

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION FOR THE)
PURPOSE OF CONSIDERING:)
APPLICATION OF HOLCOMB OIL AND GAS,) CASE NO. 13,918
INC., FOR AN UNORTHODOX WELL LOCATION,)
SAN JUAN COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Legal Examiner
RICHARD EZEANYIM, Technical Examiner

June 21st, 2007

Santa Fe, New Mexico

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This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Legal Examiner, and RICHARD EZEANYIM, Technical Examiner, on Thursday, June 21st, 2007, 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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June 21st, 2007
 Examiner Hearing
 CASE NO. 13,918

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* * *

A P P E A R A N C E S

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* * *

1 WHEREUPON, the following proceedings were had at
2 2:03 p.m.:

3 EXAMINER BROOKS: Okay, at this time we'll call
4 Case Number 13,918, the Application of Holcomb Oil and Gas,
5 Inc., for an unorthodox well location, San Juan County, New
6 Mexico.

7 Call for appearances.

8 MR. PADILLA: Mr. Examiners, my name is Ernest L.
9 Padilla for Holcomb Oil and Gas, and I have one witness to
10 be sworn.

11 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
12 the Santa Fe law firm of Kellahin and Kellahin, appearing
13 in opposition to the Applicant on behalf of XTO Energy,
14 Inc., and I have one witness to be sworn.

15 EXAMINER BROOKS: Okay, I haven't been doing this
16 but we really need to get the witnesses to identify
17 themselves at the time they were sworn so the record will
18 reflect who was sworn.

19 Would you each state your name for the record,
20 please?

21 MR. HOLCOMB: Sure, William Jeffrey Holcomb.

22 MR. LEHRMAN: Paul Lehrman.

23 EXAMINER BROOKS: Please swear the witnesses.

24 (Thereupon, the witnesses were sworn.)

25 EXAMINER BROOKS: Let's see, are these three

1 copies of the same exhibits, or are these different
2 exhibits?

3 MR. PADILLA: They're all -- three sets of the
4 same --

5 EXAMINER BROOKS: Okay --

6 MR. PADILLA: -- exhibits.

7 EXAMINER BROOKS: -- I'll pass one to the court
8 reporter and another one for you. Thank you.

9 WILLIAM JEFFREY HOLCOMB,
10 the witness herein, after having been first duly sworn upon
11 his oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. PADILLA:

14 Q. Mr. Holcomb, would you state your name for the
15 record, please?

16 A. William Jeffrey Holcomb.

17 Q. Mr. Holcomb, how are you connected with the
18 Applicant, Holcomb Oil and Gas, Inc., in this case?

19 A. I'm the president of Holcomb Oil and Gas.

20 Q. Are you also a petroleum engineer?

21 A. I'm a civil engineer by degree from Missouri
22 School of Mines, and practiced with Amoco as a petroleum
23 engineer for 11 years before starting my own company.

24 Q. Have you ever testified before the Oil
25 Conservation Division?

1 A. I have.

2 Q. As a petroleum engineer?

3 A. Yes.

4 Q. And that was in connection with your work with
5 Amoco Production Company?

6 A. Yes.

7 Q. Have you testified before other regulatory
8 agencies?

9 A. Yes.

10 Q. Where is that?

11 A. Texas Railroad Commission.

12 Q. Okay. Are you a registered engineer anywhere?

13 A. No.

14 MR. PADILLA: We tender Mr. Holcomb as an expert
15 petroleum engineer.

16 EXAMINER BROOKS: He is so qualified.

17 Q. (By Mr. Padilla) Mr. Holcomb, can you tell us
18 briefly what -- why you brought this Application?

19 A. Well, as a matter of background, in January after
20 some lengthy discussions with ConocoPhillips, we proposed
21 to drill a well in the northwest quarter of Section 27,
22 which would have been an infill well on the east-half -- or
23 the west-half proration unit.

24 ConocoPhillips ended up standing out under
25 penalty, and we subsequently filed the APD with the OCD as

1 well as notified the offset operators.

2 One of our goals certainly in trying to recover
3 reserves out of the Fruitland Coal was to maintain a
4 posture outside the city limits of Bloomfield if we could,
5 and secure some sort of agreement with surface owners that
6 would be amenable to everyone, which has been a practice of
7 mine for a number of years.

8 When we first started this project and went to
9 stake a location, we spoke with a company representative
10 from Foutz and Bursom, who has a gravel pit, and we'll be
11 going through a lot of this information through these
12 photographs shortly. And we were assured at that point in
13 time that the locations that we were looking for would be
14 outside the city limits. As it turned out in 2002, the
15 City annexed all of the areas that we were looking at to
16 try to keep it outside the city limits.

17 So now we are the point where the nonstandard
18 location that we originally proposed -- we left it there
19 rather than moving it, and we'll go through the rationale
20 behind all of that in the purpose of this hearing.

21 Q. Mr. Holcomb, let's get on -- look at this exhibit
22 that you have -- Well, let me ask you first, have you
23 prepared these exhibits or had them prepared under your
24 supervision?

25 A. For the most part, yes. The only exception is

1 that some of these were taken from the City of Bloomfield,
2 provided by them, as well as San Juan Refinery, which was
3 Giant Refinery, and I think now it's Western Refinery, if
4 the deal went through.

5 Q. Let's look at Exhibit 1, and tell us what that is
6 first of all.

7 A. Exhibit 1 is an aerial photograph that was
8 supplied to us by Enterprise, who was the predecessor to El
9 Paso, and it's an aerial photograph of Section 27. The
10 yellow boundaries that you see are the exterior section
11 lines. I've drawn some red lines through this particular
12 photograph. You'll see a centerline north-south and also
13 east-west that divides the section into quarter sections.
14 I've also delineated the standard 160-acre 660 offsets to
15 all the exterior boundaries for the standup east-half and
16 west-half proration units.

17 And I've shown some additional information in the
18 center. I've highlighted the photograph in yellow for the
19 Foutz and Bursom gravel pit operation. And you'll see
20 three red dots. The red dot with the black center is the
21 location as proposed, and the two red dots immediately to
22 the west of that were alternative locations that were
23 tacitly approved by XTO and suggested that I try to locate
24 the wells there.

25 Q. Mr. Holcomb, does that also show -- Exhibit 1,

1 does that show also pipelines in the area?

2 A. It does, it shows in green the wells that -- and
3 pipelines that currently Enterprise has connected to their
4 gathering system.

5 And I might add, it also -- I went through that
6 discussion initially about the city limits and how they've
7 changed. You can see on there, there's a dashed line that
8 showed the original city limits, which we were under the
9 impression the way it was. It's since changed, and the
10 city limits actually come all the way over to almost the
11 centerline of Section 27. And there's a canal that runs
12 through there, a drainage canal, and it's the squiggly line
13 that runs from the southwest to the northeast.

14 Q. How big is this gravel pit shown in yellow?

15 A. It's approximately 21 acres.

16 Q. Can you describe to the Examiners what type of
17 operation that is in terms of size?

18 A. Well, I can tell you from the information that
19 Foutz and Bursom has provided us that it's -- they have a
20 commitment for 200,000 tons of gravel product over the next
21 five years, so it's an active facility.

22 Q. What -- Have you had discussions with this gravel
23 operator?

24 A. I have. We've had three face-to-face meetings
25 and two verbal meetings, at least, and some additional

1 phone calls. And the response in every case is not only
2 no, but -- I could emphasize that a different way no also.

3 They -- Mr. Foutz -- and I have spoken with him,
4 and his plan is to provide for commercial development. And
5 you know, he's a known pipeline contractor, he's been
6 involved in the San Juan Basin for years and years and
7 years, and he understands the oil and gas business. He is
8 adamant about not wanting us to put a well location on his
9 property.

10 Q. Let's move on to Exhibit 2 and have you tell the
11 Examiners what that is.

12 A. Exhibit 2 is another aerial photograph, a little
13 bit better quality, that was provided to us by the Parks
14 and Recreation Department for the City of Bloomfield. The
15 significance of this particular photograph is to try to
16 identify the areas of interest that could be potential
17 alternative sites, as well as show you what the Parks and
18 Recreation and the City of Bloomfield zoning's activity
19 levels are.

20 We met with Ray Barnes, who is the head of
21 planning and zoning, and we did that after we found out, in
22 fact, that the city limits of Bloomfield basically occupy
23 everything north of the river, as well as from the highway
24 over to the drainage canal that's just to the east of our
25 proposed location.

1 On this particular map you can see where the
2 baseball fields are located. When you refer that back to
3 map number 1 you can see that a standard standup -- or a
4 standard offset would be to the bottom portion of where
5 those baseball fields would be, as far as a 660 offset.

6 Q. Where is the proposed location --

7 A. Well, the proposed location -- We should have put
8 a red dot on here, but it isn't. If you look down on the
9 bottom -- and on my copy it shows a yellow arrow that says
10 4A. 4A would be -- the tip of that arrow, slightly to the
11 north, would be just about where the proposed location is
12 located.

13 The gravel pit south of the river, you can see
14 the gravel pit feature. We're probably 80, maybe 100 feet
15 above the river surface on the south side, where the north
16 side is almost at the water level.

17 The yellow lines that you see that follow the
18 river are --

19 Q. That's on the north side of the river?

20 A. On the north side of the river, yes. That is an
21 approved project that the City of Bloomfield is putting in
22 a river walk program, and that's the outline of that
23 particular bike path and running trail that they're putting
24 in. They've also indicated to us that they plan on
25 expanding the ballfield facilities and possibly also the

1 soccer facilities, which are actually north in Section 22.

2 Q. Just left and -- of the baseball field, as shown
3 in this exhibit, who owns the land in that area?

4 A. There's various owners. The City of Bloomfield
5 owns some, there's a city municipality building in that
6 area, and others. We have additional maps that show all of
7 the landowners by lots through here, but they're not
8 included as exhibits.

9 Q. Okay. What has been the basic conclusion after
10 your talks with the officials from the City of Bloomfield?

11 A. They were adamant about not putting a well north
12 of the river. They didn't want any interference whatsoever
13 with any of their activities.

14 Q. Are there any wells north of the river --

15 A. There are.

16 Q. -- in this area?

17 A. There are. On this photograph again, if you'll
18 look about where the arrow 4C is -- and these arrows will
19 become apparent in a minute when we show you some
20 photographs -- there is a fenced location in there that has
21 three wells. Two of those wells are operated by Mañana Oil
22 and Gas and one by ConocoPhillips.

23 Q. How old are those wells?

24 A. You know, I don't really know when they were
25 completed. They've been there for some number of times.

1 Q. Is that a suitable location where --

2 A. Well, we investigated that. We went out and
3 looked at it, and -- as a possible alternative. The City
4 was adamant -- let me go back -- because they knew those
5 wells were there, and that's in a park area. And they
6 didn't -- they were pretty clear about not putting another
7 well in the park area, or even inside that fence boundary.

8 The three wells -- One of the issues that came up
9 that has been discussed among various operators in the San
10 Juan Basin is, what offsets do you require if you're going
11 to put another well on an existing wellpad? And they've
12 varied. They've been a hundred feet, they've been in
13 some -- very -- a few cases less than that, and then there
14 have been requirements by some that have been 200-feet
15 plus. We didn't feel comfortable putting a fourth well in
16 there, in that area. We were --

17 Q. Why is that?

18 A. I'm sorry?

19 Q. Why don't you feel --

20 A. Well, first of all, I own an interest in all
21 three of those wells, very small interest. But I didn't
22 want to get into a position of potential damage to existing
23 wellbores.

