

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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:

COPY

CASE NO. 14253

APPLICATION OF CIMAREX ENERGY CO.  
FOR A NON-STANDARD OIL SPACING AND  
PRORATION UNIT AND COMPULSORY  
POOLING, CHAVEZ COUNTY, NEW MEXICO

and

CASE NO. 14254

APPLICATION OF CIMAREX ENERGY CO.  
FOR A NON-STANDARD OIL SPACING AND  
PRORATION UNIT AND COMPULSORY  
POOLING, CHAVEZ COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

2009 JUN 1 1 34 PM RECEIVED

January 8, 2009  
Santa Fe, New Mexico

BEFORE: TERRY WARNELL: Hearing Examiner  
DAVID BROOKS: Technical Advisor

This matter came for hearing before the New Mexico  
Oil Conservation Division, Terry Warnell, Hearing  
Examiner, on January 8, 2009, at the New Mexico Energy,  
Minerals and Natural Resources Department, 1220 South  
St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: PEGGY A. SEDILLO, NM CCR NO. 88  
Paul Baca Court Reporters  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102

1 Examiner's Hearing  
Case Nos. 14253 and 14254

2

3

I N D E X

4

Page

APPLICANT'S WITNESS:

5

HAYDEN TRESNER

6

Direct Examination by Mr. Bruce 4

Cross-Examination by Mr. Hall 15

7

Redirect Examination by Mr. Bruce 23

DAVID AST

8

Direct Examination by Mr. Bruce 24

Cross-Examination by Mr. Hall 30

9

MARK AUDAS

10

Direct Examination by Mr. Bruce 36

Cross-Examination by Mr. Hall 41

11

COG's WITNESSES:

12

JAN PRESTON SPRADLIN

Direct Examination by Mr. Hall 46

13

Cross-Examination by Mr. Bruce 56

14

APPLICANT'S EXHIBITS:

15

Exhibit No. 1 41

Exhibits 2 through 6 15

16

COG's EXHIBITS:

17

Exhibits 1 through 3 56

18

COURT REPORTER'S CERTIFICATE

19

A P P E A R A N C E S

20

FOR THE APPLICANT:

JAMES BRUCE, ESQ.

21

Attorney at Law

22

P. O. Box 1056

22

Santa Fe, NM 87504

23

FOR OCG:

J. SCOTT HALL, ESQ.

24

Montgomery and Andrews

24

325 Paseo De Peralta

25

Santa Fe, NM 87501

1 HEARING EXAMINER: We'll hear Case 14253 and  
2 Case 14254 together. Case 14253 is the Application of  
3 Cimarex Energy Company for non-standard oil spacing and  
4 proration unit and compulsory pooling, Chavez County,  
5 New Mexico.

6 Also heard at the same time will be Case  
7 No. 14254, Application of Cimarex Energy Company for  
8 non-standard oil spacing and proration operation unit and  
9 compulsory pooling, Chavez County, New Mexico.

10 Call for appearances.

11 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe  
12 representing the applicant. And I have three witnesses.

13 MR. HALL: Mr. Examiner, Scott Hall of  
14 Montgomery and Andrews Law Firm of Santa Fe appearing on  
15 behalf of COG Operating, LLC. I have one witness this  
16 morning.

17 HEARING EXAMINER: Okay. Would the witnesses  
18 please stand and state your names one at a time and be  
19 sworn in?

20 MR. TRESNER: Hayden Tresner.

21 MR. AST: David Ast.

22 MR. AUDAS: Mark Audas.

23 MS. PRESTON SPRADLIN: Jan Preston Spradlin.

24 (Note: Witnesses placed under oath.)

25 HEARING EXAMINER: Any opening statements?

1 MR. BRUCE: The only thing I have to say, and I  
2 think that you're aware, Mr. Examiner, COG presented  
3 pooling cases on these two well units in November.

OCT 30 2008

4 And for reasons that my witness will testify  
5 about, at that time, applications had just been filed on  
6 the Cimarex cases.

7 So what we have here, you have now heard two  
8 different times, they're two competing pooling cases. I  
9 don't really have an opening statement.

10 HEARING EXAMINER: Mr. Hall?

11 MR. HALL: I have no opening statement.

12 HEARING EXAMINER: All right. Mr. Bruce, you  
13 may proceed.

14 HAYDEN TRESNER,  
15 the witness herein, after first being duly sworn  
16 upon his oath, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BRUCE:

19 Q. Would you please state your name and city of  
20 residence for the record?

21 A. Hayden Tresner, and I reside in Midland, Texas.

22 Q. Who do you work for and in what capacity?

23 A. Cimarex Energy Company, and I am a landman.

24 Q. Have you previously testified before the  
25 Division?

1 A. I have not.

2 Q. Would you summarize your educational and  
3 employment background for the examiners?

4 A. Yes. I graduated from Texas Christian  
5 University in December 2004. I worked for approximately  
6 two and a half years as petroleum landman in south Texas,  
7 and then came to work for Cimarex as a house landman last  
8 October.

9 Q. Does your area of responsibility at Cimarex  
10 include this portion of southeast New Mexico?

11 A. Yes, it does.

12 Q. And are you familiar with the land matters  
13 involved in this case?

14 A. Yes, I am.

15 MR. BRUCE: Mr. Examiner, I tender Mr. Tresner  
16 as an expert petroleum landman.

17 MR. HALL: No objection.

18 HEARING EXAMINER: Mr. Tresner is so noted.

19 Q. Mr. Tresner, we've marked exhibits in the  
20 booklet labeled as Exhibit 1. Let's start with the land  
21 plat behind the first tab. Could you describe what that  
22 reflects for the examiners?

23 A. Yes. That's a land plat showing all of the  
24 Lower Abo wells that Cimarex Energy Company has drilled to  
25 date, approximately 25 Lower Abo wells, with six being in

1 the Caprock area in Township 15 South, 31 East, Chavez  
2 County, New Mexico.

3 Q. And does the yellow -- whether it's dark yellow  
4 or light yellow, indicate whole or partial Cimarex  
5 acreage?

6 A. That's correct.

7 Q. Okay. And then over in 15-31, you've highlight  
8 in bold Section 10. That's why we're here today regarding  
9 the south half of Section 10, are we not?

10 A. Yes, sir.

11 Q. There's quite a few wells in here. When did  
12 Cimarex first begin developing this general area?

13 A. The beginning of 2007.

14 Q. So it's been active out here for a couple of  
15 years?

16 A. That's correct.

17 Q. Let's move on to the next tab. What does the  
18 first land plat reflect?

19 A. That is a land plat of a leasehold ownership in  
20 the Caprock 15-31 in Chavez County, New Mexico. The  
21 yellow tracts are Cimarex acreage; the light blue or blue  
22 tracts would be COG Chesapeake acreage. It's just a shot  
23 of the ownership in Caprock.

