10th.

9 A. We staked it on March the 10th.

10 Q. All right. So on March the 10th there was no
11 question that the well being proposed was in the southeast
12 quarter of Section 4?

13 A. That's correct.

14 Q. Did you take any steps to inform Samson -- since
15 this letter didn't say where the well would be and since
16 one day later, after the date of the letter, you had the
17 information -- take any steps to follow up with a letter
18 and say that we're going to put the well on your acreage,
19 in the southeast quarter?

20 A. Well, at the time we were dealing mostly with
21 Kaiser-Francis, and I had a conversation with them after
22 the well was staked and the APD was issued.

23 Q. My question went to Samson, who you sent this
24 letter to.

25 A. No, I did not talk to them.

1 Q. If you flip the page over on your March 9 letter,
2 it was not until March 22nd of 2005 that this letter was
3 signed by Samson Resources; isn't that true?

4 A. Where -- I'm sorry, where are we?

5 Q. It's the second page of the letter that we were
6 looking at --

7 A. Well, my second page is --

8 Q. -- Stipulated Exhibit 11.

9 A. -- I have a letter behind that.

10 Q. You don't have the stipulation --

11 CHAIRMAN FESMIRE: Mr. DeBrine, will you get
12 her --

13 MR. GALLEGOS: Would you --

14 MR. DEBRINE: She's got the --

15 THE WITNESS: I have the letter behind it, I have
16 two letters. Okay, right, it was signed on March the 22nd.

17 Q. (By Mr. Gallegos) Okay, so your -- the letter
18 was dated March the 9th. Do you have any information as to
19 when it was actually received by Samson?

20 A. It was sent -- it was overnighted, and I really
21 -- I don't know. It should have gotten there March the
22 10th.

23 Q. Okay. Well, it says it's faxed, and there's a
24 fax indicator up at the top of March the 11th. Do you see
25 that?

1 A. Yes.

2 Q. So it would indicate, even though the letter was
3 dated March the 9th, it was actually faxed to Samson on
4 March the 11th; isn't that true?

5 MR. DEBRINE: Objection, calls for speculation.

6 THE WITNESS: -- but it was already --

7 CHAIRMAN FESMIRE: I'll sustain that objection.

8 Q. (By Mr. Gallegos) Okay. Well, so without
9 anything except speaking the facts, the fax imprint at the
10 upper top of the letter shows March the 11th, 2005, does it
11 not?

12 A. Yes.

13 Q. Okay. Did Samson send a check for \$76,812?

14 A. No.

15 Q. And approximately one week later, you received a
16 letter dated March 30, 2005, via fax, from Tim C. Reece,
17 did you not?

18 A. Is that a Stipulated --

19 Q. That's Stipulated -- that's Stipulated Exhibit
20 12.

21 A. Yes.

22 Q. All right. And Mr. Reece says, Upon reviewing
23 Samson's records we have determined that there is actually
24 no JOA between the parties which would support an election
25 for this well. Isn't that what the letter told you?

1 A. Yes.

2 Q. And it said, Samson hereby rescinds and revokes
3 its invalid election to participate in Chesapeake's
4 proposed KF 4 State -- 4 Number 1 well. That was
5 information you received; isn't that true?

6 A. Yes, but we had never said there was a JOA.

7 Q. Well, it was clear that Ches- -- it was clear
8 that Samson had supposed when you sent an election and an
9 AFE, that you were doing it under a JOA --

10 MR. DEBRINE: Objection, she --

11 Q. (By Mr. Gallegos) -- isn't that clear from the
12 letter?

13 MR. DEBRINE: -- she can't speak to what Samson
14 supposed.

15 Q. (By Mr. Gallegos) All right, well --

16 CHAIRMAN FESMIRE: Sustained.

17 Q. (By Mr. Gallegos) The letter indicates that
18 Samson checked its record and found there was no JOA?

19 A. Right.

20 Q. All right. So Samson, within approximately a
21 week, found there was no JOA, revoked its erroneous
22 signature on the prior letter, and Kaiser-Francis never
23 provided to Chesapeake any sort of agreement as far as the
24 drilling of this well --

25 MR. DEBRINE: And I'll object --

1 MR. GALLEGOS: -- isn't that true?

2 MR. DEBRINE: -- to the characterization.

3 There's a dispute as to whether the attempted revocation is
4 effective as a legal matter. That's a legal matter that I
5 think is beyond the purview of the Commission to determine,
6 and the letter -- the question as phrased is argumentative
7 as a result.

8 CHAIRMAN FESMIRE: I think that the witness has
9 demonstrated significant expertise and been accepted as an
10 expert in the field of petroleum land operations, and I
11 believe that the question was properly phrased, so I'll
12 overrule the objection.

13 Q. (By Mr. Gallegos) That was the status as of
14 March 30th?

15 A. Yes.

16 Q. Now, are you -- I was not clear about your
17 testimony. Are you representing to the Commission that
18 when the State has issued a grazing lease, as it had to a
19 rancher, that covered the southeast quarter of Section 4,
20 that even though Chesapeake had no ownership interest in
21 that southeast quarter, that a grazing lessee has authority
22 under that grazing lease to authorize Chesapeake to go onto
23 the property and build a location and drill a well?

24 A. We had a 50-percent interest in the spacing unit,
25 the proration unit for the well, which did authorize us to

1 do that at that point.

2 Q. Okay, so you're not representing that because
3 something was done by a grazing lessee, that that gave you
4 the right to go on that southeast quarter?

5 A. We had the right by having an approved APD and
6 being designated as operator of the 320-acre unit.

7 Q. Okay. Well, we'll get into that, but I just
8 wanted to make clear because I thought there was something
9 in your direct that was suggesting something having to do
10 with a grazing lessee gave you that right, and that's not
11 your position?

12 A. No, we made a deal with the grazing lessee before
13 we went on.

14 Q. You made a deal for --

15 A. -- for surface damages.

16 Q. -- for surface damages?

17 A. Yes.

18 Q. Okay, but not -- but the grazing -- You're not
19 representing to this Commission that that was authority for
20 you to develop the minerals in the southeast quarter?

21 A. The authority to develop the minerals was given
22 with the approved APD.

23 Q. I see. So once an operator has an APD, even
24 though there are multiple leases in this spacing unit and
25 the well is to be located on a lease that that operator has

1 no interest in, the APD gives the right to develop the
2 spacing unit?

3 A. At that point --

4 MR. DEBRINE: And I'll object as compound and
5 difficult to understand, also calling for a legal
6 conclusion.

7 CHAIRMAN FESMIRE: Mr. Gallegos, why don't you go
8 ahead and break that question up?

9 Q. (By Mr. Gallegos) Okay. So just to be clear of
10 Chesapeake's position, by reason of the issuance of the
11 APD, even though it had no leasehold interest in the
12 southeast quarter, it's the position of Chesapeake that
13 that gives it the right to drill the well?

14 A. At that point in time it was my understanding and
15 under advice of counsel that we did have that right.

16 Q. Okay. (Now evidently you indicate that this was a
17 practice that called for remedy and would not occur again
18 because of a change in the C-102 form that occurred on
19 October of 2005; was that your testimony?

20 A. Yes.

21 Q. Can you provide us with an example of that so we
22 might see what language it is that you say remedies this
23 problem?

24 A. I don't have an example, I --

25 MR. DEBRINE: And I'll -- Objection. I mean, the

1 change in the form speaks for itself. The witness is just
2 being asked to speculate about the form.

3 CHAIRMAN FESMIRE: Well, I believe she properly
4 answered the question, she doesn't have an example. That's
5 the answer to the question.

6 Q. (By Mr. Gallegos) Okay. But you -- but your --
7 in your direct testimony you characterized what the new
8 language is, did you not?

9 A. Yes.

10 Q. And would you explain to us again, and then we
11 will -- I'm sure we'll make an effort here to find this new
12 form, but what does it provide?

13 A. well, you have to understand, I'm simply
14 paraphrasing from what I can remember. It was revised
15 October of '05, and it says something to the effect that
16 you need to have a working interest or a mineral interest
17 in the bottomhole location.