24 Q. What kind --

25 A. The fracture -- if I frac'd into the well, or

1 collapsed casing. I just didn't want that liability, so I
2 chose not to go there.

3 Q. Okay. Let's move on to Exhibit Number 3, and
4 tell us what that is.

5 A. Exhibit Number 3 is yet another aerial
6 photograph. This one was provided by Giant Refining. And
7 one of the significant things on this map -- and we'll get
8 in- -- You can see the large dot represents the proposed
9 well location. The two small red dots represent
10 alternative offsets that were suggested by XTO --

11 Q. Let me ask you, is XTO the only company that --
12 or operator, the proposed -- your proposed location?

13 A. Yes.

14 Q. Okay.

15 A. The significance of this you can see. On the
16 eastern third you can see where the delineation is a white
17 line going north-south that separates Section 26 and
18 Section 27. The orange hatched line is Giant Refining's
19 acreage, that's the property that they own. The green area
20 to the north that's part of that west half of the northeast
21 quarter designation was land that Giant Refining donated to
22 the City of Bloomfield.

23 So essentially the city limits, if you'll look
24 where it says "Boundary Adjustment" on the left third in
25 the center, that road is called Sullivan Road that comes

1 across there, winds around in front of the refinery, goes
2 down the hill and back again to the east. If you trace
3 that across, that's almost the centerline of the section.
4 And you can see where the drainage canal is, just to the
5 east of the proposed location. If you would follow that
6 drainage canal north to where it bends to the east, and
7 then follow the orange line up to the center of the river
8 and then follow the river off to the east, everything north
9 of that is the city of Bloomfield.

10 So when we look at the northeast quarter, the
11 available spaces for when we -- and I know we're going to
12 have some discussions about drainage and offset
13 requirements and so on and so forth. There are some severe
14 limitations on where you could locate an offset well.
15 Notwithstanding that fact, there are some severe
16 limitations on where you can put one on the northwest
17 quarter also.

18 Q. Okay. Now this also shows the extent of the
19 gravel pit in --

20 A. It does.

21 Q. -- a little bit more detail?

22 A. It does.

23 Q. Okay. And the upper right-hand corner, that is
24 not applicable to this --

25 A. In my map it's the upper left-hand corner.

1 Q. Upper left-hand corner.

2 A. Yes, that's inside -- it's north of Broadway in
3 the middle of the city.

4 Q. All right. Let's move on to what's been marked
5 Exhibit Number 4. It's three pages. Let's call the first
6 page A and the third page B [sic] for testimony purposes,
7 and the third page C.

8 Let me -- Can you orient the Examiners on Exhibit
9 Number 2 as to --

10 A. Let's go back to Exhibit 2 and the yellow arrows.
11 If you'll look at the center bottom arrow that's marked as
12 Exhibit -- or arrow 4A, which is almost taken from the
13 proposed well location, the photographs on the left-hand
14 side of this four-section photograph, the bottom one is
15 taken from the well location without it being zoomed in,
16 and the top one is zoomed in of that same angle.

17 Q. The top left?

18 A. The top left. And the significance is to show
19 the activity of this gravel pit operation.

20 The bottom right is also off -- it's a little bit
21 north of the proposed location, looking back to the west.
22 And then finally the top right is to give you an idea of
23 the front slope going down towards the river on the very
24 northern end of the proposed location, looking back towards
25 the gravel pit.

1 Q. What -- this -- the lower part of the -- of this
2 first page, lower left-hand corner shot, does that show the
3 terrain immediately west of the proposed location?

4 A. Yes. The only thing that's of really -- You can
5 see all the activity going on for the gravel operation,
6 certainly. The berm that's in the foreground of that, if
7 you'll look on the Exhibit Number -- Let's see, which one
8 would be a good one? If you look at Exhibit Number --

9 Q. -- 1, I think.

10 A. -- Number 3, you'll see that orange -- the far
11 western vertical orange line, the dashed line going north-
12 south between the proposed location and those two small red
13 dots. That dark area right there represents this berm.
14 And then just beneath that is a small drainage ditch, if
15 you will.

16 Q. Is that drainage ditch shown on Exhibit 1 as a
17 dark line?

18 A. Well, it's -- Yes.

19 Q. And it's between the two well locations, the
20 proposed well location --

21 A. Yeah, the scale on this, it's very difficult to
22 put a dot that size and get it micromanaged precisely. The
23 actual 330 offset, which would be the middle dot, is right
24 on the edge of that drainage ditch.

25 Q. Okay.

1 A. Okay, going to the second page, these two
2 photographs are both taken from the bridge and would be
3 represented by the arrow 4B on Exhibit 2, looking back
4 towards the refinery. And you can see that -- The purpose
5 of this is to let you visualize the fact that this is not
6 just a plan by the City of Bloomfield, they're actively in
7 the construction process.

8 And it further demonstrates the comment that I
9 made earlier about the location on the north side of the
10 river being almost at water level, and -- where on the
11 south side of the river it's some 80 to 100 feet above the
12 river.

13 Q. And that's illustrated by the upper right-hand --

14 A. On both -- Well, I'm on the two vertical pictures
15 here.

16 And then finally, the last four photographs are
17 those that are shown -- mostly Exhibit 4C, but there are
18 some that were also taken from the 4A location. The two
19 left photographs are the ones taken from -- shown as 4C,
20 looking back towards the bridge and that particular road
21 construction.

22 The ones on the right are taken from the very
23 northern end of 4A, above the river looking down on the
24 construction, as well as you now see on the top right where
25 that fenced-in series of three locations are just north of

1 the river.

2 Q. And looking at the upper right-hand of the third
3 page, the city's project is running right immediately south
4 of that location?

5 A. Correct, correct, this is just begun. As you can
6 see on that top right, it's got a ways to go to conform to
7 the plan that was shown as Exhibit 2.

8 Q. Let's go on to what we have marked as Exhibit
9 Number 5. Can you tell us what that is?

10 MR. KELLAHIN: Mr. Examiner, I pose an objection
11 to Exhibit 5. It's a question of relevancy. This has to
12 do with well proposals on the east half of the section, and
13 we're before you today on an unorthodox well location for a
14 spacing unit in the west half of the section and focusing
15 on the northwest quarter of the section. There's no
16 relevance to this exhibit.

17 EXAMINER BROOKS: Okay, so that we can determine
18 what it relates to, I will overrule the objection for now.
19 Go ahead.

20 Q. (By Mr. Padilla) What is Exhibit 5?

21 A. Exhibit 5 is a letter that I prepared on June
22 13th. It went to the land department at XTO in Fort Worth,
23 and it's a result of a drillsite title opinion I had
24 prepared by Michael Cunningham, an attorney, a land
25 attorney, title attorney, out of Tatum, New Mexico, and the

1 result of that was identification of not only XTO's
2 interest but my interest in the east half. I have the same
3 interest in the east half as XTO does.

4 Q. Does this go to protection of correlative rights?

5 A. I think it does. I think what it shows is our
6 willingness to go forward with trying to protect
7 correlative rights in both half-sections.

8 Q. What other wells do you operate in this area?

9 A. Well, let's -- Can we skip to the next exhibit --

10 Q. Yes.

11 A. -- to talk about that?

12 Exhibit Number 6 is a nine-section plat of the
13 Fruitland Coal wells that are in the area. The center
14 section, 27 -- I'll wait till everybody has their exhibit.

15 EXAMINER BROOKS: Yeah, I'm looking for that now.
16 Okay, okay.

17 THE WITNESS: The center section, 27, there's a
18 highlighted area in black that says the "Proposed
19 Location". If you look at all the sections -- and to
20 address Ernie's question, to the northeast in Section 23,
21 we operate the two Fruitland Coal wells that are there.

22 When you go to Section 26 to the immediate east,
23 there's currently one Fruitland Coal completion in the
24 north half, operated by XTO, although we have the majority
25 interest in the well. The south half is operated by

1 ConocoPhillips, with one completion.

2 I might add that there is also a proposal -- an
3 AFE that's been submitted by XTO, to recomplete a well in
4 the northwest quarter of Section 26, which I think has --
5 all but one party has approved.

6 In Section 27, there's one Fruitland Coal
7 completion in the southwest quarter, Mangum 1, that's been
8 operated by ConocoPhillips. Section 28 also has one,
9 Section 34 and 35, the balance of which are all operated by
10 ConocoPhillips at this point.

11 Q. (By Mr. Padilla) What are your plans for
12 drilling any of your acreage in the immediate area of the
13 proposed well?

14 A. Well --

15 MR. KELLAHIN: Objection, Mr. Examiner. I renew
16 my objection about the letter and his testimony concerning
17 activity other than the spacing unit for which we're at
18 hearing today.

19 EXAMINER BROOKS: Overruled. You may continue.

20 THE WITNESS: In Section -- Holcomb Oil and Gas
21 had over the course -- and let me back up and give just a
22 brief history.

23 We had acquired a company some years ago in the
24 late 1990s called LCS Company. We purchased the stock of
25 that company. Subsequent to that, in the last several

1 years, we purchased another company called Basin Natural
2 Gas, again the stock of the company.

3 Through the combination of those acquisitions and
4 the title work that we have done, we have determined that
5 there's a number of acreage positions that we could exploit
6 as it relates to the Fruitland Coal and in some cases the
7 Pictured Cliff formation. Some of that is denoted by the
8 activity that's shown on this map. The south-half wells in
9 Section 23 were drilled in 2005. The XTO well in the north
10 half of 26, it took me over three years to get them to
11 recomplete that well. And they did that at the beginning
12 of 2006.

13 In Section 22, the operator there is Mañana Oil
14 and Gas, and we own interests in those wells also, and they
15 have just drilled a Fruitland Coal completion that has not
16 been completed yet, but they've drilled one in the
17 southwest quarter.

18 As far as we know at this point, those acreage
19 positions, the east half of 27 -- or all of Section 27,
20 actually, and then we have acreage also to the east of
21 that.

22 Q. (By Mr. Padilla) Going back to Exhibit Number 5,
23 what is that?

24 A. What is Exhibit 5?

25 Q. Yes.

1 A. It was an AFE that I sent to XTO to drill two
2 wells in the east half of Section 27. We followed up, as I
3 said in the letter, with an operating agreement for
4 approval. They received it yesterday, but I don't know the
5 response yet.

6 Q. Is your proposed target the Fruitland Coal
7 formation?

8 A. It is.

9 Q. Would that be in the interest of protecting
10 correlative rights? Or drilling those wells, would that
11 have the effect of protecting --

12 MR. KELLAHIN: Objection, Mr. Examiner, that
13 calls for a conclusion by the Examiner [*sic*] as a legal
14 conclusion.

15 EXAMINER BROOKS: Well, the witness can testify
16 -- He's testifying as the expert, he can testify to an
17 ultimate issue. So I'll overrule the objection.

18 THE WITNESS: Well, let me -- Why don't you re-
19 state the question?

20 Q. (By Mr. Padilla) Okay. Would drilling the wells
21 in the east half of Section 27 protect the correlative
22 rights for the people and interest owners in the east half
23 of Section 27?