24 Q. Okay. And what does the next plat reflect?

25 A. It's a basin survey topo map of all of Cimarex

1 Energy Company's State well locations.

2 Q. Okay. And again, this is 15 south, 31 east?

3 A. Yes, sir.

4 Q. And how many, roughly, are there in this  
5 township?

6 A. Approximately 55.

7 Q. What is behind the next tab?

8 A. That is a plat of the pipeline that DCP --

9 Q. No -- I'm sorry -- Yes. Maybe mine are the only  
10 ones out of order here. Okay.

11 A. The next exhibit is a shot of the -- shows the  
12 route of the pipeline that we've contracted with DCP to  
13 install that extends from north Eddy County up into the  
14 Caprock area 15-31.

15 Q. Okay. And there are a couple follow-up pages.  
16 What are they?

17 A. The same thing, showing the route of the  
18 pipeline to our well locations.

19 Q. And so, regarding the pipeline, has Cimarex had  
20 to commit to do -- regarding volumes on its pipeline?

21 A. Yes, we have. We're to provide a certain volume  
22 of gas, and if there is any shortfall in that, then  
23 there's fees associated with the difference.

24 Q. Okay. So you have committed funds necessary so  
25 that you could fully develop your acreage in this

1 township?

2 A. That's correct.

3 Q. I think there's -- the next -- are the Yorktown  
4 and -- there's a third plat with Yorktown called Fee  
5 No. 2. Is that pipeline completed yet?

6 A. Yes, it is. The Yorktown is a producing well.

7 Q. Okay. And so the pipeline is running through  
8 Section 10, so the pipeline is readily available?

9 A. The southern half, yes, sir.

10 Q. Okay. Then we get to the thing that I skipped  
11 through. Behind the next tap there is a Surface Use  
12 Agreement. What does that reflect?

13 A. That's a copy of the Surface Use Agreement we  
14 have in place with the largest single landowner, Bill  
15 Medlin. He owns the majority of the fee acreage in this  
16 township.

17 Q. Okay. And that acreage is reflected on  
18 Exhibit A to the Surface Use Agreement?

19 A. Yes, it is, it's crosshatched.

20 Q. Behind the next tab there's a plat. What does  
21 that plat reflect?

22 A. The crosshatched tracts on the plat represent  
23 the lands that are covered under the Surface Use Agreement  
24 we have in place with the fee surface owner, Bill Medlin.

25 Q. So it's just a visual representation of the

1 Surface Use Agreement acreage?

2 A. That's correct.

3 Q. Now, let's move to the next plat, the plat of  
4 Section 10. Can you discuss that for the examiners?

5 A. Yes. That's an ownership plat of Section 10.  
6 And as you can see by the colors on the map, Chesapeake  
7 owns the northeast quarter of this Section 100 percent.  
8 Cimarex Energy Company owns the southeast portion of this  
9 Section 100 percent of the leasehold interest. And the  
10 west half is owned 50/50 by COG and Chesapeake.

11 Q. Okay. Now, on this plat you have Taurus  
12 Federal. That's what COG refers to its well as, the  
13 Taurus well, does it not?

14 A. That is correct.

15 Q. And this also reflects, though, what the  
16 location would be of the Cimarex wells, correct?

17 A. This reflects the surface and bottom hole  
18 locations of COG's wells.

19 Q. Of COG's wells.

20 A. And how they propose those.

21 Q. Okay. Now, COG has APDs on its wells, correct?

22 A. Correct.

23 Q. And as a result, the OCD will not accept for  
24 filing any APDs for Cimarex as well?

25 A. That is my understanding.

1 Q. To the best of your knowledge, will there be any  
2 difference in the well locations between COG and the  
3 Cimarex wells? They would be roughly at the same  
4 location, would they not?

5 A. Yes. Both would be located in the south half of  
6 Section 10.

7 Q. Okay. And so, one well would be the north  
8 half -- one well unit would be the north half south half  
9 of Section 10, and the other well unit would be the south  
10 half south half of Section 10?

11 A. That is correct.

12 Q. And you do not have voluntary agreements with  
13 either COG or Chesapeake, do you?

14 A. We do not.

15 Q. And so those are the parties you seek to force  
16 pool in these cases?

17 A. That is correct.

18 Q. And the ownership in each instance would be 50  
19 percent of Cimarex, 25 percent COG, and 25 percent  
20 Chesapeake?

21 A. That's correct.

22 Q. Now, let's discuss Cimarex's efforts to obtain  
23 the voluntary joinder in these wells. When I was looking  
24 at one of the earlier plan plats, it actually had the  
25 southeast quarter listed as Chevron acreage. Has Cimarex

1 acquired an assignment from Chevron on the southeast  
2 quarter?

3 A. We have a term assignment from Chevron.

4 Q. And what does the correspondence in the  
5 documents under the next tab reflect?

6 A. The first letter is my initial proposal that was  
7 made to Chevron. It was a request for a term assignment,  
8 and part of the lands that we were wanting to acquire were  
9 the operating rights to the southeast quarter of  
10 Section 10, 15-31 Chavez county.

11 Q. Now, that first offer or request to Chevron was  
12 made almost 11 months ago, correct?

13 A. On February 18, 2008.

14 Q. How long did it finally take to get Chevron to  
15 agree to a term agreement?

16 A. Chevron actually delivered our term assignment  
17 in the mail by letter dated September 22, 2008.

18 Q. So it took seven years -- seven months to make a  
19 deal with Chevron?

20 A. It felt like seven years, but seven months, yes.

21 Q. And listed behind the first offer letter is the  
22 final Chevron letter with the agreement, correct?

23 A. That's a copy of the memorandum of our term  
24 assignment.

25 Q. Okay. And now, once you got the term

1 assignment, did Cimarex then begin preparing proposal  
2 letters and AFEs regarding its proposed wells?

3 A. Yes.

4 Q. And what do the next couple of tabs reflect?

5 A. The next couple tabs are a copy of my well  
6 proposal letter and the AFE that we proposed the well  
7 under to COG and Chesapeake.

8 Q. Okay. And that's for the No. 1 Well, correct?

9 A. No. 1.

10 Q. And then there's -- Are the subsequent two tabs  
11 the proposal on the --

12 A. For the No. 2.

13 Q. For the No. 2 Well?

14 A. Yes, sir. The first tab we proposed to  
15 Chesapeake the No. 1. The second tab we proposed the No.  
16 1 to COG. The third tab we proposed the No. 2 to  
17 Chesapeake. And the fourth tab we proposed the No. 2 to  
18 COG.

19 Q. Okay. In your opinion, considering the time  
20 frame it took to reach an agreement with Chevron, have you  
21 made a good-faith effort to obtain the voluntary joinder  
22 of COG and Chesapeake in your proposed wells?

23 A. We have.

24 Q. And this is just for the examiners, just so  
25 they're aware, but there are no unlocatable interest

1 owners in this acreage, correct?

2 A. Not that I'm aware of.

3 Q. Do you request that Cimarex be appointed  
4 operator of the well?

5 A. Yes, we do.

6 Q. And do you have a recommendation for the amounts  
7 Cimarex should be paid for supervision and administrative  
8 expenses?