18 Q. Okay, and that has to be signed under oath, or
19 how is that information provided?

20 A. It's signed that -- the form is signed when it's
21 turned in.

22 Q. Okay, all right. Do you -- Is it your practice
23 to submit Form C-101s and C-102s?

24 A. I don't do it myself.

25 Q. You don't do it. That's the regulatory --

1 A. Yes.

2 Q. -- people who do that?

3 A. (Nods)

4 Q. Are you or are you not acquainted with the
5 information that calls for a consolidation code?

6 A. I am acquainted with it, yes.

7 Q. Okay. And this filing and the particular APD of
8 Chesapeake that was submitted to the Division Hobbs Office
9 on March 10, 2005, was done electronically, correct?

10 A. Yes.

11 Q. Okay. And are you familiar with the fact that at
12 the consolidation code, when you go to that particular
13 field, that there pops up an instruction that says if there
14 are more than one lease, then you are to enter what the
15 consolidation code is --

16 A. Yes.

17 Q. -- and then -- All right. And those codes are
18 communitization, unitization and so forth, to show how you
19 have a right to the particular spacing unit; isn't that
20 true?

21 A. Yes.

22 Q. Okay. And in the case of the APD filed March the
23 10th, 2005, by Chesapeake, it did not enter any
24 information, did it?

25 A. No.

1 Q. And there were multiple leases in that 320-acre
2 unit?

3 A. Yes.

4 MR. GALLEGOS: Okay, that's all of my questions.

5 CHAIRMAN FESMIRE: Mr. Hall?

6 MR. HALL: Briefly, Mr. Chairman.

7 CROSS-EXAMINATION

8 BY MR. HALL:

9 Q. Ms. Townsend, we've established your expertise in
10 the Division's permitting regulations, based on your
11 experience as a professional landman in New Mexico.

12 A. Uh-huh.

13 Q. Ask you about that. Is it your understanding
14 that by first filing a C-102 designating a south-half
15 laydown 320-acre unit, that Chesapeake would pre-empt any
16 other operator from obtaining approval of an APD for a well
17 anywhere else on that 320 acres?

18 A. Yes, just exactly as they would have done to us
19 had it been the other way around.

20 Q. Ask you further, are you familiar with the rules
21 and regulations of the State Land Office with their oil and
22 gas division?

23 A. I am with the majority of them, I hope.

24 Q. All right. Are we in agreement that the
25 southeast quarter of Section 4 is 100-percent state-owned

1 surface and minerals?

2 A. Yes.

3 Q. Can you tell us why you didn't attempt to obtain
4 permission from the New Mexico State Land Office to enter
5 upon the southeast quarter with a drilling rig in April,
6 2005?

7 A. Well, the regular practice has always been, on
8 State acreage, to file for the APD and settle with the
9 surface -- the lessee.

10 Q. Can you answer my question, why didn't you
11 attempt to obtain permission from the State Land Office,
12 the surface owner?

13 MR. DEBRINE: I'll object, the question was
14 answered.

15 THE WITNESS: It wasn't our normal practice.

16 CHAIRMAN FESMIRE: Overruled. I'm going to have
17 to be quicker with this witness, huh?

18 THE WITNESS: I'm sorry.

19 Q. (By Mr. Hall) Again so we're clear, at the time
20 Chesapeake moved its drilling rig onto the southeast
21 quarter of Section 4, there was no communitization
22 agreement covering the parties' interest in the south half,
23 correct?

24 A. Correct.

25 Q. And there was no joint operating agreement

1 covering all of the interests for the south half, correct?

2 A. Correct.

3 Q. And at the time there was no compulsory pooling
4 order covering the south half, correct?

5 A. Correct.

6 Q. And likewise there was no unitization agreement,
7 or any other agreement, covering the south half of Section
8 4, was there?

9 A. No.

10 Q. So as we understand Chesapeake's position, its --
11 the claim of its entitlement, the right to enter onto the
12 southeast quarter of Section 4, is the APD only; is that
13 accurate?

14 A. No, their ownership in the state lease in the
15 southwest [sic] quarter.

16 Q. And they obtained ownership in the southeast
17 quarter by virtue of the APD; is that Chesapeake's
18 position?

19 A. They didn't obtain ownership, they obtained the
20 right to drill in the southeast quarter through the APD.

21 Q. So we're in agreement that at no time has
22 Chesapeake had an ownership interest by any means in the
23 minerals in the southeast quarter?

24 A. I think we've stipulated to that.

25 Q. Did Chesapeake intend to produce the minerals

1 from the well in the southeast quarter prior to obtaining a
2 compulsory pooling order?

3 A. No.

4 Q. And why was that?

5 A. Because we wanted to see the outcome on the
6 compulsory pooling order first.

7 Q. Did you not believe that you would have the right
8 to pool -- to produce those minerals?

9 A. No, we believed we would have the right to
10 produce them.

11 Q. And again at the time, that would be on the
12 strength of the APD --

13 A. Yes.

14 Q. -- is that accurate?

15 A. Yes.

16 Q. If you'll refer back to your Stipulated Exhibit
17 11, your March 9th letter --

18 A. Uh-huh.

19 Q. -- refer to the introductory line, it refers to
20 the well, and then it refers simply to the south half of
21 Section 4. Is there any reason why you couldn't have
22 indicated that the well would be located in the southeast
23 quarter in that letter?

24 A. Because the south half was the unit, and that was
25 the proposed KF State 4 Number 1 well --

1 Q. So my question is that --

2 A. -- is the 320-acre unit.

3 Q. Is there any reason that your letter could not
4 have indicated that the well was planned to be located in
5 the southeast quarter?

6 A. This is our standard proposal letter, and all our
7 proposals were sent out this way.

8 Q. So is the answer to my question no?

9 A. Ask me again.

10 Q. Is there any reason you could not have indicated
11 the proposed well location in your March 9th well-proposal
12 letter?

13 A. We probably could have, but it just wasn't
14 standard practice.

15 MR. HALL: That's all I have, Mr. Chairman.

16 CHAIRMAN FESMIRE: Mr. DeBrine, do you have any
17 redirect on --

18 MR. DEBRINE: Yes --

19 CHAIRMAN FESMIRE: -- the subject --

20 MR. DEBRINE: -- just briefly --

21 CHAIRMAN FESMIRE: -- that --

22 MR. DEBRINE: -- Mr. Chairman.

23 REDIRECT EXAMINATION

24 BY MR. DEBRINE:

25 Q. Ms. Townsend, if you look at Stipulated Exhibit

1 12 --

2 A. Uh-huh.

3 Q. -- it indicates the election was signed on March
4 22nd, 2005; is that correct?

5 A. Yes.

6 Q. But if you look at Stipulated Exhibit -- I'm
7 sorry, I was referring to 11 there. If you look at
8 Stipulated Exhibit 12, which is the March 30 letter from
9 Samson, it is referring to a letter of March 16, 2005, in
10 response to your letter dated March 9, 2005.

11 A. Right.

12 Q. Do you recall if you got the election letter at
13 an earlier date than the date that is reflected on the
14 signature, March 22nd, '05?

15 A. I don't recall, I'm sorry.

16 Q. And if you look at Exhibit 12, is there also a
17 variance between the fax date on the top and the date of
18 the letter, with the fax date being indicated it was faxed
19 on March 31 --

20 A. Yes.

21 Q. -- 2005?

22 A. Yes.

23 Q. Now in the questions of opposing counsel, they
24 asked you questions with regard to the consent of the owner
25 of the surface lessee --

1 A. Yes.

2 Q. -- when Chesapeake conducted operations?

3 A. Yes.

4 Q. Do you know when the surface lessee was first
5 approached to obtain his consent?

6 A. He was approached the day we staked the well.

7 Q. And did you have his consent from that date on,
8 to conduct operations on the surface in preparation for
9 drilling?

10 MR. GALLEGOS: Now --

11 THE WITNESS: Yes, we did.

12 MR. GALLEGOS: -- we object, Mr. Chairman, to --
13 Totally irrelevant. What -- Some surface-damage agreement
14 with a grazing lessee doesn't give any rights and is
15 immaterial.

16 CHAIRMAN FESMIRE: I believe that one of the
17 parties on your side, though, broached the subject. I
18 think we'll overrule the objection.

19 MR. GALLEGOS: Well, she testified about it on
20 direct, and then that's what we asked some -- questioned on
21 cross-examination. But -- but now it's -- now the line of
22 questioning is, though, that gives some rights to drill a
23 well, and we're just saying that's irrelevant to that
24 issue.