24 A. I believe so.

25 Q. Let's move on to Exhibit Number 7. What is that?

1 A. Exhibit Number 7 -- And let's keep Exhibit 6
2 handy.

3 Q. Okay.

4 A. Exhibit Number 7 is a little bit more technical
5 detail as it relates to the existing Fruitland Coal
6 completions on Exhibit Number 6. We've listed the well
7 names, the locations, the perforated intervals, the gross
8 intervals that range from 160 feet to 270 feet, the date of
9 completion, and a brief summary of the stimulation that was
10 performed on that well. You can see that there's -- I
11 think there's nine wells. Four of them were done in a two-
12 stage stimulation program, the balance were single-stage.

13 What we've done, then, is shown the production
14 for year one through year five, as available, and the
15 cumulative production -- I believe this cum is as of
16 February-March of this year, whatever that was public in
17 the files.

18 The second page is what's called a time-zero
19 graph. And what that does is take each one of these wells
20 back to its first year of production and put that
21 production number on there. And then it does it for the
22 second year, the third year and the fourth year.

23 And then purpose of that is to provide some sort
24 of statistical analysis of what one might expect -- if we
25 were to drill a Fruitland Coal well in this area, what

1 range of values could we expect to see, as far as rates?
2 Which ultimately will lead to some reserve number.

3 You can see that the one well with the blue, the
4 Congress Number 4, was drilled in 1993, and it's cum'd 950
5 million cubic feet, almost a BCF of gas. The remaining
6 wells are relatively new. But the wells that are completed
7 in the top -- or the higher producing rates early on, all
8 seem to exhibit that, in my judgment, as a result of the
9 stimulation program.

10 MR. KELLAHIN: Mr. Examiner --

11 THE WITNESS: The wells that are on the bottom
12 half of the --

13 MR. KELLAHIN: I don't intend to be a nuisance,
14 Mr. Examiner, but this is objectionable because it's not
15 relevant. His prehearing statement filed by counsel
16 indicated his reason for the exception is topographic.
17 We're now into a discussion about reserves and his
18 anticipations of recovery from the subject well. That's
19 not what this case is about. It's on strictly topographic
20 excuse for the location.

21 EXAMINER BROOKS: If the location -- if the
22 objection to the location is based on correlative rights,
23 though, it would seem it would be relevant to that issue.

24 I'll overrule the objection.

25 THE WITNESS: Again, the purpose of the data wa

1 to provide some early time analysis and identification that
2 we use internally to evaluate offsets and what do we think
3 the more appropriate stimulation technology would be? And
4 to give us some feeling of the results that we should
5 expect. But it's quite apparent by looking at that, that a
6 well could make 5 MCF a day or it could make 600 MCF a day.
7 We just don't know the answer to that.

8 Q. (By Mr. Padilla) Mr. Holcomb, does this data
9 that you have here give you any predictability about
10 drainage --

11 A. Absolutely none.

12 Q. -- and what the effect of crowding the line may
13 be?

14 A. Over the years that I was with Amoco -- I was
15 with them until 1985, from the early 1970s, and Amoco was
16 probably the pioneer in the development of the Fruitland
17 Coal, specifically in the Cedar Hill area and in subsequent
18 -- did quite a bit of technical analysis. And I know
19 there's been a lot done since then, and frankly I haven't
20 kept up with all of it.

21 But from the people that I have discussed it
22 with, there seems to be an overwhelming response that we
23 can't identify through models accurate frac path lengths or
24 placement. We can identify orientation, we think. So we
25 don't know -- We don't believe that historical modeling

1 that develops radial patterns is necessarily applicable to
2 Fruitland Coal and the cleat system and the producing
3 mechanism there, as opposed to a typical sandstone
4 reservoir.

5 Where all that leads is, what should we expect
6 from a drainage standpoint? Or what should we expect from
7 this proposed location, and how might it impact correlative
8 rights? I don't know the answer to that. I think that the
9 information that I have received, the preferential
10 orientation on stimulation runs 10 to 15 degrees north of
11 west to 10 to 15 degrees south of east, which was almost
12 horizontal.

13 We can go back to these photographs, specifically
14 Exhibit Number 3, and see that since 9/11 the probability
15 of being able to drill a well inside the fence boundary of
16 Giant's refinery is zero.

17 Should one be predicting some sort of drainage
18 that would run in that orientation that I just described,
19 when will it occur and how far will it extend? I just
20 don't have an answer to that. I don't know. But it limits
21 you from a recovery standpoint, I think, in protecting the
22 rights, specifically when we also own interest in the east
23 half. The available locations would be on the very
24 northern end of the refinery boundary and south of the
25 river, in my judgment.

1 Q. Move on to Exhibit Number 8. What is that?

2 A. Exhibit 8 is a letter all Basin -- I assume all
3 Basin-Fruitland Coal operators received, from Steve Hayden,
4 the District Geologist in Aztec, that he had had some
5 conversations -- at least in follow-up conversations our
6 office has had with Steve, with some operators north of the
7 high-producing fairway, have requested that the coalbed
8 methane task force be reconvened to further investigate the
9 downspacing of the Fruitland Coal to 80 acres.

10 Q. Are you south of the fairway?

11 A. We are, and --

12 MR. KELLAHIN: Mr. Examiner --

13 THE WITNESS: -- our conversations --

14 MR. KELLAHIN: -- object, beyond the scope of the
15 case.

16 EXAMINER BROOKS: Overruled, go ahead.

17 THE WITNESS: Follow-up conversations with Steve
18 have indicated that certainly if that goes forward to the
19 north, it would be applicable to the south of the fairway
20 also.

21 Q. (By Mr. Padilla) What's this letter saying
22 really?

23 A. I'm sorry?

24 Q. What's this letter saying, Exhibit 8?

25 A. Let's get together and decide if we're going to

1 make a proposal to the OCD to downspace to 80 acres.

2 You know, historically, if we look at the
3 development of oil and gas wells in the United States,
4 they've all been downspaced. It doesn't matter which basin
5 or which field you're in. They've started large and gotten
6 smaller.

7 Q. In terms of crowding the line, how is this
8 relevant to the Application?

9 A. Well, the relevancy would only apply to the
10 existence of -- We have proposed one well in the northwest
11 quarter. This -- should it be allowed to go to 80 acres,
12 there would be another well that ultimately would be
13 proposed there. And where we would put that, right now
14 frankly I don't have any idea. My best guess would be,
15 sometime down the road when the gravel operations are over,
16 try again to work some sort of arrangement with Mr. Foutz.

17 Q. Let's move on back to Exhibit Number 1. Would
18 you describe the surface at your proposed location?

19 A. Well, Exhibit 1 is a good one to do that, but I
20 think it's better if we use Exhibit Number 3. Exhibit 3
21 was the topographic -- or the aerial photograph of the
22 refinery area, with the big red dot. You can see on that
23 far western side where it says "Boundary Adjustment", and
24 it shows that weird-looking area where the big red dot is
25 located. That acreage was purchased by Giant from an

1 insistence by Foutz and Bursom after they had some
2 contamination.

3 EXAMINER BROOKS: Now where is this?

4 THE WITNESS: Where is what?

5 EXAMINER BROOKS: Where it says "Boundary
6 Adjustment"?

7 THE WITNESS: Okay --

8 EXAMINER BROOKS: Oh, I see it. I see what
9 you're -- I'm sorry.

10 THE WITNESS: Okay. And that surface is now
11 owned by -- I guess it would be Western Refinery.

12 That property, there's a road, a lease-type road
13 that comes off of Sullivan Road that goes right along the
14 canal, and it's shown in white. The land is flat, it's
15 been graded. There is a large berm, probably eight to ten
16 feet, that bisects that laterally in the center, and all
17 the property to the south of it is used by contractors for
18 parking when they have plant turn-arounds for repairs and
19 maintenance.

20 And they -- "they" meaning Giant -- wanted us to
21 move the location to the north of that boundary, which we
22 did, and we have successfully negotiated a surface owner's
23 agreement with Giant Refinery to go forward there.

24 Which brings up an interesting point. As you all
25 know, the State Legislature has passed effective July 1 a

1 Surface Owner Protection Act, and we have maintained a
2 posture where possible as a company that we go forward with
3 those kind of negotiations and contracts and agreements
4 with surface owners as a matter of course.

5 We would not be able to get one of those with
6 Foutz and Bursom, and I don't think, at least based upon
7 the information that I've received directly from Planning
8 and Zoning and Parks and Rec, that they would come forward,
9 the City of Bloomfield, either.

10 Q. (By Mr. Padilla) Mr. Holcomb, would approval of
11 this Application be in the best interests of conservation
12 and the prevention of waste?

13 A. I believe so.

14 Q. Would it protect correlative rights?

15 A. When you combine it with all the activities that
16 we've described, I think so.

17 MR. PADILLA: Pass the witness, your Honor.

18 And we'd move admission of Exhibits 1 through 8.

19 MR. KELLAHIN: We've made our objection to
20 Exhibit Number 6 -- Number 5, Mr. Examiner. We renew that
21 objection.

22 EXAMINER BROOKS: Okay, Exhibit 5 was the --

23 MR. KELLAHIN: -- well proposal for the east
24 half.

25 EXAMINER BROOKS: Oh, just the well proposal?

1 THE WITNESS: Correct.

2 EXAMINER BROOKS: Okay, I'll overrule the
3 objection.

4 You had also objected, I believe, to --

5 MR. KELLAHIN: -- Steve Hayden's letter.

6 EXAMINER BROOKS: To -- no, to the second page of
7 Exhibit Number 7. Are you not renewing that objection?

8 MR. KELLAHIN: Yes, I'll renew that for you to
9 make a decision on it.

10 EXAMINER BROOKS: Okay. As I understood it, you
11 testified -- as I understood it, Mr. Holcomb, you testified
12 that Exhibit Number 7, page 2, did not have any predictive
13 value so far as predicting the area that would be drained
14 by these wells. Did I correctly --

15 THE WITNESS: I did not. I did not take this
16 exhibit to that extent.

17 EXAMINER BROOKS: Okay. That being the case, it
18 would seem that it would be more or less irrelevant. I'm
19 not sure, though, that in a proceeding of this nature that
20 there's any harm in admitting irrelevant evidence, so since
21 I understand the limitations on what it shows, I will
22 overrule the objection and will admit Exhibits 1 through 8.
23 I believe that's all the exhibits. 1 through 8 are
24 admitted.

25 MR. PADILLA: That concludes our case.

1 EXAMINER BROOKS: Mr. Kellahin?

2 MR. KELLAHIN: Thank you, Mr. Examiner.

3 CROSS-EXAMINATION

4 BY MR. KELLAHIN:

5 Q. Mr. Holcomb, in -- when you filed the application
6 for permit to drill for the subject well, there was a plat
7 attached to it that has a pad diagram. Do you recall that?

8 A. Yes.

9 Q. That pad diagram shows a pad that's approximately
10 100 feet by 150 feet?

11 A. Correct.

12 Q. Do you typically use a pad of that size and
13 configuration for wells like this?

14 A. We have historically, and others have also. We
15 have done that in conjunction with the consultants that we
16 hire, and it's been acceptable by the drilling contractors
17 that we've used.

18 Q. So remaining confined to the limitations of a pad
19 that's 100 by 150 has been found acceptable and appropriate
20 for wells of this size?

21 A. It has been.

22 Q. When we look at the diagram that spots that well,
23 let's go to Exhibit Number 3.

24 A. Okay.

25 Q. Is there a certain orientation to the shape of

1 that rectangle?