9 A. As far as the overhead rates and the -- \$6,500  
10 for drilling, and \$650 a month for producing.

11 Q. And are these amounts equivalent to those  
12 normally charged by operators in this area for wells of  
13 this depth?

14 A. Yes, sir.

15 Q. Do you request that if Cimarex's applications  
16 are granted that these overhead rates be adjusted  
17 periodically as provided by the COPAS accounting  
18 procedure?

19 A. Yes, sir.

20 Q. Mr. Tresner, I've handed out a couple more  
21 exhibits. The first one is Exhibit 12. Is that simply a  
22 land plat of this township?

23 A. Yes, it is.

24 Q. And does the second page accurately list the  
25 offset operators or working interest owners to your two

1 proposed wells?

2 A. Yes, I believe it does.

3 Q. And was notice of the pooling hearings given to  
4 COG and to Chesapeake?

5 A. Yes, they were.

6 Q. And was notice of the non-standard unit portion  
7 of these applications given to the offsets listed on  
8 Exhibit 2?

9 A. Yes.

10 MR. BRUCE: Mr. Examiner, Exhibits 3 and 4 are  
11 the Notice Affidavits showing that notice was given to and  
12 received with respect to Case 14253. And Exhibits 5 and 6  
13 are my Notice Affidavits with respect to Case 14254. And  
14 all parties did receive notice of the applications, and  
15 green cards are attached.

16 Q. Now, there's some additional exhibits left over  
17 or documents in Exhibit 1. Cimarex's next witnesses will  
18 discuss those documents?

19 A. Yes.

20 Q. And were the documents within Exhibit 1 that you  
21 testified to prepared by you or under your supervision?

22 A. They were.

23 Q. And were Exhibits 2 through 6 compiled from  
24 company business records?

25 A. Yes.

1 Q. In your opinion, is the granting of this  
2 application in the interest of conservation and the  
3 prevention of waste?

4 A. Yes.

5 MR. BRUCE: Mr. Examiner, I'd move the admission  
6 of Exhibits 2 through 6 at this time and I'll move the  
7 admission of the full exhibit later.

8 MR. HALL: No objection.

9 HEARING EXAMINER: We'll admit Exhibits 2  
10 through 6. Mr. Hall, would you like to cross?

11 CROSS-EXAMINATION

12 BY MR. HALL:

13 Q. Good morning, Mr. Tresner.

14 A. Good morning.

15 Q. You will acknowledge, won't you, that Cimarex  
16 participated in the compulsory pooling cases brought by  
17 COG in Case Nos. 14203 and 14204 for the same acreage?

18 A. Yes.

19 Q. And Mr. Bruce represented you in those hearings.  
20 They were held in October, I believe. And isn't it true  
21 that those cases were presented by COG and they were taken  
22 under advisement by the hearing examiner without objection  
23 from Cimarex, would you agree?

24 A. That is my understanding.

25 Q. Okay. And during the course of those

1 proceedings, Cimarex presented no objection to COG's  
2 proposed operations vis-a-vis its drilling plan or its  
3 plans for completing these wells; isn't that right? We  
4 don't have an issue there, do we?

5 A. No.

6 MR. BRUCE: I would note that Mr. Tresner wasn't  
7 there and the record speaks for itself.

8 Q. Okay, well, let me ask you, to your knowledge,  
9 has Cimarex indicated that it objects to COG's drilling  
10 and completion plans for these wells in any way?

11 A. Yes.

12 Q. It has? What is the objection?

13 A. We're seeking to be named operator on these same  
14 well locations that COG is seeking operatorship of.

15 Q. That's the only objection?

16 A. Yes, that's our objection.

17 Q. Okay. No objection to the technical merits of  
18 COG's drilling plans?

19 A. Not from the Land Department.

20 Q. Okay. And to your knowledge, we don't have a  
21 dispute over the geology on the south half of Section 10?

22 A. I don't know what your interpretation of the  
23 geology is.

24 Q. Okay. Has Cimarex indicated that it objects to  
25 any particular cost line item in COG's AFEs for the wells

1 it proposed?

2 A. Not to my knowledge.

3 Q. Okay. So the only dispute between COG and  
4 Cimarex is who gets to operate, period. Is that all?

5 A. That's correct.

6 Q. Okay. Aside from that issue, is there any issue  
7 in your view as a landman experienced in this area that  
8 would have any bearing on the prevention of waste or  
9 correlative rights that the Examiner needs to know about?

10 A. No.

11 Q. Okay. If we look at the south half of  
12 Section 10, in any of the exhibits you presented today,  
13 Cimarex has filed no Notice of Staking or applied for an  
14 APDs on any of the acreage we're talking about; is that  
15 right?

16 A. No, we have not.

17 Q. You discussed under Tab 2 your proposed pipeline  
18 right-of-way presented in agreement with DCP. Let me ask  
19 you about that briefly. Is this pipeline right-of-way  
20 acquired and is it fixed? Or do you know?

21 A. I'm not sure I understand the question.

22 Q. Does this represent actual acquired pipeline  
23 right-of-way?

24 A. The first plat and second plat and third plats  
25 under the Exhibit 2, I believe it is, represents the path

1 of DCP's pipeline.

2 Q. Okay. Do you know where whether DCP has  
3 acquired right-of-way?

4 A. They have.

5 MR. BROOKS: I believe it's not Exhibit 2, it's  
6 the third tab under Exhibit 1.

7 A. I apologize.

8 Q. And which of these pipeline links have actually  
9 been constructed, can we tell from this exhibit?

10 A. Which of the pipeline links have been  
11 constructed?

12 Q. Yes.

13 A. The main line is shown there on the first page.

14 Q. Is that in blue?

15 A. It is in a red dotted line.

16 Q. Okay.

17 A. And it's my understanding that that's their 10  
18 inch line. And then we have multiple connection points to  
19 that main line throughout the township that we've -- We've  
20 drilled and completed six wells in that township. So  
21 there's six different connection points.

22 Q. Now, you indicated Cimarex has a volume  
23 commitment pursuant to contract with DCP for it's system;  
24 is that right?

25 A. It's my understanding that we do, yes.

1 Q. Okay. Do you know of any reason why Cimarex  
2 couldn't take its gas from the COG operated wells and use  
3 that gas to fulfill a portion of its commitment to DCP?

4 A. I see no reason why we couldn't.

5 Q. Okay. Look under your fourth tab, I believe it  
6 is, which is your SOPA with Medlin.

7 A. Okay.

8 Q. When did the Medlins actually execute that SOPA  
9 agreement?

10 A. They executed the Surface Use and Compensation  
11 Agreement on the 10th day of August 2008.

12 Q. Okay. And you're aware that COG had previously  
13 negotiated a SOPA agreement with the Medlins and filed a  
14 recording memorandum of that agreement in the county  
15 records, are you not?

16 A. Yes.

17 Q. And COG's SOPA agreement predates Cimarex's  
18 agreement by a year?

19 A. Uh-huh.

20 Q. Do you agree?

21 A. According to the agreement that COG presented  
22 during their hearing, yes.

23 Q. Okay. If you look at Exhibit A to the Cimarex  
24 SOPA agreement, it refers to the west half of Section 10.  
25 Has Cimarex actually paid surface owners for any locations

1 there?