25 CHAIRMAN FESMIRE: No, that's a legal argument,

1 Mr. Gallegos. I'll go ahead and overrule the objection.

2 Would you like him to re-state the question?

3 THE WITNESS: Please. I forgot.

4 Q. (By Mr. DeBrine) At all times that Chesapeake
5 conducted operations on the surface of the lease in
6 preparation for drilling of the KF 4 State Number 1 well,
7 is it -- did it have the surface lessee's consent in order
8 to conduct those operations?

9 A. Yes, it did.

10 Q. And what was the form of that consent?

11 A. It was a sur- -- it was verbal at first, and then
12 there was a signed surface damage agreement later, which I
13 believe will be testified to a little later.

14 Q. Well, I'm hoping maybe you can cover that so that
15 we can expedite these proceedings.

16 A. I'll try.

17 Q. Do you know the reason why there was a delay
18 between the time the surface damages agreement was executed
19 and the time the verbal consent was given to enter onto the
20 property?

21 A. Well, I think Cloud Merchant, who is the
22 president of the Merchants Cattle Company, is the one that
23 signs all the agreements, and they were very busy with
24 cattle at that time -- I think it was during the branding,
25 et cetera -- and he just did not have time to come and sign

1 it. But we kept up communications with him the whole time.

2 Q. Had Chesapeake had prior dealings with him in the
3 past?

4 A. Yes, we have drilled several wells on their
5 leases, their surface leases.

6 MR. DEBRINE: No further questions.

7 CHAIRMAN FESMIRE: Commissioner Bailey, do you
8 have some questions of this witness?

9 COMMISSIONER BAILEY: Yes, I do.

10 EXAMINATION

11 BY COMMISSIONER BAILEY:

12 Q. Were you asked to fast-track this well, or was
13 there any sense of urgency in permitting this well?

14 A. Yes, there was.

15 Q. Can you explain, then?

16 A. Because it was being drained by the Osudo 9 State
17 Number 1 well, just to the south. That was our feeling at
18 that time.

19 COMMISSIONER BAILEY: That's all I have.

20 CHAIRMAN FESMIRE: Commissioner Olson?

21 COMMISSIONER OLSON: No questions.

22 CHAIRMAN FESMIRE: I have no questions.

23 Is there anything further of this witness on
24 direct?

25 MR. DEBRINE: No, Mr. Chairman.

1 CHAIRMAN FESMIRE: Okay --

2 THE WITNESS: Thank you.

3 CHAIRMAN FESMIRE: -- thank you very much.

4 MR. COONEY: We'll call Mr. Hazlip.

5 CHAIRMAN FESMIRE: Mr. Hazlip? Mr. Hazlip, may
6 the record reflect that you've been previously sworn in
7 this matter?

8 MR. HAZLIP: Yes, sir.

9 MR. COONEY: May I approach the witness and give
10 him one of these books?

11 CHAIRMAN FESMIRE: You may. And "one of those
12 books" is -- ?

13 MR. COONEY: The stipulated exhibits.

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

17 DIRECT EXAMINATION

18 BY MR. COONEY:

19 Q. Would you state your name, please?

20 A. Mike Hazlip.

21 Q. By whom are you employed, Mr. Hazlip?

22 A. Chesapeake Energy Corporation.

23 Q. How long have you been employed by Chesapeake?

24 A. About 11 years.

25 Q. What is your present job with Chesapeake?

1 A. I'm manager of -- land manager of Permian south
2 district.

3 Q. And March of 2005, what was your job with
4 Chesapeake?

5 A. It was land manager of the Permian district.

6 Q. And in that capacity in March of 2005 were you
7 responsible for supervising all the activities of the land
8 department concerning the Permian Basin?

9 A. Yes, sir.

10 Q. Okay. And at that time did Ms. Townsend report
11 to you?

12 A. Yes, sir.

13 Q. I have asked you to take a look at Stipulated
14 Exhibit 11, which is a March 9, 2005, letter from Linda
15 Townsend to Mona Ables at Samson Resources Company. Are
16 you familiar with that form of letter, sir?

17 A. Yes, sir.

18 Q. Is this -- What relationship, if any, does this
19 form of letter bear to any standard form of letter used by
20 Chesapeake?

21 A. Well, this is the standard form that we use on
22 our proposal letters. We were -- Upper management wanted
23 to allow our acquisitions and divestiture group the
24 opportunity to offer another alternative to people that
25 wanted to participate -- or that wanted to sell their

1 interest. And so this language was made a part of every
2 proposal that we sent out.

3 Q. "That language". Are you referring to the third
4 paragraph of Exhibit 11 that starts with, As an alternative
5 to the above?

6 A. Yes, sir.

7 Q. Okay. There's been some reference in the earlier
8 -- in the opening statement and in earlier testimony to a
9 joint operating agreement. Have you heard that?

10 A. Yes.

11 Q. Is there anything in Exhibit 11 which refers to
12 the existence of a joint operating agreement?

13 A. No, sir, there's not.

14 Q. In your experience in land matters in the
15 industry, sir, is it customary for proposals to participate
16 in wells to be sent, whether -- in the absence of the
17 existence of a joint operating agreement?

18 A. Absolutely.

19 Q. Does Chesapeake receive those proposals?

20 A. Yes, sir, we do.

21 Q. And has Chesapeake in other instances sent out
22 proposals for -- asking parties whether they wanted to
23 participate or not participate, even though there was no
24 joint operating agreement?

25 A. Oh, yes, that's standard fare.

1 Q. And if a party, whether it's Chesapeake receiving
2 the proposal or someone to whom Chesapeake has sent it,
3 elects to participate and there is no joint operating
4 agreement, what happens next?

5 A. Well, at some point in New Mexico there's a force
6 pooling that's allowed, and so if you -- what I think our
7 upper management was trying to do with this paragraph was
8 to say, If you want to sell your interest, contact our
9 A-and-D department, but it doesn't absolve you from any
10 requirements that you might be under to make an election or
11 anything else.

12 And so what would happen in this case would be,
13 we would pursue that person's election or pursue that
14 person's interest through force pooling. It's --

15 Q. Now --

16 A. -- standard.

17 Q. I'm sorry, I didn't mean to interrupt your
18 answer.

19 A. No, that's just standard.

20 Q. Okay. Now have there been instances in your
21 recollection, sir, where Chesapeake has asked a party to
22 participate in a well, the party elects to participate, and
23 then a joint operating agreement is entered into?

24 A. Yes, sir, it's very common.

25 Q. Is that standard procedure?

1 A. Very common, yes.

2 Q. Have there been instances in which Chesapeake has
3 been asked to participate in a well where there's no JOA in
4 place, Chesapeake elects to participate, and then a JOA is
5 entered into?

6 A. Yes, sir, all the time.

7 Q. And after -- is it your understanding, sir, that
8 after this March 9 letter was sent and after Samson elected
9 to participate, did Chesapeake send out proposed joint
10 operating agreements to Samson?

11 A. Yes, sir.

12 Q. Did it send a proposed joint operating agreement
13 to Kaiser-Francis?

14 A. I believe so.

15 Q. And again, is that a standard procedure in your
16 industry, to follow the proposal letter with a JOA if there
17 is no JOA?

18 A. Yes, sir.

19 Q. Now you made reference to force pooling. Do you
20 have an understanding, sir, as to whether an applicant for
21 force pooling is first required to seek agreement with the
22 party that they're seeking to pool with?

23 A. That's correct.

24 Q. Okay. And in your experience in the industry,
25 sir, is it customary to expect a party to whom you sent a

1 proposal to participate in a well to let you know whether
2 or not they wish to participate?

3 A. Yes.

4 Q. Would -- Let's focus on this last sentence of the
5 third paragraph of Exhibit 11, which says, However, please
6 be advised that entering into negotiations to sell Samson's
7 interest does not excuse or allow Samson to delay the
8 required election under this well proposal. Do you see
9 that?

10 A. Yes.

11 Q. Does that make any reference to a joint operating
12 agreement?

13 A. No, sir, it doesn't.

14 Q. As a matter of practice and procedure and custom
15 in the industry, before you ask for force pooling would you
16 need to know whether Samson agreed or disagreed to
17 participate?

18 A. Yes, we would need to know. This is -- this is
19 boilerplate language that we use in all of our letters. We
20 feel like it's -- it's -- it can apply if there is a joint
21 operating agreement in place, we believe that it can apply
22 if there's not a joint operating agreement in place.