2 A. In this particular case I believe it's running
3 north-south.

4 Q. Within the area where the pad is located, do you
5 own the minerals?

6 A. Do we -- The area is communitized, yes.

7 Q. So the entire northwest quarter is communitized?

8 A. The whole east half is -- or west half is
9 communitized.

10 Q. Okay. Is it your understanding that would allow
11 you to place a location within the northwest quarter by
12 that communitization?

13 A. Yes.

14 Q. To what extent would you have to get the
15 concurrence of a surface owner?

16 A. What -- As I indicated earlier, we do that as a
17 matter of course in all the wells that we go forward with.

18 Q. And that's the typical practice within the area,
19 is it not?

20 A. Well, I can't identify that for anybody other
21 than myself.

22 Q. For your purposes, if you have an oil and gas
23 lease --

24 A. Yes.

25 Q. -- do you -- the oil and gas lease presume that

1 includes your use of a reasonable portion of the surface?

2 A. It does.

3 Q. And where are your oil and gas leases in the
4 northwest quarter of Section --

5 A. Where are the actual leases --

6 Q. Yes.

7 A. -- that we have an interest in --

8 Q. Yes, sir.

9 A. -- that are part of the communitized tract?

10 Q. Yes, sir.

11 A. They're on the north half of the northwest
12 quarter.

13 Q. I want to find a display that you can use to
14 describe a standard drilling window within the northwest
15 quarter for me, and I think perhaps Exhibit Number 3 may be
16 the best one.

17 A. I think Exhibit Number 1 would probably be
18 better, and let me explain to you why I think that. It
19 shows the whole section. And if you'll remember back to my
20 testimony, the red lines that are drawn -- the interior
21 boundary of the yellow lines, which are the section lines,
22 is the 660-foot offset that would be acceptable as a
23 standard location.

24 Q. Well, let's do them on both plats. We'll start
25 with your Exhibit Number 1.

1 A. Okay.

2 Q. I'm going to give you a red pen in a minute to
3 take on my copy and overlay what is the standard drilling
4 window within the northwest quarter. When you move to the
5 south side of the northwest quarter, are you imposing a 660
6 setback from that side boundary?

7 A. Am I imposing? I'm not sure I understand your
8 question.

9 Q. Does a rule require that you be --

10 A. Yes.

11 Q. -- 660 from that boundary?

12 A. Yes.

13 Q. Am I clear in understanding, then, the rule
14 requires you to be 660 from the four outer boundaries of
15 the northwest quarter?

16 A. No, just the three. The interior lease boundary
17 is only 10 feet.

18 Q. That's what we were confusing each other on.

19 A. Okay.

20 Q. Would you take my pen and scribe for me what the
21 boundary is for a standard drilling window, on Exhibit
22 Number 1 in the northwest quarter?

23 A. How do you want me to do it?

24 Q. Just overlay it in a line.

25 A. And I don't know what the measurement -- I don't

1 have the scale with me to do that, but it will be
2 somewhere...

3 MR. KELLAHIN: Thank you, sir.

4 Mr. Examiner, let me show you what Mr. Holcomb
5 has scribed on my copy of the exhibit as the standard
6 drilling window within the northwest quarter.

7 EXAMINER BROOKS: Now that's in accordance with
8 what I understood to be the testimony that it runs between
9 these red lines.

10 MR. KELLAHIN: Ernie?

11 MR. PADILLA: I've seen it.

12 Q. (By Mr. Kellahin) All right. Mr. Holcomb, when
13 I look back at the Application that you filed with the
14 Division seeking the unorthodox well location --

15 A. Yes, sir.

16 Q. -- that's by letter dated March 20th of this
17 year, there were three reasons associated with the
18 topography, the first one of which is to select a location
19 that did not interfere with the ongoing Foutz and Bursom
20 gravel pit operations, correct?

21 A. Right.

22 Q. When I look at Exhibit 1 that you've scribed for
23 me, the southern portion of the drill site, the standard
24 drilling window, is located within the gravel pit, right?

25 A. I'm sorry?

1 Q. The gravel pit encompasses a certain portion of
2 the southern portion of the standard drilling window --

3 A. Correct.

4 Q. -- in the northwest quarter?

5 A. Correct.

6 Q. There's a part of that drilling window that's
7 north of the river that's still in a standard location?

8 A. Correct.

9 Q. You mentioned early on that you had plats or
10 other information by which you could subdivide the
11 northwest quarter and find the ownership?

12 A. I do.

13 Q. Within the standard drilling window for the
14 northwest quarter, can you identify for us the interest
15 owners that you have contacted about drilling a standard
16 location in that window?

17 A. Well, now you're asking me a question I'm
18 confused on. The interest owners, I assume, that you're
19 asking about are the working interest owners in the
20 proposed well. I have notified all of them.

21 Q. Have the minerals been severed from the surface?

22 A. I believe so in most every case.

23 Q. Have you contacted any current surface owner with
24 regards to the area in the standard drilling window to see
25 if you could access their surface in order to find your

1 minerals?

2 A. I have done that.

3 Q. With what owners?

4 A. Specifically the City of Bloomfield, and that's
5 the preponderance of that acreage.

6 Q. Anyone else?

7 A. No.

8 Q. In your letter --

9 A. Excuse me, Foutz and Bursom I have also, and
10 Giant Refining.

11 Q. Giant Refining's operations on this map appear to
12 be in the east half of the section.

13 A. Correct, but that's not your question. Your
14 question is, did I contact the surface owners? And I did
15 that. They owned that acreage where the wellsite proposal
16 is.

17 If you'll go back to Exhibit Number 3 where it
18 says "Boundary Adjustment", that's that land that I just
19 described that Giant owns that was purchased from Foutz and
20 Bursom.

21 Q. So when I read your Application and I see the
22 part that refers to not interfering with the Giant Refining
23 operations --

24 A. It doesn't.

25 Q. -- it means what?

1 A. I told you we have a surface agreement with Giant
2 at this point. It's outside their fence boundary, and
3 they're agreeable to it.

4 Q. When you look at Exhibit Number 3, there's an
5 area in the black and orange hatched area that scribes
6 itself around the red dot?

7 A. Yes.

8 Q. If you'll look at the eastern side of that
9 line --

10 A. Yes.

11 Q. -- does that represent the western boundary of
12 the Giant Refinery plant?

13 A. I don't think -- Okay, the Giant Refinery surface
14 ownership is detailed on this map.

15 Q. Okay.

16 A. Where the fenceline is, is very close to where
17 that north-south line is, the second one in that's yellow
18 and black, or orange and black. And I think that's the
19 question you're asking me. It's on the east side of the
20 canal.

21 Q. I'm trying to understand the letter which
22 says you're trying to locate the well in the northwest
23 quarter --

24 A. Correct.

25 Q. -- not to interfere with the Giant Refining

1 operations. When I look at Exhibit Number 3, it appears
2 that all those operations are in the northwest -- the
3 northeast quarter?

4 A. Well, I think the letter actually said Foutz and
5 Bursom operations. I don't have the letter in front of me.

6 Q. Let me show it to you.

7 A. That's correct, I did say Giant Refining
8 operations. It will not interfere with them.

9 Q. The last point in your letter is, you're trying
10 to locate the surface location so it doesn't interfere with
11 the park. Read to me what you wrote.

12 A. A park in the city of Bloomfield, correct.

13 Q. What park are you referring to?

14 A. If we go back to Exhibit Number 2, the -- you can
15 see where the baseball fields are located.

16 Q. Yes, sir.

17 A. You can see that there's some land to the north
18 of that, but that's outside of Section 27 --

19 Q. Yes, sir.

20 A. -- that's 22. To the south of those baseball
21 fields, that land to the south that shows that small arroyo
22 that's active water going through there --

23 Q. Yes, sir.

24 A. -- from there south to the river is all a park --

25 Q. Okay.

1 A. -- and back again to the west.

2 Q. Okay.

3 A. The wells that I've defined earlier, the three
4 wells that are in that fenced-in area --

5 Q. Uh-huh.

6 A. -- those are all inside the park boundaries.

7 Q. When I look at Exhibit Number 2 -- I'm looking
8 west of the diamond fields in the park -- there's a
9 vertical line in green. Do you see that?

10 A. Yes.

11 Q. Look west of that line.

12 A. That's correct.

13 Q. You're moving over into the Palfern Subdivision;
14 is that it?

15 A. Yes.

16 Q. Can you locate a well further west into that
17 subdivision?

18 A. No, that's an unorthodox location also. If you
19 will look at the photograph in Exhibit Number 2 that you're
20 focused on and go back to the first exhibit where I drew
21 the boundary lines --

22 Q. Uh-huh.

23 A. -- you'll see the northern 660 offset runs
24 through that large white building that's on the west side
25 next to the highway that runs due -- to the east, south of

1 the baseball fields. Anything up in there would be
2 unorthodox also.

3 Q. I'm having difficulty with the scale on Exhibit
4 Number 2.

5 A. I can --

6 Q. Can you show me where the centerline is for the
7 section?

8 A. On Exhibit Number 2?

9 Q. Uh-huh.

10 A. Okay, the centerline of the section should be
11 very close to First Street, which is the street immediately
12 to the east of the ballfields. Those run north-south.

13 Q. I see that. Let's go back to the ballfields
14 again.

15 A. Okay.

16 Q. If you'll look to the west of the ballfields,
17 there's the vertical line in green.

18 A. Correct.

19 Q. You said you're unable to locate a standard
20 location west of that line because you're outside of the
21 standard window?

22 A. Well, refer to the northern boundary. I have a
23 660 offset requirement. The 660 offset requirement would
24 be a horizontal line running east west from that white
25 building that's shown on the western edge, straight to the

1 east, which is south of the ballfields.

2 Q. So within the scribed area on Exhibit Number 2,
3 if you'll look to the west and then south, there's a word
4 that says "Replata"? "Replata"?

5 A. Yes.

6 Q. Look south of that. There's two -- there's two
7 yellow dots. What are those?

8 A. I don't know what those are.

9 Q. Within that general area could you not use that
10 as a well site within a standard window?

11 A. Could I?

12 Q. Uh-huh.

13 A. We went and looked at the areas that have been
14 identified north of the river.

15 Q. Uh-huh.

16 A. "Replata" -- I don't know who "Replata" is.

17 Q. I was just trying to visually get you --

18 A. Well, I understand, I understand where you're
19 focusing. That -- When I look at the development as it's
20 shown with the 660 on Exhibit Number 1 and I look at the
21 blown-up map on Exhibit Number 2, and we identify -- see
22 where those two dots that you just referred to me on --

23 Q. Yes, sir.

24 A. -- that's still a nonstandard location. Go back
25 to Exhibit Number 1 once again, and we take an east-west

1 line running from the top of that white building, going to
2 the east.

3 Q. Mr. Holcomb, what is the source of Exhibit Number
4 2? Where did this come from?

5 A. Exhibit Number 2 was provided to us by the Parks
6 and Recreation Department from the City of Bloomfield.

7 Q. When you look at your oil and gas interests in
8 the northwest quarter --

9 A. Yes.

10 Q. -- are they the same entities and the same
11 percentages as you have for your interest in the northeast
12 quarter?

13 A. No.

14 Q. So you'll have a well in the northwest quarter
15 for the benefit of those owners in the northwest --

16 A. I didn't say that. You asked me if my
17 percentages were the same, and I said the answer was no.

18 Q. Are you not encroaching on other interest owners
19 in the east half, by the proposed well location?

20 A. I own a higher interest in the east half than I
21 do the west half.

22 Q. It's about you then?

23 A. No. Think about what you just said. The well in
24 the west that I am proposing, I have a lesser interest in
25 than the east half. I have the same ownership position in

1 the east half that XTO does.