2 A. Locations on the west half of 10, no.

3 Q. Okay. I'll ask you about Cimarex's acquisition  
4 of term assignment from Chevron. When did you actually  
5 have an executed term assignment in hand?

6 A. Mr. Baca's letter is dated September 22, 2008,  
7 so I'm assuming within three days after that.

8 Q. Okay. Do you know at the time Cimarex filed its  
9 applications for compulsory pooling in these two cases  
10 whether Cimarex actually had any record title interest in  
11 the south half of 10?

12 A. At the time we filed these applications for  
13 force pooling, did we have record title?

14 Q. Yes.

15 A. I don't have the applications in front of me,  
16 but I believe that they were filed after we acquired the  
17 term assignment from Chevron.

18 Q. Okay. And you're aware that COG has entered  
19 into an operating agreement with Chesapeake for its  
20 interest in the south half of 10, are you not?

21 A. I'm aware of that.

22 Q. Did Cimarex attempt to negotiate any sort of an  
23 agreement with Chesapeake for this acreage at all?

24 A. No, we haven't.

25 Q. They simply got a well proposal for their

1 interest?

2 A. Yes.

3 Q. Has Cimarex committed capital in its budget for  
4 the drilling of the two wells in the south half of  
5 Section 10?

6 A. Those two wells do appear on our 2009 planned  
7 drilling schedule.

8 Q. Okay. And when are they planned for?

9 A. There's a copy of a drilling schedule. It's  
10 behind the last tab, about halfway through the paper filed  
11 under the last tab. There's a copy of our drilling  
12 schedule for this area in 2009.

13 Q. Okay. Getting back to my question, does this  
14 mean that capital has been committed for the drilling of  
15 these wells? If you know.

16 A. I do not know.

17 Q. Okay. Do you have any reason to believe that if  
18 COG drills these two wells rather than Cimarex, waste will  
19 result or correlative rights will be impaired?

20 A. I don't know.

21 MR. HALL: Nothing further, Mr. Examiner.

22 MR. BROOKS: If I understand the ownership  
23 correctly, the south half unit is 50/50 Cimarex and COG;  
24 is that correct?

25 THE WITNESS: The south half of Section 10 is

1 owned -- the southeast quarter of that section is owned  
2 100 percent by Cimarex, and then the southwest quarter of  
3 Section 10 is owned 50/50 Chesapeake and COG.

4 MR. BROOKS: Okay, so Chesapeake has --

5 THE WITNESS: Chesapeake has a 50 percent  
6 interest in the operating rights in the west half of  
7 Section 10. COG has a 50 percent working interest as  
8 well.

9 MR. BROOKS: Do you have an operating agreement  
10 with Chesapeake?

11 THE WITNESS: We do not. No, sir, we've just  
12 proposed the wells.

13 MR. BROOKS: Okay. Have you been in  
14 negotiations with Chesapeake about their interest?

15 THE WITNESS: We have not. They have not  
16 responded to our well proposal.

17 MR. BROOKS: Thank you.

18 HEARING EXAMINER: Any idea why Chesapeake  
19 doesn't respond?

20 THE WITNESS: I think that Chesapeake is well  
21 aware that all of this is taking place and as far as I can  
22 tell, they're going to sit on the sidelines and watch.

23 HEARING EXAMINER: Now, can you go to this slide  
24 here that's about five tabs back, I believe?

25 THE WITNESS: Yes, sir.

1 HEARING EXAMINER: Tell me one more time,  
2 does -- We're looking at the south half?

3 THE WITNESS: Yes, sir.

4 HEARING EXAMINER: That southeast quarter.

5 THE WITNESS: Cimarex owns 100 percent of the  
6 operating rights there.

7 HEARING EXAMINER: That's 100 percent Cimarex?

8 THE WITNESS: Yes, sir.

9 HEARING EXAMINER: And on the southwest is 50  
10 percent Chesapeake, 50 percent COG?

11 THE WITNESS: Yes. Each one has an undivided 50  
12 percent working interest in that acreage.

13 HEARING EXAMINER: Okay. I have no more  
14 questions. Mr. Bruce?

15 MR. BRUCE: Just a couple.

16 REDIRECT EXAMINATION

17 BY MR. BRUCE:

18 Q. Mr. Tresner, Mr. Hall asked you questions on  
19 geology. To the best of your knowledge, COG did not  
20 present any geologic evidence at the hearings on their  
21 cases, correct?

22 A. Not to my knowledge.

23 Q. And Cimarex is not presenting any geology today,  
24 correct?

25 A. We're not.

1 Q. And from a land perspective -- or let's just  
2 say, Cimarex is a partner with COG in other wells,  
3 correct?

4 A. Yes. They're in three of the wells that we have  
5 drilled in this township.

6 Q. Okay. And Cimarex and COG generally get along  
7 fairly well?

8 A. Yes.

9 Q. This is not meant as -- As they say, it's  
10 strictly business and for operation purposes, is it not?

11 A. Yes, that's correct.

12 MR. BRUCE: Mr. Examiner, that's all I have with  
13 the witness. I would note with respect to one of  
14 Mr. Hall's questions, that the applications for these two  
15 cases were filed on October 30th, which is after the date  
16 of execution of the term assignment from Chevron.

17 HEARING EXAMINER: So noted. The witness may  
18 step down.

19 DAVID AST,

20 the witness herein, after first being duly sworn  
21 upon his oath, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BRUCE:

24 Q. Please state your name and city of residence for  
25 the record.

1 A. David Ast, Midland, Texas.

2 Q. And who do you work for and in what capacity?

3 A. Cimarex Energy Company, Reservoir Engineer.

4 Q. Have you previously testified before the  
5 Division?

6 A. I have not.

7 Q. Would you summarize your educational and  
8 employment background for the Examiner?

9 A. I graduated in 1992 from the University of  
10 Regina in Canada. Worked 13 years in Calgary. Had a  
11 three year international assignment. And now in Midland,  
12 Texas, my career covers operations, production, reservoir,  
13 and a little bit of drilling.

14 Q. Okay. And how long have you been with Cimarex?

15 A. Six months.

16 Q. And does your area of responsibility at Cimarex  
17 include this portion of southeast New Mexico?

18 A. Yes, it does.

19 Q. And are you familiar with reservoir matters  
20 related to these applications?

21 A. Yes, I am.

22 MR. BRUCE: Mr. Examiner, I tender Mr. Ast as an  
23 expert in reservoir engineering.

24 MR. HALL: No objection.

25 HEARING EXAMINER: Mr. Ast is recognized as an

1 expert reservoir engineer.

2 Q. Mr. Ast, starting off with the black and  
3 multi-colored chart. First, what does that reflect?

4 A. This first chart reflects the six wells that we  
5 have drilled in our Caprock area. And it shows our days  
6 to drill the vertical section, days to drill horizontal,  
7 are waiting on completion, days complete, and our days for  
8 production. And it also shows our actual costs of those  
9 wells that we've drilled.