23 And very often, we will specifically -- if -- you
24 know, specifically discuss a joint operating agreement. If
25 we're under a joint operating agreement, we'll specify that

1 in the letter.

2 Q. Okay. But if there's no JOA, nonetheless you
3 would do your standard procedure to send out a letter
4 asking the party if they wish to participate or not?

5 A. Yes, sir.

6 Q. And in your industry you expect to hear back?

7 A. Yes.

8 Q. Okay. Now, there's been reference to the fact
9 that the reference in this letter is to proposed KF State 4
10 Number 1 in the south half of Section 4, 21 South, 35 East.
11 Do you see that?

12 A. Yes, sir.

13 Q. And it doesn't give a precise location of the
14 well?

15 A. Right.

16 Q. Ms. Townsend has testified that that's standard
17 with Chesapeake; is that correct?

18 A. Yes, sir, it is.

19 Q. Why is that?

20 A. It just gives us a little more leniency with
21 regard to spotting the exact location. Sometimes, like she
22 said, we run into some obstacle or something where we need
23 to move the location a little bit, and a lot of times -- a
24 lot of times no one requires exact footage, they know
25 whether or not they're going to participate in that

1 proration unit or not, that spaced unit or not.

2 Q. That's what I wanted to ask you. Have there been
3 instances in your experience where Chesapeake has sent out
4 a proposal to participate similar to this Exhibit 11,
5 designating the location of the well as the proration or
6 spacing unit, and Chesapeake has received that election to
7 participate?

8 A. Yes, sir, we have.

9 Q. Okay. When Chesapeake receives a proposal -- Has
10 Chesapeake received proposals similar to this, which just
11 designate a spacing unit or a proration unit as the
12 location?

13 A. Yes, sir, we have.

14 Q. What's your practice, then, to -- Does Chesapeake
15 follow up to determine where the location is?

16 A. We do most of the time, we probably would do
17 that. There are instances where we know we're going to
18 want to participate, or we know we're not going to want to
19 participate, and we simply give them the answer because we
20 know what the answer is. If we want to know more about it,
21 then we ask what the footages are.

22 Q. All right. In your experience and with your
23 understanding supervising the land department, if a party
24 like Samson who receives a letter like this wants to know
25 the proposed location, will Chesapeake provide that?

1 A. Absolutely.

2 Q. Now, there has been reference to -- in Mr. Hall's
3 questions to Mr. [sic] Townsend, to the New Mexico State
4 Land Office. Did you hear that testimony and those
5 questions?

6 A. Yes, sir.

7 Q. And there has been reference in Mr. Gallegos's
8 opening statement to trespass. Do you recall that?

9 A. Yes.

10 Q. Did Chesapeake receive any communication from the
11 New Mexico State Land Office -- Well, let me back up and
12 sequence this correctly.

13 Did you have occasion to meet with the New Mexico
14 State Land Commissioner?

15 A. Yes, sir, I did.

16 Q. Okay. Before that meeting, had Chesapeake
17 received any communications from the New Mexico State Land
18 Office concerning KF State 4 Number 1?

19 A. Yes, sir, we did receive a letter from Assistant
20 Commissioner, Mr. John Bemis.

21 Q. And what was your understanding of what Mr. Bemis
22 was wanting to accomplish by that letter?

23 MR. GALLEGOS: Well, we object to his testifying
24 to the state of mind of Mr. Bemis. If there's a letter,
25 that's the best evidence.

1 CHAIRMAN FESMIRE: Sustained.

2 Q. (By Mr. Cooney) Did Mr. Bemis request Chesapeake
3 to meet with the Land Office?

4 A. Yes, he -- well, he asked for a response to his
5 letter, which -- his letter was basically concerned about
6 the issue --

7 MR. HALL: We're going to object again, Mr.
8 Chairman. The best evidence rule applies here. If they
9 want to talk about the letter they need to bring it forward
10 and his witness to sponsor it as well.

11 MR. COONEY: We're not going to offer the letter
12 into evidence, Mr. Chairman. What we're going to talk
13 about is the meeting with the State Land Commissioner which
14 followed the letter. I'm just laying the predicate for why
15 they were in talking to the State Land Commissioner.

16 CHAIRMAN FESMIRE: Well, I'll sustain the
17 objection as far as it goes to what the letter said.

18 MR. COONEY: Fair enough, thank you.

19 Q. (By Mr. Cooney) Do you recall meeting with the
20 State Land Commissioner?

21 A. Yes, sir.

22 Q. And it was after you received this letter,
23 without going into what the letter said?

24 A. Yes, sir.

25 Q. What happened at the meeting?

1 MR. HALL: Mr. Examiner, I'm going to state an
2 objection at this point. It's obvious to me that the next
3 effort here will be to introduce the Land Commissioner's
4 letter and object for a number of reasons, same ones we
5 objected at the Division-level hearing.

6 One, it's my belief that because this matter was
7 pending before the agency, that any communication with one
8 of the Commissioners would have violated the Division's
9 rules, constitute an *ex parte* contact. We objected
10 vigorously below on those grounds. I think that's
11 improper.

12 Second, the letter -- I believe Chesapeake will
13 agree here -- was issued after the fact, it was solicited
14 by them, it has no relevance with respect to Chesapeake's
15 intent, entering onto the southeast quarter of Section 4 at
16 the time. So it does not add anything to these hearings at
17 all.

18 CHAIRMAN FESMIRE: So your specific objection is
19 to the relevancy of this --

20 MR. HALL: Relevance -- it is hearsay, there's no
21 witness to sponsor it, and I believe it violates the
22 Division's own rules prohibiting *ex parte* contacts.

23 MR. GALLEGOS: And Mr. Chair, I just want to show
24 that we join in the relevancy objection.

25 (Off the record)

1 MR. COONEY: Can I respond, Mr. Chairman, or are
2 you --

3 CHAIRMAN FESMIRE: You may, go ahead.

4 MR. COONEY: With respect to the *ex parte*
5 objection, the witness will establish that there was no
6 discussion of the pending cases that were pending before
7 the Division at the meeting with the Land Commissioner.
8 Therefore that objection won't fly.

9 With respect to the other objection, relevance,
10 they have already opened this door, they rang this bell.
11 The allegation of trespass was made in Mr. Gallegos's
12 opening statement. Mr. Hall asked questions to Mr.
13 Townsend concerning, why didn't you talk to the Land
14 Office? I think we're entitled to follow this up.

15 CHAIRMAN FESMIRE: Okay, we'll allow you to go a
16 little bit farther into this, but I think that we're
17 getting to the point where they're beginning to make a
18 point.

19 MR. COONEY: Okay.

20 CHAIRMAN FESMIRE: Okay?

21 Q. (By Mr. Cooney) At the meeting, did you explain
22 to the State Land Commissioner what your understanding was
23 of the basis for Chesapeake's actions in filing the APD?

24 A. Yes, sir.

25 Q. All right. Did you indicate to the Land

1 Commissioner whether you believed that Chesapeake had a
2 right to proceed in the fashion that it did?

3 A. Yes, sir, I did.

4 Q. Did you -- without -- I won't ask you what the
5 Commissioner said during the meeting, I will ask you this:
6 Did you ask whether the -- Did you have an understanding as
7 to whether the Commissioner would provide a further letter
8 after the meeting?

9 A. Yes.

10 Q. Did you then receive a letter from the State Land
11 Commissioner?

12 A. Yes, sir, I did receive a letter.

13 Q. This is an exhibit, Mr. Chairman; this is the
14 letter from the State Land Commissioner, the original that
15 was sent to Mr. Hazlip. It was included with the exhibits
16 that we prefiled. It's not a stipulated exhibit because
17 the other parties have objected to it, but I would like to
18 ask the witness to identify it.

19 CHAIRMAN FESMIRE: Okay, any objection? Mr.
20 Gallegos?

21 MR. GALLEGOS: Well, we don't contest that
22 Exhibit 15 -- Isn't that --

23 MR. COONEY: Yes.

24 MR. GALLEGOS: -- still Exhibit 15? -- is what it
25 is. It's the letter from the Commissioner which was

1 rejected by the Division and which we object to now on
2 grounds. So for the record, that's what it is.