2 Q. In the east half of the section --

3 A. Yes.

4 Q. -- are your royalty interest owners the same
5 parties as you pay royalties to in the northwest quarter?

6 A. No, they're not.

7 Q. What's your criteria, Mr. Holcomb, for picking
8 either a standard or an unorthodox location? Do you have a
9 criteria that you --

10 A. No. I prefer to go to a standard location, where
11 things can be negotiated in a friendly manner and not have
12 conflict.

13 Q. Is proximity to access or a road a factor in
14 picking a location?

15 A. It does. It does -- it certainly has a bearing
16 in that process.

17 Q. And within that choice, then, the size of the pad
18 is part of the criteria, is it not?

19 A. No, the pad size -- if you'll look at historical
20 APDs I filed, as well as the ones I'll file for the ones
21 that I've AFE'd XTO for, will all be the 150-by-100 size.

22 Q. And where are you going to put those two wells?
23 What's your footages?

24 A. I answered that question earlier. I'm not sure.
25 I know that in the southwest quarter -- or southeast

1 quarter, we have substantially more options. In the
2 northeast quarter we don't have as many options because of
3 the placement of the refinery.

4 Q. Is it your prac- --

5 A. I haven't done the investigation yet to know the
6 answer.

7 Q. Is it your practice to send AFEs to proposed
8 partners in a well without specifying where that well is
9 going to be in terms of a footage distance?

10 A. Yes.

11 Q. That's what you do?

12 A. And I've had it done to the me the same way by
13 XTO.

14 Q. Is it important to you, the distance to the
15 pipeline?

16 A. Yeah, in some instances where it's applicable, it
17 is. In this particular instance I can tell you that we
18 don't know exactly where the most efficient hookup is yet.
19 We have spoken with Enterprise, we have spoken with
20 Williams, and we have had some cursory conversations with
21 ConocoPhillips.

22 Q. Is there any available gathering system in the
23 immediate vicinity?

24 A. What do you mean by --

25 Q. When you talk about pipeline, you're talking

1 about a gathering system --

2 A. Correct.

3 Q. -- that will take your production?

4 A. Correct. If we go to Exhibit 1. Exhibit 1, if
5 you'll recall, I said that there were some green lines on
6 there and some wells on the -- specifically it's on the
7 east half, that are operated by Enterprise. That's their
8 gathering system. The wells happen -- one of the wells,
9 certainly, in the northeast quarter, happens to be operated
10 by XTO. It's a Chacra-Dakota dual -- or commingled
11 completion.

12 Q. As part of your criteria for picking a well
13 location, does it matter to you whether the surface is
14 federal, fee or state?

15 A. Does it matter? Typically you can achieve
16 permits from an of the three parties, yes.

17 Q. If it's located within the City of Bloomfield,
18 you can obtain permits to do that, right?

19 A. Sure you can. Now the cost may be substantially
20 different.

21 Q. What did you have to pay for the cost of the
22 location that you obtained from Giant?

23 A. What have I paid?

24 Q. Yeah.

25 A. I have not paid them anything yet.

1 Q. So what consideration have you given them to
2 get --

3 A. They agreed to a \$2500 one payment, one-time
4 payment.

5 Q. Other than Giant and the gravel field operator,
6 the gravel pit operator, have you approached any other
7 interest owner in the standard drilling window to try to
8 get a location within that window?

9 A. The City of Bloomfield. Those are the three
10 parties.

11 Q. Have you considered directionally drilling your
12 wellbore?

13 A. No.

14 Q. What do you anticipate to be the cost of the
15 well?

16 A. I think the AFE cost is \$380,000.

17 Q. And what's your forecast for an ultimate EUR on
18 the well?

19 A. I'm not sure I know the answer to that. I'm
20 hoping that we can get \$400 million.

21 Q. Is this an area where you have to dewater the
22 coal before you can --

23 A. I believe so.

24 Q. And that would have --

25 A. It's happened in the wells that we've

1 participated in and drilled surrounding it.

2 Q. Is there an estimate of the period of time that
3 you'll have to dewater the well before --

4 A. Well, it's been really strange because the way
5 these wells have been completed in the area, as I mentioned
6 earlier on the one sheet where it varied from 160 foot of
7 gross interval to 273 feet, there's different -- there's
8 water contribution from multiple coal stringers. We've
9 seen wells in the area that have produced quite a bit
10 initially and go to a low number within a few years, and
11 we've got some that have been there for four or five that
12 are still making, 40, 50 barrels a day, 43 barrels a day.

13 Q. Do you have a forecast of what would be the
14 initial rate on this well?

15 A. Well, again, going back to the one exhibit where
16 I prepared the time-zero plot, that gave me a range of
17 values that I referred to earlier that I thought it could
18 be anywhere from 7 MCF a day, up to the peak rate that was
19 seen out there, was a well drilled in 1993, which I believe
20 was somewhere around 600.

21 The most recent wells that we've had that -- as a
22 matter of fact, XTO was a partner in all three of those
23 wells. We've averaged about -- in two of them it's been a
24 little over 200 MCF a day, and the other about 150. So I'm
25 anticipating somewhere in the 150-, 200-a-day range.

1 MR. KELLAHIN: Thank you, Mr. Examiner. No
2 further questions.

3 EXAMINATION

4 BY EXAMINER BROOKS:

5 Q. Okay, looking at Exhibit 1, because that's the
6 area that -- that's the plat that seems to show the
7 drilling window most clearly, at least it's marked on
8 there, I'm probably repeating somewhat what Mr. Kellahin
9 has asked, but if I understand correctly, the City of
10 Bloomfield's ownership runs from the south -- or -- well,
11 of course they own the baseball fields, presumably, but it
12 runs from the baseball fields south to the river; is that
13 correct?

14 A. Correct, and it also goes back to the west.

15 Q. Okay, that was going to be my next question. How
16 far back to the west does it go?

17 A. Well, if you look at Exhibit 1, they own, I
18 believe, north of that drainage arroyo that intersects the
19 river. So where the existing wells are located -- where
20 the existing wells are located in the northwest quarter --
21 Perhaps Exhibit Number 2 would show all of this better than
22 Exhibit Number 1.

23 Q. Now is the existing wells at the point marked 4C
24 on Exhibit 2?

25 A. Correct, correct.

1 Q. Okay. Yeah, I'm looking at both exhibits. But
2 this green area that runs diagonally northeast-southwest,
3 is that a drainage arroyo?

4 A. Yes, it is.

5 Q. And are you telling me that the city's boundary
6 runs along that drainage arroyo?

7 A. It's to the north of it. If we looked at the
8 exhibit to the south of the ballfields where it goes east-
9 west over towards that white building, which would be that
10 red line --

11 Q. Yeah.

12 A. -- basically, you can see the development of the
13 real estate that is on the -- if you will, the northwest
14 side of that window that I colored in earlier. Those are
15 individual fee lots.

16 Q. And these are -- this is --

17 A. -- north of the arroyo.

18 Q. -- more or less along Highway 550?

19 A. Yes, sir.

20 Q. Okay. Now does the City's boundary go -- does
21 the City's ownership go all the way over to that developed
22 area along 550?

23 A. It goes south of the -- It goes to the west of
24 the ballfield some distance, and then south to the arroyo,
25 and then it's south of the arroyo all the way to the river.

1 Q. Okay, so there's probably going to be some area
2 in there, in between the City's ownership and the developed
3 area over on --

4 A. I have that plat here if you want -- I'll have my
5 son bring it to me, and I'll show you what -- who owns
6 what, where.

7 Q. Okay. Have you explored the possibility of
8 locating the well within that area --

9 A. No.

10 Q. -- between the developed area and the City's --

11 A. No, I didn't.

12 Q. And why not?

13 A. Because the City didn't want me to have a well on
14 the north half of the river, north side of the river.

15 Q. Okay. Now there appears to be a small area down
16 to the south of the gravel pit --

17 A. Correct.

18 Q. -- between there and the half-section line.

19 A. Correct.

20 Q. Is there enough room to locate a well in that
21 area?

22 A. That's also owned by Foutz and Bursom.

23 Q. Okay. But they're not willing to sign a surface
24 use agreement anywhere on their property?

25 A. You -- That's correct.

1 Q. Even outside their gravel interests?

2 A. That's correct.

3 Q. Now you're aware, of course, that under the
4 Surface Owners Protection Act you would have the authority
5 to -- the power to file a bond --

6 A. I understand that.

7 Q. -- and locate without a surface owner --

8 A. I understand that.

9 Q. -- surface use agreement?

10 Okay, this location is selected solely for
11 surface access reasons and is not related to geologic
12 reasons; is that --

13 A. Correct.

14 Q. -- correct?

15 A. Yes.

16 Q. Okay. Going back, then, to Mr. Kellahin's
17 question about directional drilling, first of all, what is
18 the depth to the Fruitland Coal in this area?

19 A. I believe in this interval it's going to be
20 somewhere -- the top of it would be about 1650 feet, as far
21 as the basal coal, but there will be some stringers above
22 that.

23 Q. Okay. Is it feasible to do directional drilling
24 in that depth?

25 A. I don't -- Well, first of all, horizontal

1 drilling in here would be out of the question because the
2 coals are too friable and they'll collapse, and we wouldn't
3 be able to complete them adequately.

4 Directional drilling, I didn't investigate it
5 because of the depth and the incremental cost that I would
6 anticipate. Now I don't know what that is.

7 Q. Don't know what the incremental cost would be?

8 A. Right. And how would I do that? Well, the
9 first approach I would investigate would have been a
10 standard S-type configuration where I drill down to some
11 depth, kick a horizontal and then drop it vertical again.
12 But again, we're dealing with very shallow depths, and the
13 probability of mechanical issues to deal with when you use
14 artificial lift certainly get created at that point.

15 Q. Okay, now --

16 A. Let me add one more thing --

17 Q. Yes.

18 A. -- that goes with this issue of the City and the
19 Parks. This road, First Street, you can follow it all the
20 way down where it intersects the bike path, and where this
21 development in this path is ongoing. Right where it
22 crosses that arroyo -- and that's flowing water -- there's
23 an old bridge that's made out of pipe that's there --

24 Q. Made out of what?

25 A. Pipe, steel pipe. -- but it's not in the best of

1 condition. And if we put something down in this area,
2 access would be down First Street with water trucks to haul
3 water, which goes back to some of the questions that were
4 asked earlier, and we'd have water trucks in the whole park
5 area hauling water off. And we don't want to do that, we
6 don't want to be a nuisance to what the City of Bloomfield
7 is planning.

8 Q. Now you're talking about now if you were located
9 north of the river?

10 A. Correct.

11 Q. Okay. Do you know if the City of Bloomfield has
12 a drilling ordinance of any kind?

13 A. They do. And a procedure to get a permit
14 approved, they do.

15 Q. And do they undertake to regulate the location of
16 wells?

17 A. Well, the procedure is, you submit an approved
18 APD.

19 Q. Right.

20 A. That goes -- is circulated through the police
21 department, the fire department, planning and zoning and
22 parks and recreation.

23 The four parties then submit their
24 recommendations to the city council. I believe they meet
25 twice a month. And you have to have the proposal in front

1 of them at least one week -- preferably more than that.

2 They do have noise -- The City of Bloomfield, I
3 don't know if they have a published noise program that is
4 any more stringent or different than the federal
5 regulations are. Certainly if we were in a subdivision, I
6 can see where that probably would require some sort of
7 noise abatement.