10 Q. Okay. And if you'd flip over to the next page,  
11 what does that sister chart reflect?

12 A. That is the same chart just with additional  
13 wells. This reflects all of our grassroots wells that  
14 we've drilled in the lower Abo formation, and it reflects  
15 the same type of days and actual cost information.

16 Q. Generally in looking at these, is there a slight  
17 downward trend in the number of days to drill these wells?

18 A. Absolutely. Looking at the chart with all the  
19 18 wells on there, you can see we certainly had some  
20 growing pains at the beginning to figure out what we had  
21 to do and how we had to do it and how we wanted to do it.

22 And if you look at the chart with just the six  
23 wells on it, you can see how we've cut our days down. Our  
24 capital cost is coming down.

25 And we're actually changing the way that we're

1 drilling these wells because we're using our learnings and  
2 experience that we had in our previous wells to get us to  
3 a better well quicker, faster, more efficiently.

4 Q. Okay, and we'll mention that in a minute. But  
5 let's go over the next few charts which are production  
6 charts. What do they reflect?

7 A. These are the production charts from the offset  
8 wells in Section 11 which are direct east offsets to the  
9 wells that we're proposing in Section 10.

10 The Enterprise 1 was our first well drilled.  
11 And you can see how the production came on it, give or  
12 take, about 300 barrels a day, and has trailed off.

13 By the time we got to Enterprise 2-H and 3-H, we  
14 used all of our prior learnings. We drilled these wells  
15 at the same time. We drilled one of them without a pilot  
16 hole.

17 We actually did a simul-frac stimulation on  
18 these wells, and the charts show fantastic results of that  
19 simul-frac. The Enterprise 3 is coming on at somewhere in  
20 the neighborhood of 700 to 800 barrels a day.

21 Q. Okay, so that's one of the things you mentioned  
22 with your experience are these simul-fracs?

23 A. That's correct.

24 Q. Okay. What do the -- well, there's two charts  
25 in one plastic binder. What do these daily production

1 charts reflect?

2 A. It reflects all the wells that we've drilled in  
3 the Lower Abo. And that dates back to '07 when we had our  
4 first production. And it is just showing how we're  
5 getting the bumps in our production as we're using our  
6 prior experience and learnings to get better wells.

7 The second chart shows the six wells only in the  
8 Caprock area. And you can see how we have a gap in our  
9 gas production there when we are waiting on that deep  
10 pipeline to get out there so we can produce that gas.

11 And it also a shows significant bump at the end  
12 of this year when we did the simul-frac on the Enterprise  
13 2-H and 3-H.

14 Q. And you're talking about the red line, the gas  
15 production?

16 A. Yes, sorry. The gas production is the red line.  
17 And you can see the green line takes a significant bump  
18 near the end of '08 due to the Enterprise 2-H and 3-H  
19 success.

20 Q. What are the -- even though no geology was  
21 presented, both Cimarex and COG are targeting the same  
22 zone, are they not?

23 A. That's correct, they are targeting the same  
24 zone.

25 Q. And what is the approximate vertical depth of

1 the -- I've seen it referred to as the Wolfcamp or the  
2 Lower Abo.

3 A. This is the Lower Abo. Approximate TVD is 8,700  
4 feet.

5 Q. Okay. And so, with the number of wells you  
6 drilled out here, first of all, you keep getting better  
7 results on shortening the drilling time?

8 A. That is correct.

9 Q. And you also have a good handle on the costs  
10 involved?

11 A. That is correct. And we're actually changing  
12 how we're drilling them, as well, to decrease those costs,  
13 to continue to decrease those costs.

14 Q. Okay. Let's move on to the final chart I'm  
15 going to have you discuss, is the drilling schedule.  
16 Would you discuss that for the examiners?

17 A. The drilling schedule shows that we have these  
18 two wells in Tatum 1 and in Tatum 10-2 starting to drill  
19 April 1st. We have had very serious discussion inhouse to  
20 actually drill those wells simultaneously, to get a second  
21 rig out there to drill those two wells at the same time  
22 beginning on or about April 1st.

23 And that is so we can, again, do the simul-frac  
24 stimulation on them and get the results reflected in the  
25 2-H and 3-H.

1 Q. Okay. So you think that if you drill both wells  
2 at the same time and simul-frac them, you'll get better  
3 production results?

4 A. That's correct, because again, that's what we've  
5 learned from our previous experience.

6 Q. In your opinion, will the granting of Cimarex's  
7 pooling applications be in the interest of conservation  
8 and the prevention of waste?

9 A. Yes, I do.

10 Q. And based on your experience, Cimarex's  
11 experience in the area, do you think you can best drill  
12 and complete the wells?

13 A. Yes, we do.

14 Q. And were the charts you just described prepared  
15 by you or under your supervision?

16 A. Yes, they were.

17 MR. BRUCE: I pass the witness, Mr. Hearing  
18 Examiner.

19 HEARING EXAMINER: Mr. Hall?

20 CROSS-EXAMINATION

21 BY MR. HALL:

22 Q. Mr. Ast, do you agree with Mr. Tresner that we  
23 don't have a dispute between the parties over either  
24 party's competence or ability to drill and operate these  
25 wells?

1           A.    I do not have any issue with the competence.  I  
2   do have issue with the way they are laid out on the  
3   proposed well proposals that we received from COG.

4           Q.    And it's true, isn't it, that in the course of  
5   COG's compulsory pooling applications and in its  
6   prehearing statements for these pooling application, those  
7   issues were not identified, they weren't mentioned at all?

8           A.    I can't comment on that because I wasn't at the  
9   hearing.

10          Q.    Okay, or in the prehearing statement that  
11   Cimarex filed in this case?

12          A.    I haven't seen that, so I don't know.

13          Q.    And likewise, Cimarex has not indicated in the  
14   COG cases or in its prehearing statements for this case  
15   that it has any issue with COG's well costs for its  
16   proposed wells or it's AFEs?

17          A.    That is correct.

18          Q.    And as Mr. Tresner testified, do you agree that  
19   there's no issue with respect to waste or correlative  
20   rights regardless of who operates these wells, do you  
21   agree?

22          A.    May I ask what waste is defined as?

23          Q.    Waste is premature abandonment of oil reserves.  
24   It's a statutory definition.

25          A.    Then yes, I do have some concern with that.

1 Because the way the wells are proposed, they will be  
2 drilled opposite to one another, which would make it very  
3 difficult to simul-frac them.

4 And we've already shown that the simul-frac  
5 stimulation actually increases reserves and we'll be able  
6 to recover more reserves than a single well stimulation.

7 Secondly, the proposed wells were proposed with,  
8 I believe, six stages of fracture stimulation, whereas,  
9 again, we have found that eight stages of simul-frac leads  
10 to better reserve recovery.

11 Q. Now, in drawing that conclusion, did you  
12 undertake an analysis of the fracture completions -- the  
13 drilling and fracture completion techniques that COG has  
14 used in its horizontal drillings?