3 MR. COONEY: Well --

4 MR. HALL: There continues to be the relevancy
5 objection, and I think there's a foundational problem as
6 well. We haven't established that this meeting occurred
7 after the fact; it occurred after the well was drilled. I
8 think failure to establish that prevents its admission, and
9 again may not establish relevance.

10 CHAIRMAN FESMIRE: Would you like to take the
11 witness on voir dire to establish those facts?

12 MR. HALL: No, sir, I think it's their burden to
13 do so, and they didn't do it.

14 MR. COONEY: I'm sorry, to establish which facts?

15 CHAIRMAN FESMIRE: The --

16 MR. COONEY: I was getting a copy together, and I
17 should have been paying attention.

18 CHAIRMAN FESMIRE: Mr. Hall, would you like to
19 restate your --

20 MR. HALL: There's a foundational problem with
21 it. The letter is undated, there's been no testimony with
22 respect to when the meeting occurred and when the letter
23 was issued by the Land Commissioner.

24 MR. COONEY: I'll clear that up.

25 CHAIRMAN FESMIRE: Okay, we will overrule the

1 objection provisionally, providing that you do clear that
2 up immediately.

3 MR. COONEY: Thank you.

4 Q. (By Mr. Cooney) When did the meeting with the
5 Land Commissioner occur?

6 A. June 14th.

7 Q. I have placed in front of you both a copy of what
8 is Exhibit 15 and what I believe is the original of the
9 letter. Can you identify those?

10 A. Yes, sir.

11 Q. Does the original of the letter bear a date?

12 A. No, there's no date other than the date received.
13 There's no date from the Commission, but there's a date
14 received stamped and received from -- to Chesapeake.

15 Q. Okay, by your department?

16 A. Yes, sir.

17 Q. And what's that date?

18 A. June 20th.

19 Q. And was the letter addressed to you?

20 A. Yes, sir, it was.

21 MR. COONEY: We would move the admission into
22 evidence of Exhibit 15.

23 CHAIRMAN FESMIRE: Mr. Hall, I'll hear your
24 objection.

25 MR. HALL: Same objections.

1 CHAIRMAN FESMIRE: Mr. Gallegos?

2 MR. GALLEGOS: Yes, and we object to relevancy.
3 This goes to prove or disprove no fact in issue in these
4 matters.

5 CHAIRMAN FESMIRE: Okay --

6 MR. COONEY: Well, Mr. Chairman, again this door
7 has been opened by these lawyers, plus they put in the com
8 agreement and the signature approval by the State Land
9 Commissioner, the State Land Office, of the com agreement.

10 CHAIRMAN FESMIRE: Okay, we'll overrule the
11 objection and allow the admission of Exhibit 15.

12 MR. COONEY: Thank you.

13 Q. (By Mr. Cooney) Now would you refer to what is
14 Exhibit 15. You have a copy of it there in front of you.
15 This is the letter from Mr. Lyons, from Commissioner Lyons?

16 A. Yes, sir.

17 Q. Would you read for the Commission the last
18 paragraph of that letter, sir?

19 A. Yes, sir. Based on the discussions presented,
20 the State Land Office does not believe that this entry onto
21 state trust lands by Chesapeake was in bad faith and
22 understands that issues pertaining to the configuration for
23 the spacing unit for this well will be resolved by the
24 proceedings pending in the Oil Conservation Division. As
25 expressed in our meeting, the Land Office believes the

1 geology should solely dictate the correct spacing, and all
2 the parties will have their opportunity to be heard at the
3 Oil Commission proceeding.

4 MR. GALLEGOS: Mr. Chairman, now having the
5 letter before you and seeing what the contents were, I
6 think it's clear that it should be stricken. You have an
7 *ex parte* communication with a party where both sides of the
8 matter were not permitted to present their evidence as we
9 are here, and to have this as sort of a conclusion as to
10 what is right or wrong about their trespass is entirely
11 improper.

12 CHAIRMAN FESMIRE: Well, I think the Commission
13 is capable of weighing the evidence and the value of the
14 evidence. I understand your objection, but at this time
15 we're going to go ahead and not strike it and overrule your
16 objection.

17 MR. COONEY: Nothing further. Thank you, Mr.
18 Hazlip.

19 CHAIRMAN FESMIRE: Mr. Gallegos?

20 MR. GALLEGOS: Don't leave.

21 (Laughter)

22 CROSS-EXAMINATION

23 BY MR. GALLEGOS:

24 Q. Let me establish a little bit if I can, for
25 clarification of your authority, as far as the matters

1 we're dealing with here, such as your company applying for
2 a permit to drill, is that under your direction? In other
3 words, you make the decision whether that will be done or
4 not?

5 A. That's under the direction of my landman, which
6 was Lynda Townsend.

7 Q. And she reports to you, so --

8 A. Yes, sir.

9 Q. -- sort of down the chain of command, you would
10 direct her to do or not do certain things as far as
11 applications for APDs?

12 A. There's really -- In standard things I don't need
13 to direct her, she knows what to do. But I oversee in a
14 general sense, yes.

15 Q. Okay. And then is it your authority that
16 determines whether a force pooling application will be
17 filed or not?

18 A. Again, that's a standard procedure -- that's just
19 standard, her job to do, and I don't have time to look over
20 everything and direct everything she does, and she knows
21 what to do, she knows what her job is.

22 Q. But in your position with Chesapeake, is it true
23 that you have the authority to make a decision to take an
24 act -- do an act such as that or not do it?

25 A. If I thought it was -- if I thought she was doing

1 something inappropriate or wrong or whatever, yes, I could
2 restrain from doing that, yes.

3 Q. Okay. Let me -- We'll come back to that, but in
4 regard to this letter that we've heard a good deal about,
5 which is Stipulated Exhibit Number 11, the letter to Samson
6 that's dated March 9th, 2005, as the election information,
7 do you have that --

8 A. Yes, sir.

9 Q. -- in front of you?

10 I want to understand your practice. So let's
11 say, Mr. Hazlip, that Samson had signed this up on March
12 22, 2005, and that they sent the \$76,000 -- which they
13 didn't, but let's just say they had done that.

14 Then tell us, what would be the drilling rate
15 between the parties?

16 A. That would be established at a later time, under
17 a JOA.

18 Q. And what would be the overhead rate between the
19 parties?

20 A. That's to be established.

21 Q. And what would be the subsequent operations
22 threshold? You know, usually you'll say \$50,000 or \$25,000
23 for subsequent. What would be that rate?

24 MR. COONEY: Mr. Chairman, I'm going to object to
25 this line of inquiry. There's no requirement that there be

1 a joint operating agreement or operating agreement in
2 place, and that can be established by agreement of the
3 parties following the election.

4 CHAIRMAN FESMIRE: We'll overrule it; I think it
5 is relevant.

6 Q. (By Mr. Gallegos) What -- between the parties
7 you've got a letter Samson signed, so what would be the
8 subsequent operations threshold?

9 A. Those are all things that are generally
10 subsequently dealt with. When you --

11 Q. And would Samson have a preferential right to
12 purchase, just having signed this letter?

13 A. Not just having signed that letter, no.

14 Q. In other words, Mr. Hazlitt [sic], there would
15 have to be a joint operating agreement if the parties were
16 able to mutually agree to the terms; isn't that correct?

17 A. There doesn't have to be. There are many
18 occasions where we don't have a joint operating agreement
19 in place. We operate, and there are simply no concerns --

20 Q. So --

21 A. -- that happens.

22 Q. So all of these various -- and I didn't go
23 through all of the kind of terms that you find in the JOA,
24 but these various agreements, you would just go ahead,
25 drill the well, and there would be no agreement with other

1 working interest owners on those kind of terms?

2 A. There are a lot of issues that just don't come up
3 sometimes.

4 Q. In fact, you did try and submit later on, I think
5 maybe in May of 2005, joint operating agreements, didn't
6 you?

7 A. Yes.

8 Q. And they weren't signed, they were rejected;
9 isn't that true?

10 A. As far as I know.

11 Q. Now Mr. Hazlitt, you're aware, are you not, that
12 your technical people are of the view that the southwest
13 quarter of Section 4, in which your company indeed does
14 hold a lease, is the superior location for a well
15 geologically --

16 MR. COONEY: I object --

17 Q. (By Mr. Gallegos) -- isn't that correct?

18 A. I don't know, after --

19 MR. COONEY: I'm sorry, I would object. It's
20 beyond the scope of direct, but he's already answered it.

21 Q. (By Mr. Gallegos) You don't know?

22 A. I don't know what their position is right now.
23 I'm working a different job now, and I haven't looked at
24 this in some time.