8 Q. I guess my question is, does their ordinance
9 regulate the location specifically of wells, or do they
10 just regulate the manner of drilling?

11 A. Well, I guess maybe I don't understand how to
12 answer that. Certainly if I went and presented an AFE to
13 drill a well in the middle of somebody's house, they'd say
14 no.

15 Q. Yeah.

16 A. They certainly -- the city council can say, No,
17 we're not going to allow you to drill a well inside of a
18 park area. They have the right to do that. Would they do
19 that? I don't know. I asked them to provide me a letter
20 that I can bring here that says exactly what I've told you,
21 and they would not do it. And I can understand why.

22 Q. Okay. Well, going -- then one other area I
23 wanted to ask about --

24 A. Sure.

25 Q. -- you had said that you had proposed a well in

1 the east half of 27. Holcomb owns an interest in the east
2 half of 27?

3 A. Well, we -- Basin Natural Gas owns 37 1/2 percent
4 of a 320 spacing unit in the east half of Section 27.

5 Q. Right.

6 A. As I've referred earlier, we acquired Basin
7 Natural Gas some -- several years ago.

8 Q. And you -- so you own a -- through Basin Natural
9 Gas --

10 A. Correct.

11 Q. -- Holcomb owns an interest in the east half?

12 A. Basin owns it. Holcomb -- or LCS actually bought
13 Basin, and I own LCS also.

14 Q. So you personally, indirectly --

15 A. Yes.

16 Q. -- own an interest?

17 Okay. And which half section do you have the
18 larger interest in?

19 A. The east half.

20 Q. You have a larger interest in the east half than
21 you do in the west half?

22 A. Correct.

23 Q. And does XTO have an interest in the west half --

24 A. They do not.

25 Q. -- or in the east half?

1 Okay, who are the other working interest owners
2 in the west half?

3 A. Tom Dugan, XTO, Basin Natural Gas --

4 Q. Are you talking about the east half now?

5 A. The east half. Is that what you asked?

6 Q. I said the west half.

7 A. I'm sorry. West half is Mañana -- depends on the
8 horizon, but for the Fruitland Coal it's LCS Company,
9 Mañana and ConocoPhillips.

10 Q. And what percentage does Holcomb own?

11 A. 12 1/2 percent.

12 EXAMINER BROOKS: Okay, I believe that's all my
13 questions.

14 Mr. Ezeanyim?

15 EXAMINATION

16 BY EXAMINER EZEANYIM:

17 Q. Yeah, you were asked most of the questions, but
18 let me ask you one question here.

19 A. Sure.

20 Q. Which one is more important to you in choosing a
21 location? Is it topographic, geologic or access to roads?

22 A. Which is the more important to me?

23 Q. Yeah, when you are considering drilling a
24 location?

25 A. They all have some sort of bearing on a location

1 selection, and I think they're driven more by cost factors
2 than they are -- You know, if I have to build a location on
3 the side of a cliff it's going to cost me a lot more money
4 than if there's already flat ground. But when you put them
5 all together, it becomes more of an economic decision at
6 that point.

7 Q. Okay, on your -- on the red dots on --

8 A. Yes.

9 Q. -- your Exhibit Number 1 --

10 A. Yes.

11 Q. -- it looks as though those two locations, and
12 your location is the one with the black dot on it?

13 A. Right.

14 Q. Is it because of the gravel pit that you can't
15 locate, because the --

16 A. The purpose of those dots, the red dot with the
17 black dot in the center is as recommended by the APD that
18 we filed.

19 Q. Okay.

20 A. The other two were locations that XTO said they
21 would not object at hearing if I could get the locations
22 approved there. Foutz and Bursom would not approve those.

23 Q. And that goes to one question I wanted to ask you
24 then. How are you impacted? Because, you know, I want to
25 understand that. Maybe I'm jumping the gun now, because I

1 know you are going to describe how you're impacted by
2 drilling that well at that -- with the black --

3 MR. KELLAHIN: The short answer is 50 -- he's 75
4 percent too close to the boundary.

5 EXAMINER EZEANYIM: What do you say?

6 MR. KELLAHIN: He's 75 percent too close to the
7 common boundary.

8 EXAMINER EZEANYIM: I know.

9 MR. KELLAHIN: Yeah.

10 EXAMINER EZEANYIM: But I'm, you know -- Let's
11 talk about correlative rights issues here. I mean, does
12 that impact you?

13 MR. KELLAHIN: The presumption is, it violates
14 correlative rights, because he's asked for a special
15 exception to the rule. The presumption is, he has to be
16 660. It's not my burden to show a correlative rights
17 problem.

18 Q. (By Examiner Ezeanyim) Okay. Okay, so go back
19 to those red dots now. You can't do it because -- you
20 can't go back to that -- because of what?

21 A. Correct -- I can't go to the west because of the
22 gravel pit operations. The two red dots that are to the
23 west of the red dot with the black dot are on Foutz and
24 Bursom's gravel pit operations, and they do not want me to
25 be there.

1 They're both nonstandard locations, also.

2 Q. Oh, they -- okay. Okay, I --

3 A. One of them is --

4 Q. -- understand that. I understand that.

5 A. One of them is a 330 offset, and the other is a
6 440 offset.

7 Q. Oh, it's not even standard?

8 A. Neither one of them are.

9 Q. Okay, I didn't know that. I thought they are
10 standard. Okay.

11 But yet XTO says you could do that?

12 A. Yes.

13 Q. Okay, let's go back and explore this directional
14 and horizontal drilling. What is the depth of this well,
15 proposed depth?

16 A. I think we have it proposed at 1800 feet.

17 Q. 1800 feet.

18 A. Yeah.

19 Q. Okay, I can see why the horizontal or directional
20 can be difficult. But you haven't explored drilling
21 directional?

22 A. It never -- Frankly, it never entered my mind.

23 Q. Okay. I don't know, is this Surface Owner
24 Protection Act -- is that a new act?

25 A. Yes, it was signed into law to take effect

1 starting July 1st of this year.

2 EXAMINER BROOKS: Correct, it's equivalent --
3 it's the same as what we've been calling HB-827, I
4 believe --

5 EXAMINER EZEANYIM: Okay.

6 THE WITNESS: I don't remember the number.

7 EXAMINER BROOKS: -- the last Legislature.

8 MR. LEHRMAN: 842.

9 EXAMINER EZEANYIM: Okay, that's all I have.

10 EXAMINER BROOKS: Any follow-up from counsel?

11 MR. PADILLA: I don't have any further questions.

12 MR. KELLAHIN: No, sir.

13 EXAMINER BROOKS: Very good, the witness may
14 stand down. Does that conclude your case, Mr. Padilla?

15 MR. PADILLA: Yes, it does.

16 EXAMINER BROOKS: Mr. Kellahin?

17 MR. KELLAHIN: Yes, Mr. Examiner, we call Mr.
18 Paul Lehrman, please.

19 EXAMINER BROOKS: Take the witness stand.

20 PAUL LEHRMAN,

21 the witness herein, after having been first duly sworn upon
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. KELLAHIN:

25 Q. Mr. Lehrman, for the record, sir, would you

1 please state your name and occupation?

2 A. Paul Lehrman. I'm a land surface coordinator for
3 XTO Energy in Farmington.

4 Q. And where do you reside, sir?

5 A. Farmington.

6 Q. On prior occasions have you testified and
7 qualified as an expert petroleum landman?

8 A. Yes.

9 Q. Give us a general summary of what your business
10 has been?

11 A. Like my current duties at XTO or --

12 Q. Yes, sir.

13 Q. -- what I've done in the past? I've done a lot
14 of different things, leased oil and gas minerals and title
15 work. My current job duties for XTO are to locate surface
16 locations on fee land and negotiate with the owners for the
17 rights to drill.

18 Q. Prior to being by TX- -- TXO, have you provided
19 that service to other operators in the Basin?

20 A. Yes.

21 Q. Who are the other operators you've been working
22 for?

23 A. Pure Resources, Richardson Operating Company,
24 Western Gas Resources.

25 Q. Are you also familiar with land ownership and

1 plats?

2 A. Yes.

3 Q. As part of exercising your duties to be a
4 location coordinator, if you will, are you familiar with
5 the rules and regulations of the City of Bloomfield?

6 A. Yes.

7 Q. Do you make yourself knowledgeable about how to
8 locate a location that is permissible either under state
9 rules or federal rules?

10 A. Yes.

11 MR. KELLAHIN: I need to fix the -- That drives
12 me crazy.

13 EXAMINER BROOKS: Yeah, it's not quite straight.

14 MR. KELLAHIN: I know.

15 EXAMINER BROOKS: Some people feel like anything
16 that's hanging has to be straight.

17 MR. KELLAHIN: That's my problem. There.

18 MR. PADILLA: It's because you're tilting that
19 way, Tom.

20 Q. (By Mr. Kellahin) Do you have an approximation,
21 Mr. Lehrman, of the total number of pads and locations that
22 you have permitted and sought during the course of your
23 professional practice?

24 A. It's in the hundreds.

25 Q. Have you had an opportunity to examine the

1 Application of Holcomb in this case?

2 A. Yes.

3 Q. As part of your preparation, have you done a
4 search of public records for publicly available maps?

5 A. Yes.

6 Q. Based upon your study, do you now conclude that
7 there are available to Mr. Holcomb standard drilling pads
8 within a standard drilling window in the northwest quarter
9 of this section?

10 A. Yes.

11 MR. KELLAHIN: We tender Mr. Lehrman as an expert
12 petroleum landman.

13 EXAMINER BROOKS: Okay, are you a CPL?

14 THE WITNESS: No, I'm not.

15 EXAMINER BROOKS: He is so qualified.

16 Q. (By Mr. Kellahin) Mr. Lehrman, let me direct
17 your attention to the display that's marked as TXO Exhibit
18 A. I have additional copies, let me circulate those. It
19 may be easier to see the copy up close.

20 EXAMINER BROOKS: Okay. I've got so much stuff
21 up on this table it's kind of hard to find the room. I
22 actually think Mr. Ezeanyim and I can look on the same one
23 so we don't have to spread two here. Now let's see, do we
24 have this right side up or --

25 THE WITNESS: Yes.

1 MR. KELLAHIN: And we'll make sure the court
2 reporter has a copy for his records.

3 Q. (By Mr. Kellahin) Mr. Lehrman, before we have
4 you discuss Exhibit Number A, Letter A, describe for us the
5 source of this document. Where did you get it?

6 A. We obtained this map from the San Juan County GIS
7 Department in Aztec, New Mexico.

8 Q. Is it publicly available to you as a member of
9 the public?

10 A. Yes.

11 Q. Is there a fee associated with buying this?

12 A. Yes, there is.

13 Q. What's the fee?

14 A. It was \$30.

15 Q. Are you familiar with this general area that's
16 depicted on this aerial photograph?

17 A. Yes, I am.

18 Q. To the best of your knowledge, does it continue
19 to accurately project what you see when you walk upon the
20 ground in this area?

21 A. Yes.

22 Q. Is there a vintage on this map? When was the map
23 -- There's a date associated with the map.

24 A. Dated 5-1-2007.

25 Q. Superimposed on the map is a series of various

1 color codes. Do you see that?

2 A. Yes.

3 Q. Let me start first of all with the area scribed
4 with inside the two yellow boxes. If you look to the south
5 side, what's that first box?