15 A. No, I have not.

16 Q. Okay. Your drilling schedule exhibit, it shows  
17 "Rig TBD to be determined"?

18 A. That's correct.

19 Q. Is there a rig contracted for this area?

20 A. No, there is not.

21 Q. Okay. How firm are the April and May dates that  
22 are shown on your exhibit?

23 A. Making the assumption that costs come down a  
24 little bit and prices rebound somewhat, then we're quite  
25 confident that we can get out there April 1st and drill

1 these.

2 Q. So you won't drill until those assumptions are  
3 fulfilled; is that right?

4 A. No, that is not correct. Because I've actually  
5 done some work very recently that I haven't presented to  
6 management yet that shows we may be able to drill them  
7 sooner.

8 Q. Management has not approved that; is that  
9 correct?

10 A. That is correct.

11 Q. Do you know if capital has been committed to the  
12 drilling of these two wells?

13 A. Committed as in --

14 Q. Budgeted?

15 A. It is budgeted, yes.

16 Q. Committed in any other way?

17 A. No, sir.

18 MR. HALL: No further questions, Mr. Examiner.

19 HEARING EXAMINER: Mr. Brooks?

20 MR. BROOKS: I don't have any questions.

21 HEARING EXAMINER: I have a couple questions.

22 If we go back, I think to the last slide we were looking  
23 at, or the slide just past the drilling schedule which we  
24 haven't gotten to yet, that shows the horizontal on the  
25 3-H?

1 THE WITNESS: That's correct.

2 HEARING EXAMINER: You start to make your radius  
3 at about 8,500 feet or something like that, 8,600?

4 THE WITNESS: Yes.

5 HEARING EXAMINER: Where would we penetrate the  
6 Lower Abo?

7 THE WITNESS: Probably somewhere in the  
8 neighborhood of 9,100, 9,000 feet at measured depth.

9 HEARING EXAMINER: Uh-huh. And is that  
10 indicated here on this --

11 THE WITNESS: No, I don't believe it is.

12 HEARING EXAMINER: Would you care to make a  
13 guesstimate as to where you would penetrate it?

14 THE WITNESS: TBD wise?

15 HEARING EXAMINER: Yeah.

16 THE WITNESS: An estimate? In the neighborhood  
17 of 8,800, 8,900.

18 HEARING EXAMINER: All right. From right there  
19 it pretty well flattens out?

20 THE WITNESS: Yes, sir. That's our plan, is to  
21 enter the Abo virtually flat and land it soft in there.

22 HEARING EXAMINER: So then that entire interval,  
23 you're looking at an eight stage frac?

24 THE WITNESS: That's correct, from the toe to  
25 the heel, there would be an eight stage frac.

1 HEARING EXAMINER: And I'm not real familiar at  
2 all with the simultaneous fracturing.

3 THE WITNESS: It's a relatively new operation  
4 that we've been doing. We've done it now, I believe, on  
5 three separate sets of wells, two or three in another area  
6 we operate, and one in this.

7 The idea behind the simul-frac is that the  
8 fractures come from each well bore, hit each other and  
9 sheer off, and then go parallel with the well bore  
10 touching no rock.

11 HEARING EXAMINER: So you're physically set up,  
12 you've got your frac equipment, your pumps and everything  
13 at both locations on both wells?

14 THE WITNESS: That's correct. And when we  
15 complete these, we land our completion system, our peek  
16 system, so we have our intervals relatively within, say,  
17 50 feet of one another so they're fracturing the same  
18 section of the well at the same time.

19 HEARING EXAMINER: All right.

20 THE WITNESS: So that the fracs are pumped  
21 simultaneously one down each well.

22 HEARING EXAMINER: Okay. Thank you. No further  
23 questions. Mr. Bruce?

24 MR. BRUCE: I don't have any follow up.  
25

1 MARK AUDAS,  
2 the witness herein, after first being duly sworn  
3 upon his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BRUCE:

6 Q. Would you please state your name?

7 A. Mark Audas.

8 Q. And where do you reside?

9 A. I reside in Cisco, Texas, a suburb of Dallas.

10 Q. Who do you work for?

11 A. Cimarex Energy.

12 Q. And what's your job there?

13 A. I'm a drilling and completions engineer.

14 Q. Have you previously testified before the  
15 Division?

16 A. No, I have not.

17 Q. Would you summarize your education and  
18 employment background?

19 A. I graduated in 1999 from Louisiana State  
20 University with a Petroleum Engineering degree. I went to  
21 work for Coastal Oil and Gas two years as a production  
22 completion engineer, and got transferred to Drilling for  
23 two years. Then did reservoir for a year, and then came  
24 to Cimarex. For the last three and a half years, I've  
25 been doing drilling completions.

1 Q. Does your area of responsibility at Cimarex  
2 include this portion of southeast New Mexico?

3 A. Yes, it does.

4 Q. And are you familiar with the drilling and  
5 operation of the wells in this township that is operated  
6 by Cimarex?

7 A. Yes, I am.

8 MR. BRUCE: Mr. Examiner, I'd tender the witness  
9 as an expert drilling engineer.

10 MR. HALL: No objection.

11 HEARING EXAMINER: So accepted.

12 Q. Let's rummage through the final documents in  
13 this Exhibit 1 booklet. First of all, as you understand  
14 it, because there are existing APDs issued to COG, at this  
15 point Cimarex cannot file with the Division any  
16 application for permit to drill, correct?

17 A. That's my understanding on that.

18 Q. So at this point, you do not have an APD or  
19 directional drilling prognosis for these two particular  
20 wells?

21 A. No, I've not had one prepared yet.

22 Q. Okay. What do the first few pages of this  
23 exhibit reflect?

24 A. This is the directional plan for the Enterprise  
25 3-H. This was one of the wells that was done without a

1 pilot hole. We did not drill past the zone and log it, we  
2 just stopped at 8,500, set our casing, kicked out there,  
3 and encountered the Abo where we suspected it.

4 I think we actually encountered it around like  
5 8,810 or 8,812, somewhere around there, TDV. And then --  
6 the plan changes when you start drilling, but they'll be  
7 looking at mud logs and move up and down and geo-steer it  
8 as we go about our business. And we've done this many  
9 times out here.

10 Q. And so you would have a similar plan for the  
11 drilling of the two proposed wells?

12 A. Correct.

13 Q. Okay. And then there is a page titled "Peak"  
14 and there's a couple of documents. Would you discuss  
15 those for the examiners?

16 A. The first page is just a -- it's a hydraulically  
17 set tool. It's a liner to run in an open hole. It's Low  
18 Abo, mostly dolomite with some line. So we run the peak  
19 system in here and this is our drawing.

20 And what it is is, it's a packer, open-hole  
21 isolation packer with quartz. And you shift those quartz  
22 by dropping different size balls. So you get eight  
23 stages. And with fracing, you just drop the ball and then  
24 go to the next stage, drop the ball and go to the next  
25 stage.

1 Q. And again, the schematic of the well is  
2 reflective of what you actually did on the No. 3 well; is  
3 that correct?