25 Q. Well, what was the guidance in March of 2005 that

1 persuaded Chesapeake in this 320 acres to drill the KF 4
2 State well in Samson et al.'s acreage, instead of
3 Chesapeake's acreage?

4 MR. COONEY: Same objection, Mr. Chairman. This
5 is beyond the scope of direct. He testified as to land and
6 land department headers and this letter and the meeting
7 with --

8 MR. GALLEGOS: But it's the land department that
9 asked for the APDs, so --

10 CHAIRMAN FESMIRE: I don't think Mr. Hazlip has
11 been qualified by an expert; he's testifying as a fact
12 witness. And as a fact witness, if he knows, he's able to
13 answer the question. If he doesn't know, he's able to give
14 that answer also.

15 Q. (By Mr. Gallegos) Your -- Let me rephrase the
16 question. Your land department asked for an APD to drill a
17 well in the southeast quarter, correct?

18 A. Yes, sir.

19 Q. And I'm asking you, what was the basis for that,
20 as opposed to asking for an APD to drill in the southwest
21 quarter where you had a lease?

22 MR. COONEY: Same objection.

23 CHAIRMAN FESMIRE: Overruled.

24 THE WITNESS: Those are done through discussions
25 with our geology department. We'll have a lot of input on

1 where we put that, where we place that.

2 Q. (By Mr. Gallegos) Okay, so the indication, then,
3 to the land department was that the geology department
4 believed that the proper or best location was in the
5 southeast quarter of this section; isn't that correct?

6 A. Wherever the well is proposed is where we -- I'm
7 sure our geology department thought was best.

8 MR. GALLEGOS: Okay, that's all my questions.
9 Thank you.

10 CHAIRMAN FESMIRE: Mr. Hall?

11 CROSS-EXAMINATION

12 BY MR. HALL:

13 Q. Mr. Hazlip, are we in agreement that before the
14 rig was moved onto the southeast quarter of Section 4, you
15 knew that Kaiser-Francis intended to join into Mewbourne's
16 well proposal for a standup unit?

17 A. I don't know all the details about that. I've
18 left that to Lynda Town [sic]; she knew all the details.

19 Q. But isn't it true that you knew generally Kaiser-
20 Francis intended to join with Mewbourne?

21 MR. COONEY: Objection --

22 THE WITNESS: -- You'd have to ask her, I --

23 MR. COONEY: -- asked and answered.

24 CHAIRMAN FESMIRE: Sustained, for the value.

25 Mr. Hall, would you like to approach the witness?

1 (Laughter)

2 MR. HALL: If I may approach the Commission.

3 MR. COONEY: I -- You represent Kaiser-Francis?

4 MR. HALL: Yes, sir.

5 MR. COONEY: They did not file any exhibits for
6 use in this proceeding. I object to the use of this under
7 the Commission rules.

8 CHAIRMAN FESMIRE: Mr. Hall?

9 MR. HALL: I gave you one of my marked-up copies.

10 CHAIRMAN FESMIRE: Mr. Hall, there is an
11 objection to which I'd be glad to hear a response from you.

12 MR. HALL: Mr. Chairman, the witness is on cross-
13 examination now. This is subject matter that was touched
14 upon in direct examination.

15 CHAIRMAN FESMIRE: So this is a rebuttal exhibit?

16 MR. HALL: I believe we're entitled to explore
17 this with the witness.

18 CHAIRMAN FESMIRE: Okay, as a rebuttal exhibit,
19 correct?

20 MR. HALL: Yes, sir.

21 CHAIRMAN FESMIRE: Okay. I'll overrule the
22 objection.

23 Q. (By Mr. Hall) Mr. Hazlip, if you would look at
24 what we've marked as Exhibit Number H-1, can you identify
25 that, please, sir?

1 A. Yes, it's an e-mail that I sent to the then
2 president of Chesapeake.

3 Q. And what is the date of that e-mail?

4 A. April 14th.

5 Q. And can you tell us again when the rig was moved
6 on location? Does April 27th sound about right?

7 A. Yes, sir.

8 Q. If you'll look at the second full paragraph of
9 your e-mail, it says there -- Let me read it to you and
10 I'll ask you a question about that. It says, When Lynda
11 called Kaiser-Francis to discuss their election, Kaiser
12 told her that Mewbourne had proposed a well in a standup
13 320 consisting of I, J, O, P, R, Q, W and X. Their well
14 was not permitted but they obviously intended to hook up
15 with Mewbourne and do battle with us here.

16 A. Yes, sir.

17 Q. Do you see that?

18 A. Uh-huh.

19 Q. Now let me ask you again, as I asked you earlier,
20 before the time the rig was moved onto the Kaiser-Francis
21 lease, you knew, didn't you, that Kaiser-Francis intended
22 to join with Mewbourne in its well proposal?

23 A. Yes.

24 Q. Ask you a little bit more about your meeting with
25 the Land Commissioner, and again this occurred sometime

1 around June 14th; is that right?

2 A. Yes, sir.

3 MR. COONEY: I'm sorry, could I ask for that last
4 question and answer before the -- to be read back? I'm not
5 sure I caught it. The one about you knew before -- that's
6 what I'm missing.

7 MR. HALL: Do you want me to restate it?

8 CHAIRMAN FESMIRE: No, why don't we have the
9 court reporter --

10 MR. HALL: Sure.

11 CHAIRMAN FESMIRE: -- read it back?

12 MR. COONEY: Thanks.

13 COURT REPORTER: "Ask you a little bit more about
14 your meeting with the Land Commissioner -- "

15 MR. COONEY: No, it was the one before that.

16 COURT REPORTER: "Now let me ask you again, as I
17 asked you earlier, before the time the rig was moved onto
18 the Kaiser-Francis lease, you knew, didn't you, that
19 Kaiser-Francis intended to join with Mewbourne in its well
20 proposal?"

21 Answer, "Yes".

22 MR. COONEY: Thank you. Go ahead.

23 Q. (By Mr. Hall) Again, with respect to the meeting
24 with the Land Commissioner, at the time of that meeting
25 were you aware that the Land Commissioner is a member of

1 the Oil Conservation Commission?

2 A. I don't know that I knew that.

3 Q. Can you tell us why Kaiser-Francis, Mewbourne and
4 Samson were not invited to your meeting with the Land
5 Commissioner?

6 A. Because I was -- I was there, responding to their
7 letter to me -- their invitation to me, to respond to their
8 letter.

9 Q. Isn't it true, Mr. Hazlip, that you were
10 accompanied to the meeting by lawyers from the Modrall law
11 firm?

12 A. Yes, sir.

13 Q. And did Pat Rogers go with you to that meeting?

14 A. Yes.

15 Q. And he's a lawyer at Modrall?

16 A. I believe so.

17 Q. And is Mr. Rogers also the lobbyist at Modrall?

18 A. I have no idea.

19 Q. Isn't it true that Mr. Rogers directed the Land
20 Commissioner's letter?

21 A. I have absolutely no knowledge of that, if that's
22 the case.

23 MR. HALL: Nothing further of this witness.

24 We'd move the admission of Exhibit H-1.

25 MR. COONEY: I'll make the same objection that

1 you've overruled it, which is that this is a rebuttal
2 exhibit.

3 CHAIRMAN FESMIRE: Are you arguing that they
4 don't have the right to have a rebuttal exhibit?

5 MR. COONEY: No, I'm not.

6 CHAIRMAN FESMIRE: Okay, Exhibit H-1 will be
7 admitted as a rebuttal exhibit.

8 MR. COONEY: I just have a few follow-up
9 questions.

10 CHAIRMAN FESMIRE: Sir?

11 REDIRECT EXAMINATION

12 BY MR. COONEY:

13 Q. Mr. Hazlip, Mr. Gallegos asked you a number of
14 questions about what the drilling rig would be, what the
15 accounting procedure would be, how costs would be handled,
16 prep rights and so forth, and I believe your testimony was
17 that that would be the subject of agreement after the
18 parties agreed to participate; is that correct?