6 A. This one down here?

7 Q. Yes, sir.

8 A. That would be the 660 setback window for the
9 southwest quarter of Section 27.

10 Q. When you look in the northern portion of the
11 display, what is scribed in that yellow box?

12 A. That's also the 660 setback in the northwest
13 quarter of Section 27.

14 Q. Are you able to locate what you understand to be
15 the gravel pit that we've talked about this afternoon?

16 A. Yes.

17 Q. And is that within the confines of the standard
18 drilling window?

19 A. Not in my opinion, no.

20 Q. Where is it in relation to the standard drilling
21 window?

22 A. It's south of the window.

23 EXAMINER EZEANYIM: Can you point it? Can we see
24 that?

25 THE WITNESS: Here's the gravel pit, right here.

1 MR. KELLAHIN: Use your pointer there.

2 THE WITNESS: I'm sorry.

3 EXAMINER EZEANYIM: Are you -- Okay.

4 THE WITNESS: That gravel pit is right here.

5 EXAMINER EZEANYIM: Okay. So it's outside that
6 drilling window?

7 THE WITNESS: Right. This is -- just for
8 reference this is Sullivan Road, Mr. Holcomb described.

9 Q. (By Mr. Kellahin) Mr. Lehrman, let me hand you
10 my red pen. Would you find for us and put a red circle at
11 where you believe the approximate location is of Mr.
12 Holcomb's nonstandard location?

13 A. Approximately right here.

14 Q. You've drawn it north of the number "2" on the
15 display?

16 A. Yes.

17 Q. And it's on up into an area that's got some
18 writing on it, and it's highlighted in white?

19 A. Yes.

20 Q. In relation to that indication of writing in
21 white, describe for us which direction we would go to find
22 the pad that Mr. Holcomb is seeking approval for.

23 A. I guess I don't understand the --

24 Q. Where's the pad?

25 A. Right here on the -- basically where that white

1 is. Come down this canal, and it's right there on that
2 little flat spot or whatever, right there.

3 Q. Identify for us with the pointer what you
4 understand to be the Giant Refinery operations. Where is
5 that?

6 A. That would be all this area right in here.

7 Q. To the best of your knowledge, is there any
8 portion of the Giant Refinery operation that is inside the
9 standard drilling window in the northwest quarter?

10 A. No.

11 Q. Mr. Holcomb mentioned a park. Can you locate for
12 us the ballfields associated with the park?

13 A. Yes, they're right up here.

14 Q. Are those ballfields outside the standard
15 drilling window in the northwest quarter?

16 A. Yes, they are.

17 Q. To your knowledge, is there any other park
18 associated with any portion of what would be the area
19 within the standard drilling window?

20 A. Yes, part of this area down here is what the City
21 of Bloomfield is now developing as, I think, open space,
22 trail systems and that kind of thing. It's --

23 Q. Having done it with the pointer, describe for the
24 record what we're visually looking at. North of the river?

25 A. Yes, here's the San Juan River, and in one of Mr.

1 Holcomb's exhibits he depicted a road being built along the
2 north side of the river, which is going to go all the way
3 along the north side of the river, all the way back up to
4 550, which would be back here. This is the Mañana, the
5 ConocoPhillips well locations he described, and this is
6 sort of an open space park that they either have or are
7 proposing.

8 Q. Having heard Mr. Holcomb's criteria for having a
9 pad located for a well in the west half of Section 27, can
10 you find, in your opinion, a standard location within the
11 standard window in the northwest quarter?

12 A. Yes.

13 Q. And where approximately would that be?

14 A. This area right in here.

15 Q. Have you permitted wells through the City of
16 Bloomfield?

17 A. I have not. We have a permitting department that
18 does that, regulatory department.

19 Q. To the best of your knowledge that can be
20 accomplished, can it not?

21 A. Yes.

22 Q. As part of your research, have you looked for
23 additional platting to show how the area in which a
24 standard well could be located is further subdivided?

25 A. Yes.

1 Q. Is that the map that you researched --

2 A. Yes.

3 Q. -- Exhibit Number B?

4 A. Yes.

5 Q. -- Exhibit Letter B?

6 Mr. Lehrman, looking at Exhibit B, what is the
7 source of this document?

8 A. The San Juan County Clerk's office.

9 Q. And as a member of the public you can go pay a
10 fee and get a copy of this?

11 A. Yes.

12 Q. Help us locate where we are. If you see on the
13 plat, there's a corner marked in the southeast, there's a
14 surveyor point in the southeast corner of the plat?

15 A. Yes.

16 Q. Can you correspond that corner to something on
17 Exhibit A so we can orient the map?

18 A. Yes, it's approximately right here.

19 Q. When you say "approximately right there", looking
20 on Exhibit A in the northwest quarter, there's a footage
21 660 line. Do you see that?

22 A. Yes.

23 Q. And there's a red -- there's a yellow line
24 associated with that number, running east and west?

25 A. Yes.

1 Q. Below that line, then, there's a magenta or a
2 purple line. Do you see that?

3 A. Yes.

4 Q. When that point goes east and west and intersects
5 the vertical yellow line, is that the point you're trying
6 to draw our attention to?

7 A. I believe so.

8 Q. Is it? So if you overlay the tract map, finding
9 the same points, and looking at Exhibit B, the tract map,
10 and referring back earlier to the portion that has been
11 divided into tracts for apparently residential purposes,
12 you see that, down in the southwest portion of Exhibit B?

13 A. Down here, yes.

14 Q. Where would that area be when you look over at
15 Exhibit 8?

16 A. I believe it's in this general area right here.

17 Q. Looking back at Exhibit B, there's a tract
18 identified as Tract A1. Do you see that?

19 A. Yes.

20 Q. What area is contained within the tract
21 identified as Tract A1, to your understanding? What do you
22 understand that tract to be?

23 A. On this -- on Exhibit B?

24 Q. Yes, sir.

25 A. As far as -- I guess I don't understand your

1 question.

2 Q. When the tract refers to six acres --

3 A. Right.

4 Q. -- what are the boundaries scribed on there with
5 lines that we can identify?

6 EXAMINER BROOKS: Excuse me, I see a Tract 1A, I
7 don't see a Tract A1.

8 MR. KELLAHIN: That's where we're working, I'm
9 sorry. It's Tract A --

10 EXAMINER BROOKS: 1A.

11 MR. KELLAHIN: Tract 1A --

12 EXAMINER BROOKS: Okay, go ahead.

13 MR. KELLAHIN: -- with the six acres.

14 THE WITNESS: Right.

15 Q. (By Mr. Kellahin) What's the area for that six
16 acres?

17 A. On this map?

18 Q. No, on B.

19 A. It's described by metes and bounds with these
20 calls on here.

21 Q. Okay. North of that call line, there's another
22 tract, and it's hard to figure out what the name is
23 associated with that tract. When you go north of the line
24 is that Tract B then? 1B?

25 A. Yes, I believe so.

1 Q. And it says -- Am I right in saying that's 30.43
2 acres?

3 A. Yes.

4 Q. Looking, then, at Tract B, how far north in Tract
5 1B do we go before we get outside the standard drilling
6 window?

7 A. I guess I can't tell by this Exhibit B. Part of
8 it goes into Section 22. Is that -- I guess I'm confused
9 by your question.

10 Q. So I guess Exhibit B shows the change from
11 Section 27 into 22, right?

12 A. Yes.

13 Q. Do you find that line?

14 A. Yes.

15 Q. You would then have to come south of that line
16 660, would you not --

17 A. Yes.

18 Q. -- in order to find the setoff line?

19 A. Yes.

20 Q. So if you're 660 south of that marker line, you
21 would then be within a standard drilling window?

22 A. Yes.

23 Q. Are you aware of who represents to own that
24 surface in that area?

25 A. Yes.

1 Q. And who is that?

2 A. Mr. R.J. Henderson, trustee.

3 Q. What is your understanding of the character of
4 that property? Is it residential or agricultural? What is
5 it?

6 A. Agricultural.

7 Q. Is it possible to locate a pad on the
8 agricultural portion of that tract?

9 A. In my opinion, yes.

10 Q. And it would be within the standard drilling
11 window, would it not?

12 A. Yes.

13 MR. KELLAHIN: That concludes my examination of
14 Mr. Lehrman.

15 We move the introduction of Exhibits A and B.

16 EXAMINER BROOKS: Any objection?

17 MR. PADILLA: No objection.

18 EXAMINER BROOKS: A and B are admitted.

19 Mr. Padilla?

20 CROSS-EXAMINATION

21 BY MR. PADILLA:

22 Q. Mr. Lehrman, when did you start investigating
23 this area for testimony here today?

24 A. Several weeks ago.

25 Q. And what has been the extent of your

1 investigation?

2 A. We've obtained the maps that you see as exhibits.
3 We've also gone on the ground and looked visually at Mr.
4 Holcomb's proposed location and other locations.

5 Q. Is any area within the first square at the top in
6 yellow floodplain?

7 A. I'm sorry, I didn't hear you.

8 Q. Do you know whether any of the area located
9 within the yellow square at the top of the Exhibit A is
10 floodplain?

11 A. I do not know that.

12 Q. You didn't investigate whether -- the suitability
13 for drilling a well there?

14 EXAMINER EZEANYIM: Excuse me, Mr. Padilla, what
15 was the question? I didn't get your question, your last
16 question.

17 MR. PADILLA: The question was whether he
18 investigated the suitability of drilling a well within
19 the --

20 EXAMINER EZEANYIM: -- yellow --

21 MR. PADILLA: -- yellow square --

22 EXAMINER EZEANYIM: Okay.

23 MR. PADILLA: -- in terms of floodplain.

24 EXAMINER EZEANYIM: Oh, okay.

25 THE WITNESS: I did not.

1 Q. (By Mr. Padilla) You did not?

2 Tell me where you propose that a well could be
3 drilled, based on Exhibit A.

4 A. Where?

5 Q. Where.

6 A. Anywhere in this area right in here.

7 Q. And is that land owned by R.J. Henderson,
8 trustee?

9 A. That's my understanding, yes.

10 Q. Did you talk to R.J. Henderson about the ability
11 to drill a well there?

12 A. No, I didn't. It's not XTO's well.

13 Q. Do you have any conflict with the testimony
14 presented by Mr. Holcomb about the extent of the park area
15 and the facilities that are presently being constructed
16 on -- by the City of Bloomfield?

17 A. Can you restate the question?

18 Q. My question was whether you had any conflict with
19 Mr. Holcomb's testimony about the extent of the plans being
20 made by the City of Bloomfield for recreational purposes or
21 park purposes?

22 A. No, no.

23 Q. So you would agree that -- I believe your
24 testimony was that where the fields are located on Exhibit
25 A would be an unorthodox location?

1 A. Right here?

2 Q. Right.

3 A. That's correct.

4 Q. Assuming the fields weren't there, would you have
5 an objection to drilling the well where the ballfields are
6 located?

7 A. I don't understand the relevance of the question.

8 Q. Well --

9 A. The ballfields are there, and they're not going
10 to move. I mean --

11 Q. I understand that, my question is based on an
12 assumption.

13 A. Yes, I would. From XTO's standpoint, you'd be
14 crowding the quarter line here again, you'd be encroaching
15 on XTO correlative rights. The purpose of this exhibit is
16 to show that there's quite a few legal locations that
17 haven't been pursued.

18 Q. Let me ask you, you're claiming that the
19 Application or the proposed well crowds a line and that
20 correlative rights are being impaired, and specifically
21 XTO's correlative rights?