4 A. Yes, this is the actual -- I believe this is the  
5 actual run one and not just the pre one. Obviously, if  
6 you drill a well, what you see on the mud log is going to  
7 change depending on what you encounter on the well bore.

8 Q. Okay. And this is the well that you got the  
9 best results on, correct?

10 A. Yes, this is the well we got the best results.  
11 The one just south of 2-H was pretty good. Was better  
12 than average also. But this one was much better than  
13 average, and we believe that has to do with the more  
14 aggressive staging in addition to the simultaneous  
15 fracture that was done.

16 Q. And next there are two AFEs. Would you briefly  
17 describe what those are?

18 A. Yes. I was asked to update an AFE here last  
19 week on the two that were originally submitted. In these  
20 new AFEs, I've -- these include the eight stage -- a  
21 larger frac job, and it's in anticipation that we'll do  
22 one similar to the 2-H and 3-H based on the results.

23 So there are some differences. I believe the  
24 1-H has a pilot hole and the 2-H does not, although I  
25 think we're --

1 Q. Which results in the difference in cost?

2 A. Yes.

3 Q. It costs a couple hundred thousand more?

4 A. Yeah. It's usually around 300 thousand,  
5 thereabouts, is what that pilot hole costs.

6 Q. And are these well costs fair and reasonable for  
7 wells drilled to this depth, horizontal wells drilled to  
8 this depth and for this length and this area in New  
9 Mexico?

10 A. Yes.

11 Q. And what is the final document in this exhibit  
12 booklet?

13 A. The final document shows the immediate wells in  
14 the area that we're talking about. It shows the  
15 Enterprise 1-H we drilled first. Then we came and drilled  
16 the Yorktown 2. Then we drilled the Enterprise 2-H and  
17 then the 3-H without the pilot hole.

18 And you can see the improvement we're seeing out  
19 there based on experience and what we're seeing and -- you  
20 know.

21 Q. Does shortening the drilling time generally --  
22 not always, but generally result in lower well costs?

23 A. Yes. They usually relate very well to your  
24 total cost of the well.

25 Q. And were the exhibits that you just discussed

1 either prepared by you or compiled from company business  
2 records?

3 A. Yes.

4 Q. And in your opinion, is the granting of  
5 Cimarex's pooling applications, and by the same token, the  
6 denial of COG's pooling applications, in the interest of  
7 conservation and the prevention of waste?

8 A. I believe it is.

9 MR. BRUCE: Mr. Examiner, at this point I tender  
10 the admission of the entire Exhibit 1 booklet.

11 MR. HALL: No objection.

12 MR. BRUCE: And I pass the witness.

13 HEARING EXAMINER: We'll admit Exhibit 1 in its  
14 entirety. And you may go ahead with your cross.

15 CROSS-EXAMINATION

16 BY MR. HALL:

17 Q. Mr. Audas, how will the denial of COG's APDs  
18 result in the prevention of waste and protection of  
19 correlative rights?

20 A. I believe based on the experience we've had out  
21 there we can go out there and hit a home run right off the  
22 bat. I think someone else going out there would have to  
23 go through the same learning steps we had to go through.

24 Q. Let me see if I understand the answer to that  
25 question. Do you agree that either COG and Cimarex can

1 drill these wells --

2 A. I believe we're both competent. I believe  
3 there's always -- in drilling a well, there's always a  
4 chance for problems, and I believe we have a lesser chance  
5 of that based on our experience.

6 Q. Okay. Do you know what experience COG has had?

7 A. I'm aware of some of the wells they've drilled  
8 in the Lower Abo, but they are not in this direct  
9 township, and I don't have full access to all their  
10 reports. I don't think we're partners in all of their  
11 stuff, so...

12 Q. You've not attempted to analyze their experience  
13 in horizontal drillings?

14 A. No, I have. Based on the information I have  
15 from them, I have analyzed their -- I'm not saying they're  
16 not competent, I'm just saying we're both competent but  
17 we're more competent, I feel.

18 Q. You prepared new AFEs -- it looks like you  
19 almost worked New Year's Eve, December 30, 2008?

20 A. Yes. And that was the first I heard of this  
21 hearing was that day.

22 Q. I see. And so costs were updated. Were these  
23 AFEs presented to either Chesapeake or COG?

24 A. I'm unaware of what their status is.

25 Q. Did you compare the updated date of fee costs

1 with COG's AFEs?

2 A. I saw COG's AFE but I did not compare it line by  
3 line or anything of that nature.

4 Q. You don't have any reason to testify that COG's  
5 AFE costs were unreasonable?

6 A. No. No, absolutely.

7 Q. Can you tell us what Cimarex might have done in  
8 order to prepare for the drilling of these wells? I'm not  
9 sure whether capital has been committed to them. You do  
10 have a surface agreement. Do you know if an  
11 archaeological survey has been done?

12 A. I've haven't handled the regulatory side so I  
13 don't -- I haven't seen that.

14 Q. You don't know if any NOS forms or APD forms  
15 have been prepared yet?

16 A. I haven't been notified of any.

17 Q. You just don't know?

18 A. No.

19 Q. And Cimarex has not prepared drilling plans  
20 specific for these wells yet; is that correct?

21 A. I have done some preliminary drilling progs on  
22 this. I haven't submitted for mud bids or bid bids, or  
23 anything of that sort. I mean, I've prepared some plans.  
24 I have to to make an AFE.

25 Q. Okay. And are you aware that Cimarex has filed

1 an application in Case No. 14269 to cancel COG's APDs, are  
2 you aware of that?

3 A. I think I heard of that yesterday. I'm not real  
4 clear of the numbers and all, but I've heard something of  
5 that nature.

6 Q. And can you tell us what grounds Cimarex is  
7 asserting for the cancellation for those previously  
8 approved APDs?

9 A. I believe it was so we could go get our own  
10 permits to drill these wells. That's my understanding.

11 Q. So the only issue is who gets to operate,  
12 there's no other issue?

13 A. Yes, that's the way I understand it.

14 MR. HALL: Nothing further, Mr. Examiner.

15 HEARING EXAMINER: Mr. Brooks?

16 MR. BROOKS: No questions.

17 HEARING EXAMINER: Brings up a good point on --  
18 I've got a question or two as far as operating. If COG  
19 were to operate those wells, do you get involved with  
20 their engineers, their drilling folks?

21 THE WITNESS: Generally, I haven't handled OBO  
22 operated by others. I think sometimes maybe one of the  
23 reservoir engineer's or -- I'm more concerned with actual  
24 -- our operations. I generally do not -- other than  
25 asking, hey, you know, we're partners and if you all did

1 something, can you tell me -- help me. But as far as  
2 actually telling them what or how to do it on a day-to-day  
3 basis, no.

4 HEARING EXAMINER: But generally speaking, if  
5 you're involved with another company they're operating, do  
6 you exchange ideas, have input into how they drill?

7 THE WITNESS: Yes.

8 HEARING EXAMINER: So one company could benefit  
9 by another company's experience or expertise?

10 THE WITNESS: Yes. At times there is some  
11 proprietary stuff that we do not want to share, but other  
12 times there is some sharing.