19 A. Yes, sir.

20 Q. And has that been your experience in the
21 industry?

22 A. Yes, there is many, many occasions, probably just
23 as many, where two parties -- or where a proposal is made
24 and where the parties are not under a JOA, as there are
25 where they are under a JOA previous to the proposal. So

1 you have no other mechanism other than to propose a well to
2 those people and try to get into an agreement and then
3 later form a JOA.

4 Q. In fact, would it be unusual to propose a JOA to
5 someone without reference to any proposed well?

6 A. Not very often, no, I can't think of too many
7 situations where that would occur.

8 Q. Okay. Now if you can't reach agreement, if they
9 refuse to participate, you then apply for force pooling; is
10 that correct?

11 A. Yes, sir.

12 Q. Is it your understanding, then, that such matters
13 -- drilling rate, cost, accounting procedures and so forth
14 -- would be established by order of the Commission or the
15 Division in the force pooling?

16 A. Yes, they are established that way, yes, sir.

17 MR. COONEY: Nothing further.

18 CHAIRMAN FESMIRE: Commissioner Bailey, did you
19 have a question of this witness?

20 COMMISSIONER BAILEY: Yes.

21 EXAMINATION

22 BY COMMISSIONER BAILEY:

23 Q. You were asked by Mr. Hall whether or not you
24 were aware of -- that the Commissioner of Public Lands was
25 a Commission member. Notwithstanding your answer, was

1 there a case pending before the Commission having to do
2 with these facts when you had your meeting with the
3 Commissioner?

4 A. Yes, ma'am.

5 MR. COONEY: Can I follow up on that? I think --
6 I'm not sure that the witness understands the division --
7 the distinction between the Division and the Commission.

8 COMMISSIONER BAILEY: It would help clarify his
9 answer, I think.

10 FURTHER EXAMINATION

11 BY MR. COONEY:

12 Q. Okay. When you met with the Land Commissioner,
13 sir, were there cases pending before the Oil Conservation
14 Division?

15 A. I just -- I assumed that it was our pooling
16 application.

17 Q. All right, the one that we're here talking about
18 today?

19 A. Yes, sir.

20 Q. And Kaiser-Francis and Samson's other case before
21 the Division to cancel our drilling permit?

22 A. Yes, sir.

23 Q. Okay, and let me ask you again, was there any
24 discussion of either of those cases with the Commissioner
25 at that meeting?

1 A. No, sir, there was no discussion.

2 COMMISSIONER BAILEY: That's all I have.

3 CHAIRMAN FESMIRE: Commissioner Olson?

4 COMMISSIONER OLSON: No questions.

5 CHAIRMAN FESMIRE: I have no questions of this
6 witness, Mr. Hazlip.

7 MR. COONEY: May this witness be excused?

8 CHAIRMAN FESMIRE: He may, sir. Thank you.

9 Mr. Cooney, do you have another witness?

10 MR. COONEY: That completes our land case.

11 CHAIRMAN FESMIRE: Okay. Which brings us to the
12 issue that we were discussing earlier. The procedural
13 basis is correct, the applicant should go first. The
14 procedural requirement.

15 We have the option of beginning today or
16 continuing to a special setting sometime in the first half
17 of September. Is there -- Looking at the people who've had
18 to travel from long distances to get here, I don't see any
19 way to avoid having to come back later. If we start at a
20 later date, we may have to -- we may be required to stay
21 here a couple of days. Any comment from counsel on the
22 scheduling?

23 MR. GALLEGOS: Mr. Chair, we'd like to get as
24 much done as we can today. I thought that's what we would
25 be doing, and that we'd go ahead and get -- accomplish what

1 we can, and perhaps then we'd only need one more day if we
2 can get a good half day in today.

3 CHAIRMAN FESMIRE: But given the
4 misunderstanding, do you not think that it would put the
5 other side at a bit of a disadvantage to -- given the way
6 they thought this would proceed? Mr. Hall?

7 MR. HALL: Well, I don't know why there would be
8 any misunderstanding about -- They were the applicant in
9 the first pooling case, and the burden is on them to
10 proceed with their case.

11 I looked at the exhibits that were filed in this
12 case. My first reaction was, three-day hearing, two -- I
13 don't know. So it's my inclination that we go forward and
14 hear Chesapeake's geology case and get a start, get in as
15 much as we can today.

16 CHAIRMAN FESMIRE: And then give you all a month
17 to prepare a rebuttal?

18 MR. GALLEGOS: Well, Mr. Chair, the same is true
19 if we adjourn now. They've got a month to work on our
20 exhibits instead of a week, so -- I mean, what's -- I don't
21 see that it's particularly disadvantageous -- they're the
22 applicant, and this matter's been set and noticed for quite
23 a while.

24 CHAIRMAN FESMIRE: Mr. Kellahin?

25 MR. KELLAHIN: We would prefer to have a sequence

1 of hearing time, and I suspect it's going to require two
2 full days, so that this thing is started and finished
3 within that time frame. As you have seen, if we put on our
4 technical case -- and hopefully we could finish it today,
5 but maybe not, then there's a break in the action. And as
6 I know from experience, from 35 years, if you have those
7 breaks you come back and you meet an entirely different
8 situation.

9 And so I would like to freeze the problem and, if
10 we can't get it all in now, let's put everybody on the same
11 footing and come back at some other date, being certain
12 that we have those dates blocked out. We'll have to look
13 at our calendars. I'm not sure where September leaves us
14 at the moment, but we certainly could do that. That would
15 be my preference, Mr. Chairman.

16 MR. HALL: Mr. Chairman, may I raise an ancillary
17 matter? This proceeding has been bifurcated in the sense
18 that there's been an objection to well costs, and that's a
19 case presently pending before the Division. Attorneys are
20 working to try to reconcile their differences there, but
21 that is tentatively scheduled for a hearing on September
22 14th before Examiner Jones. He heard the case below; we
23 thought it would be appropriate to have him hear this
24 again.

25 My discussions with Mr. DeBrine, part of the

1 reasons we agreed to continue that case a couple of times
2 is that, one, we often know who the operator is going to be
3 first, before we get into that. My concern is that by
4 continuing this case again --

5 CHAIRMAN FESMIRE: -- you'll put that one off.

6 MR. HALL: -- we're going to put that one off,
7 which is fine with us if it's agreeable with you all, but I
8 wanted you to be aware of that.

9 MR. DEBRINE: And Mr. Chairman, that's always
10 been our view. It was kind of getting the cart before the
11 horse to have the cost hearing before the issues pending in
12 the hearing today are resolved.

13 CHAIRMAN FESMIRE: Okay. Commissioner Bailey, do
14 you have a preference?

15 COMMISSIONER BAILEY: I have no preference.

16 CHAIRMAN FESMIRE: Commissioner Olson?

17 COMMISSIONER OLSON: I don't really have a
18 preference.

19 CHAIRMAN FESMIRE: Counsel?

20 MS. LEACH: Whatever you want to do.

21 CHAIRMAN FESMIRE: Florene, is there a day when
22 the room is open and we can schedule a special setting for
23 the remainder of this case?

24 MS. DAVIDSON: I didn't bring a calendar with me,
25 but I'm sure there is. September 14th is the Examiner

1 Hearing, I think, or is it -- September 28 is the Examiner
2 Hearing --

3 MR. HALL: We'd certainly request two days.

4 CHAIRMAN FESMIRE: Yeah, I'm beginning to find
5 that my one day for the whole thing was probably
6 considerably optimistic.

7 The 15th is a Friday. Does Counsel have their
8 calendars with them? Can we continue this?

9 MR. KELLAHIN: Do we have a monthly calendar to
10 look at? Do you have a monthly calendar?

11 MR. GALLEGOS: We need our calendar too.

12 (Off the record)

13 MR. GALLEGOS: Mr. Chairman, if I sense that
14 you're going to put this off for two days, since it's so
15 close to noon maybe we could all grab our calendars, get
16 back over here at 1:00, and we can get some dates that
17 everybody, including the witnesses who might have
18 conflicts...

19 CHAIRMAN FESMIRE: Okay, that's a good idea. Why
20 don't we break for lunch, reconvene with our calendars at
21 one o'clock, at which time we will determine a date for the
22 continuance and specially set this case for some time --
23 I'm looking at the middle of September, maybe the week of
24 the -- what's that Monday? -- 18th.