22 A. That's correct.

23 Q. As far as you know, what is the definition of
24 correlative rights? And I'm not asking you as a lawyer,
25 I'm asking you your knowledge.

1 A. My knowledge of correlative rights?

2 Q. Yes.

3 A. I think you have to take into account not only
4 the operator's rights but also the mineral owner's rights,
5 which is an issue -- I mean, the OCD set these parameters
6 for the exact reason of protecting correlative rights for
7 not only an operator but also the mineral owners over here.

8 Q. I'm asking you about the definition, as far as
9 you know, of correlative rights.

10 A. My definition --

11 Q. Yes.

12 A. -- of correlative rights? I guess it's a right
13 that a person would want to protect from another
14 individual, you know. I can't really explain it in words,
15 but I can explain it as an example. If I'm --

16 Q. And yet --

17 A. Can I just finish?

18 Q. Sure.

19 A. If I'm a mineral owner under the refinery and
20 this location is approved, my minerals as a mineral owner
21 are being drained when there's a location that's orthodox
22 that could be pursued, you know. You know what I'm saying?
23 I'm not an attorney, I don't have a definition of --

24 Q. Well, I'm just --

25 A. -- correlative rights.

1 Q. -- asking you your knowledge of what you believe
2 correlative rights to be.

3 A. But that's what I believe them to be. You know,
4 it's also -- you know, you have surface issues too with
5 correlative rights, you're imposing on the --

6 EXAMINER BROOKS: Excuse me. Will you excuse me,
7 Mr. Padilla? I believe the Examiners are acquainted with
8 the concept of correlative rights. It's getting rather
9 late in the afternoon, and we'd appreciate it if you'd move
10 on.

11 Q. (By Mr. Padilla) Do you know if XTO has any
12 plans to join in the wells proposed by the Applicant?

13 A. Well, actually we've staked two locations in the
14 east half of 27.

15 Q. You have?

16 A. Yes.

17 Q. Have you proposed those wells to Holcomb?

18 A. I don't know. You'd have to ask that question to
19 our Fort Worth Land Office. But we have staked two
20 physical locations on the ground in the east half of 27.

21 Q. Where are those wells located?

22 A. One is on an XTO location right here, and the
23 other one is right here. Both proposed Fruitland Coal
24 locations in the east half of 27.

25 MR. KELLAHIN: Step back, Mr. Lehrman. You're

1 going to have to do that in words so the court reporter
2 knows where you put the pointer.

3 THE WITNESS: I'm sorry, the proposed Fruitland
4 location in the northeast quarter would be approximately
5 right here on the existing XTO location. The location in
6 the southeast quarter is approximately right here. Both
7 standard orthodox locations.

8 EXAMINER BROOKS: Proceed.

9 Q. (By Mr. Padilla) You don't have any problems,
10 topographic reasons for locating the wells at standard
11 locations, right? On the east half of Section 27?

12 A. I'm sorry, I don't --

13 Q. You don't have any topographic conditions
14 that prevent you from locating the wells at standard
15 locations --

16 A. No.

17 Q. -- on the east half of Section 27?

18 A. No, sir.

19 Q. The refinery is not a problem, right?

20 A. We have an existing location approximately right
21 here that we should be able to drill on.

22 Q. Would that well drain underneath the refinery?

23 A. Yes, in my estimation, yes.

24 Q. Would the other well located south of the
25 refinery drain underneath the refinery?

1 MR. KELLAHIN: Objection, he's asking questions
2 of the witness beyond his expertise.

3 Q. (By Mr. Padilla) As far as you know?

4 EXAMINER BROOKS: I would sustain that objection.
5 No establishment that this witness has expertise on
6 drainage radius.

7 Q. (By Mr. Padilla) On your upper square, you've
8 drawn a boundary 660 from the quarter-section line, right?

9 A. Yes.

10 Q. In fact, that's 10 feet from the quarter-section
11 line, according to the rules?

12 A. This box represents 660 from all the setbacks.
13 As Mr. Holcomb indicated, he can come down within 10 feet
14 of the quarter line, as long he was 660 from these lines.
15 This could be extended.

16 We tried to show in this exhibit that there were
17 legal locations that were not pursued in the northwest
18 quarter.

19 Q. You're not trying to tell us that you're confined
20 simply to that square the way it is now?

21 A. I'm not here to tell you anything. I'm here to
22 describe the Exhibit A as we've described it.

23 Q. Well --

24 A. But what I just said was, the rules state -- get
25 this thing to work -- you can bring this box down to 10

1 feet within the quarter line, but you'd have to stay down
2 along here 660 from this interior quarter line and the
3 section line to the west. You can encroach on your own gas
4 this way.

5 So you are correct, this box could be extended
6 into the gravel pit.

7 Q. Did you have any discussions with Foutz
8 and Bursom about their commercial gravel pit and what
9 they're --

10 A. No, I did not.

11 Q. Okay. What discussions did you have with the
12 City of Bloomfield?

13 A. I spoke with Mr. Barnes about the park and their
14 plans for it and how he felt about the location within the
15 park. He indicated that he and the parks director would
16 probably recommend nonapproval for that.

17 MR. PADILLA: Okay, that's all I have.

18 EXAMINATION

19 BY EXAMINER BROOKS:

20 Q. I believe the point was made that you knew -- we
21 needed to clarify for the record where your proposed
22 locations in the east half of Section 27 were, and I don't
23 believe we ever got it in a format where the court reporter
24 could make a proper record.

25 A. Do you want me to restate that or --

1 Q. As I understand, one of them was located --

2 A. Do you want me to mark them with the red? Will
3 that help?

4 Q. Yeah, that would help, because that will be the
5 official exhibit, and then when you take that down you can
6 exchange that with the court reporter, with the one that
7 the court reporter has.

8 Okay, so you've marked -- One of them that you
9 marked is --

10 A. It's hard to see. It's just basically east of
11 this big white tank.

12 Q. Okay, the one -- yeah, the one in the northeast
13 quarter is in the low area. It's east of the tank and
14 north of the drainage ditch, right?

15 A. Yes.

16 Q. And kind of flat -- what looks like a flat area?

17 A. It's just off -- it's basically just offsetting
18 our existing location there. Part of it will overlap the
19 existing location.

20 Q. Now that is fairly far over into the eastern
21 portion of the northeast quarter, right?

22 A. Well, the center of the quarter section is --

23 Q. Is the center -- is this red line -- are these
24 the --

25 A. I believe so.

1 Q. Is it where these two red lines intersect, is
2 that the center of the quarter?

3 A. Well, this is kind of cut off on this corner, but
4 I believe so.

5 Q. Okay. So you're just a little bit to the east of
6 the --

7 A. Yes, we felt that --

8 Q. -- to the east of the line that marks the east-
9 west center of the quarter, right?

10 A. We felt they would both be orthodox locations.

11 Q. Okay. If you're concerned -- Do you have any
12 understanding of why your company, if they're concerned
13 about being drained from the northwest quarter, would want
14 to drill way over on the other side of the quarter?

15 A. Well, we'd like to exploit our minerals also.

16 Q. Well, since you're not a geologist, that's
17 probably not a very fair question to ask you.

18 You said you discussions with the City about the
19 park area. Did you discuss with the City about the area
20 between the park area and 550 that you're referring us to?

21 A. Are you talking about right over here?

22 Q. No, I'm talking about the area farther north that
23 you said --

24 A. Right in here?

25 Q. Yeah.

1 MR. HOLCOMB: The yellow square on the northwest
2 quarter?

3 EXAMINER EZEANYIM: Yes. Do you own anything
4 there?

5 MR. HOLCOMB: I don't understand --

6 EXAMINER EZEANYIM: Do you own any interest in
7 that area?

8 MR. HOLCOMB: Am I -- Do I have any interest in
9 there?

10 EXAMINER EZEANYIM: Yes, yes.

11 MR. HOLCOMB: Based upon my conversations with
12 the City of Bloomfield, I don't want to be north of the
13 river, period.

14 EXAMINER EZEANYIM: And that's because what?

15 MR. HOLCOMB: Because of the obstruction and the
16 problematic issues with the heavy equipment going -- based
17 upon the testimony I just heard, where Mr. Barnes didn't
18 seem to have a -- he's head of planning and zoning --
19 didn't have a problem having access south of the ballfield,
20 that's through their park, and they've told me they don't
21 want me in their park.

22 EXAMINER EZEANYIM: Okay, you prefer to be south
23 of the river?

24 MR. HOLCOMB: I do. That road is used to heavy
25 oilfield traffic, it's the most accessible and the least

1 obtrusive, and the noise level problem, operating
2 compressors, is not going to be an issue over there.

3 EXAMINER EZEANYIM: Okay.

4 THE WITNESS: Can I say something?

5 EXAMINER BROOKS: Do you have something else you
6 wanted to say?

7 THE WITNESS: Yes.

8 EXAMINER BROOKS: Go ahead.

9 THE WITNESS: I did mention this access to what I
10 believe to be legal locations in the northwest quarter.
11 There are other access points to those leases.

12 Q. (By Examiner Ezeanyim) Where are they?

13 A. Well, you'd have to come through here or from 550
14 or -- I didn't investigate those, but I believe there to be
15 other accesses to those drilling locations. But the short
16 duration for a Fruitland Coal well, that's something that
17 would have to be determined by the City once you made the
18 Application.

19 Like I said, Mr. Barnes didn't seem to have any
20 indication that it wouldn't be approved. It would be
21 within the city limits.

22 But that's an application that's relatively to
23 file and get approved once you meet their setback
24 requirements.

25 EXAMINER BROOKS: Any further questions --

1 EXAMINER EZEANYIM: No, no --

2 EXAMINER BROOKS: -- for this witness?

3 EXAMINER EZEANYIM: -- no.

4 EXAMINER BROOKS: All right, nor do I have any
5 questions.

6 Very good, any follow up from counsel?

7 MR. KELLAHIN: No, sir.

8 EXAMINER BROOKS: You may step down.

9 Counsel --

10 MR. KELLAHIN: That concludes our presentation,
11 Mr. Examiner.

12 EXAMINER BROOKS: Okay. It's rather late in the
13 afternoon and we have another case to hear, but does anyone
14 wish to make a closing statement?

15 MR. KELLAHIN: We would like to propose a draft
16 order for you, and then we could go on with other cases.

17 EXAMINER BROOKS: That would be good.

18 Mr. Padilla?

19 MR. PADILLA: A draft order would be fine. I
20 think --

21 EXAMINER BROOKS: Okay.

22 MR. PADILLA: -- the issues are fairly clear, and
23 I think that Holcomb is a -- as a whole, is pretty confined
24 in terms of drilling location. All you have to do is look
25 at the aerial photographs. It's pretty tight.

1 EXAMINER BROOKS: Okay, very good. Thank you.

2 We will take a 10-minute recess, reconvene just a
3 couple of minutes after 4:00.

4 (Thereupon, a recess was taken at 3:52 p.m.)

5 (The following proceedings had at 4:00 p.m.)

6 EXAMINER BROOKS: I forgot to say at the
7 conclusion, just before we took the break, I forgot to make
8 the statement, Case Number 13,918 is taken under
9 advisement.

10 (Thereupon, these proceedings were concluded at
11 4:00 p.m.)

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 13918,
heard by me on June 21, 2007
David K. Brooks Examiner
Oil Conservation Division

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 Division 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 June 27th, 2007.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2010