25 MR. GALLEGOS: Yeah, Monday's an 18, and we're

1 talking about two days --

2 CHAIRMAN FESMIRE: Right.

3 MR. GALLEGOS: -- correct? Okay.

4 COMMISSIONER BAILEY: I cannot attend the third
5 Tuesday of the month.

6 CHAIRMAN FESMIRE: Are you going to be selling
7 something or --

8 COMMISSIONER BAILEY: You betcha.

9 (Laughter)

10 MR. KELLAHIN: Mr. Chairman, is the last week of
11 September available? I don't return to this country until
12 the 21st, so I could do it on any day of the week, the last
13 week of September.

14 CHAIRMAN FESMIRE: We'll start looking there
15 then. Okay? And we'll re-adjourn [sic] at one o'clock.

16 (Thereupon, a recess was taken at 11:56 a.m.)

17 (The following proceedings had at 1:00 p.m.)

18 CHAIRMAN FESMIRE: Okay, did everybody bring
19 their calendar? Given Tom's constraint, it looks like it's
20 going to be sometime in the last week of September. Has
21 anybody looked at that? Starting on the 25th?

22 MR. GALLEGOS: Yes, and that's good for us.

23 CHAIRMAN FESMIRE: All right.

24 MR. GALLEGOS: In fact, that looks like the
25 best --

1 CHAIRMAN FESMIRE: Tom?

2 MR. KELLAHIN: That would be good with everybody
3 except my geologist, and he's not available until the first
4 week of September --

5 MR. COONEY: October.

6 MR. KELLAHIN: -- or October. Isn't that right,
7 John?

8 MR. COONEY: Right.

9 MR. KELLAHIN: That was October. Now, NMOGA's
10 convention starts on Saturday the -- 1st?

11 CHAIRMAN FESMIRE: Something like that, yeah.

12 MR. KELLAHIN: What is the first week of October?

13 MR. DEBRINE: NMOGA is done, I think, on October
14 2nd, Monday.

15 CHAIRMAN FESMIRE: And that is important?

16 (Laughter)

17 MR. KELLAHIN: Not from us, I just mean some of
18 these people do attend, although we could work over that
19 weekend, if you want, and not go to the convention.

20 (Laughter)

21 MR. GALLEGOS: That sounds good to me.

22 CHAIRMAN FESMIRE: But some of those people will
23 be here that week anyhow?

24 MR. KELLAHIN: Well, that's true, yeah, some will
25 be here.

1 MR. DEBRINE: Yes.

2 CHAIRMAN FESMIRE: What about you? Is there any
3 time better?

4 COMMISSIONER BAILEY: I may have to attend the
5 second day of NMOGA.

6 CHAIRMAN FESMIRE: That's part of what I was
7 joking about. I'm thinking after, you know --

8 MS. LEACH: -- the 4th?

9 COMMISSIONER OLSON: Well, I've got something on
10 the -- I've got hearings on the 5th, might carry over to
11 the 6th, yeah.

12 MS. LEACH: What if we started on the afternoon
13 of the 3rd and finished up on the 4th? Go late on the 3rd
14 and then --

15 CHAIRMAN FESMIRE: Trying to look here. Okay,
16 and you're saying...

17 MS. LEACH: I'm saying NMOGA will be over at noon
18 on Tuesday, so we started Tuesday afternoon, went late and
19 finished on Wednesday.

20 CHAIRMAN FESMIRE: Tuesday the 3rd and Wednesday
21 the 4th? All right, I'm new at this.

22 Okay, what do you think?

23 COMMISSIONER BAILEY: That's fine with me.

24 CHAIRMAN FESMIRE: Okay. The proposal has been
25 made that we meet after the NMOGA meeting starting Tuesday

1 the 3rd at one o'clock, and clear the 4th, and at least
2 half a day on the 5th. Can everybody make that one?

3 MR. OLMSTEAD: Yes, sir.

4 MR. GALLEGOS: Yes, sir.

5 MR. KELLAHIN: Yes, sir.

6 CHAIRMAN FESMIRE: Is Mr. Hall around, or is
7 he --

8 COMMISSIONER OLSON: I can't do anything on the
9 5th.

10 CHAIRMAN FESMIRE: You can't do anything on --

11 COMMISSIONER OLSON: I've got to be in --

12 MS. LEACH: You're going to have to go --

13 CHAIRMAN FESMIRE: -- Hobbs.

14 MS. LEACH: -- late on Tuesday and Wednesday to
15 finish.

16 CHAIRMAN FESMIRE: When do you have to leave?

17 COMMISSIONER OLSON: Probably this night, so I'll
18 be driving down that night, so...

19 MR. GALLEGOS: We can't start the morning of
20 Tuesday the 3rd?

21 CHAIRMAN FESMIRE: No, there are a lot of NMOGA
22 members here.

23 MS. LEACH: And Jami may have to speak.

24 CHAIRMAN FESMIRE: And Jami may have to speak.
25 And come to think of it, Mark may have to speak.

1 COMMISSIONER OLSON: And that's the day --

2 MS. LEACH: We make the agency's report on the
3 2nd, Mark. That's very unpopular.

4 CHAIRMAN FESMIRE: Okay, is -- do we have more
5 than a day and a half?

6 MR. OLMSTEAD: (Nods)

7 CHAIRMAN FESMIRE: You think we have more than a
8 day and a half?

9 MR. OLMSTEAD: Yes, sir.

10 MR. GALLEGOS: I think -- I think we need two
11 full days, unless -- unless that Tuesday we understand that
12 we'll go late. I mean, we've done some hearings here that
13 we've gone till 7:00 or 7:30.

14 CHAIRMAN FESMIRE: Commissioner Olson has to go
15 to Hobbs that day.

16 COMMISSIONER OLSON: On Wednesday.

17 CHAIRMAN FESMIRE: On Wednesday?

18 COMMISSIONER OLSON: Tuesday I don't have to.

19 CHAIRMAN FESMIRE: We'll go late on Tuesday so we
20 get in a full day Tuesday? Okay, let's -- Is that
21 acceptable to everybody?

22 Okay, Tuesday the 4rd, Wednesday the 4th, and
23 recognizing that we're going to go late. Okay?

24 With that --

25 MR. GALLEGOS: Starting at one o'clock on

1 Tuesday?

2 CHAIRMAN FESMIRE: Yeah, one o'clock on Tuesday.
3 One o'clock on Tuesday, and plan on going till 8:00 in the
4 evening or, you know, thereabouts.

5 And your geologist --

6 MR. KELLAHIN: That works.

7 CHAIRMAN FESMIRE: -- that's okay? And people
8 will be in town for the NMOGA convention anyhow.

9 MR. KELLAHIN: (Nods)

10 CHAIRMAN FESMIRE: Okay. With that, this cause
11 will be continued until Tuesday, October 3rd, at 1:00 p.m.
12 I forget to check about the room.

13 MS. DAVIDSON: It's probably --

14 CHAIRMAN FESMIRE: At 1:00 p.m. in this room.

15 And with that, the Chair would entertain a motion
16 to adjourn until that date.

17 COMMISSIONER BAILEY: I move we adjourn.

18 CHAIRMAN FESMIRE: Let me reclarify -- clarify
19 that. Until the September --

20 MS. DAVIDSON: -- 21st.

21 CHAIRMAN FESMIRE: -- 21st meeting, at which time
22 will hold a regularly scheduled Commission meeting, and
23 then again on October 3rd, one o'clock p.m., where this
24 case will be specially set and specially heard.

25 COMMISSIONER BAILEY: I so move.

1 COMMISSIONER OLSON: Second.

2 CHAIRMAN FESMIRE: All those in favor, aye?

3 COMMISSIONER BAILEY: Aye.

4 COMMISSIONER OLSON: Aye.

5 CHAIRMAN FESMIRE: Let the record reflect that
6 the Commission meeting was adjourned at 1:10 p.m.

7 Thank you.

8 (Thereupon, these proceedings were continued at
9 1:10 p.m.)

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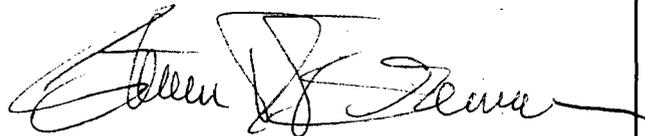
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) SS.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL August 15th, 2006.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006