13 HEARING EXAMINER: And it's all what's required  
14 in everyone's best interest probably to share that?

15 THE WITNESS: Yes.

16 HEARING EXAMINER: As far as the AFEs go, and I  
17 can't remember on the COG case, but as the hearing  
18 examiner, I'm ultimately going to have to write the order  
19 for these cases, how does your AFE compare?

20 THE WITNESS: I saw their AFE. I believe it was  
21 right around five million, plus or minus. So with a pilot  
22 hole, they're going to be comparable. But if we eliminate  
23 that pilot hole, we should be under theirs.

24 HEARING EXAMINER: When we're doing the AFEs  
25 now, if we did this AFE at the end of December versus six

1 months ago, are costs coming down?

2 THE WITNESS: Some costs are. Some costs are  
3 still high. You know, wells that were drilled at the end  
4 of the year are still being completed. So some costs have  
5 come down, not all of them, but I expect costs to continue  
6 to fall down as --

7 HEARING EXAMINER: You have started to see some  
8 drilling costs and surface drilling costs come down?

9 THE WITNESS: Yes.

10 HEARING EXAMINER: I have no further questions.

11 MR. BRUCE: I don't have any more questions of  
12 this witness.

13 MR. HALL: Nothing further.

14 HEARING EXAMINER: Let's take a 10 minute break.

15 (Note: A break was taken.)

16 HEARING EXAMINER: We're back on the record  
17 again. We're in the middle of Cases 14253 and 14254.  
18 Mr. Hall?

19 MR. HALL: We call our witness Jan Spradlin.

20 JAN PRESTON SPRADLIN,  
21 the witness herein, after first being duly sworn  
22 upon her oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HALL:

25 Q. For the record, please state your name.

1 A. Jan Preston Spradlin.

2 Q. And Ms. Spradlin, you've previously been sworn  
3 today; is that right?

4 A. Yes, I have.

5 Q. And you previously testified before the Division  
6 and its examiners and had your credentials as an expert  
7 petroleum landmand accepted and made a matter of record;  
8 is that right?

9 A. Yes, I have.

10 Q. I guess I should explain, you work for COG  
11 operating as a landman?

12 A. Yes, I do.

13 MR. HALL: At this point, Mr. Examiner, we offer  
14 Ms. Spradlin as an expert petroleum landman.

15 HEARING EXAMINER: I remember Ms. Spradlin, and  
16 she is so recognized.

17 Q. Ms. Spradlin, let me ask you, do you acknowledge  
18 the receipt of the Cimarex well proposals for the south  
19 half of Section 10?

20 A. Yes, I do.

21 Q. And COG did not agree to participate in their  
22 wells; is that correct?

23 A. No, we did not.

24 Q. And explain why.

25 A. Because we have proposals out to Cimarex.

*Doc  
2007*

1 Q. Okay. And previously, your proposals went out  
2 on what date to Cimarex?

3 A. The original proposal went out in December of  
4 2007, and then another proposal was sent out -- it was  
5 sent to Chevron and Chesapeake on September 15th. We had  
6 notice from James Baca with Chevron that they were working  
7 a trade with Cimarex, and we also noticed Cimarex at that  
8 time on September 23rd.

9 Q. And neither Chevron nor Cimarex responded  
10 favorably to the COG well proposals; is that right?

11 A. There has been no response or communication.

12 Q. And did that cause COG to file its own  
13 applications for compulsory pooling in Cases 14203 and  
14 14204?

15 A. Yes, it did. Because we had had the joinder of  
16 Chesapeake with us.

17 Q. All right. Is Chesapeake's interest currently  
18 under an operating agreement with COG?

19 A. Yes, it is.

20 Q. So does COG own, speak for, or control 50  
21 percent of the working interest in the proration units?

22 A. Yes, we do.

23 Q. And you were a witness in Cases 14203 and 14204,  
24 were you not?

25 A. Yes, sir.

1 Q. And they were heard before Examiner Warnell on  
2 October 28th, I believe?

3 A. That's correct.

4 Q. And at that time, those two cases were taken  
5 under advisement without objection by Cimarex; do you  
6 recall that?

7 A. Yes, sir.

8 Q. Okay. In the course of planning for COG's  
9 development in this township, did you enter into  
10 negotiations with the rancher who operated the surface?

11 A. Yes, we did.

12 Q. And that covered a number of COG's well  
13 locations; is that right?

14 A. Correct.

15 Q. Let me hand you what we've marked for this  
16 hearing as COG Exhibit 1. Can identify this?

17 A. Yes. It's the acreage that is under the Medlin  
18 agreement.

19 Q. Okay. Now, who is Medlin?

20 A. Bill Medlin and his wife are the surface owners  
21 and tenants and own the majority fee acreage and in-state  
22 acreage in 15-31 in this area.

23 Q. And in fact, this same exhibit is already a  
24 matter of record in Cases 14203 and 14204; is that  
25 correct?

1 A. Correct.

2 Q. And you prepared this; is that correct?

3 A. Yes.

4 Q. If we look at the acreage we're talking about  
5 here today, the south half of Section 10, it shows a  
6 crosshatched acreage. What does that crosshatching  
7 represent?

8 A. That we've made an agreement with Mr. Medlin as  
9 either to his fee surface or as a tenant under the state  
10 land.

11 Q. All right. And with respect to these specific  
12 wells that COG proposed for the south half of Section 10,  
13 did COG make specific accommodations to Mr. Medlin?

14 A. Yes, we did. We permitted our Taurus federal  
15 well initially, and before we went to -- When we were  
16 finishing up on the our other three Taurus wells, he asked  
17 -- because his homestead is in Section 9, he asked if we  
18 could flip our surface and bottom hole locations on those  
19 wells to put the actual operations as far from his  
20 homestead as possible.

21 And he understood we -- if there were any kind  
22 of surface issues or things like that, we couldn't do it,  
23 but if it was at all possible. And we were able to  
24 accommodate him.

25 Q. All right. And if we look at what has been

1 marked for this hearing as Exhibit No. 2, this shows  
2 Section 10 there, does it not?

3 A. Yes, it does.

4 Q. And is Mr. Medlin's ranch house depicted there  
5 on Section 9?

6 A. Yes, it is, in the southeast quarter.

7 Q. And Exhibit 2 was prepared by you for the  
8 previous hearing; is that right?

9 A. Correct.

10 Q. Okay. Can you tell us over what period of time  
11 COG's land staff was negotiating with Mr. Medlin to obtain  
12 his agreement to surface use in this area?

13 A. We started negotiating with him as soon as we  
14 acquired the lease, the two federal leases from HAYCO in  
15 July of 2007.

16 Q. And you successfully executed a Surface Use  
17 Agreement with Mr. Medlin?

18 A. Yes, we did.

19 Q. And was notice of that Surface Use Agreement the  
20 subject of a recording memorandum in the county records?

21 A. Yes, it was.

22 Q. And is that the memorandum dated September 27,  
23 2007 which is shown by Exhibit 3?

24 A. Correct.

25 Q. So Cimarex would have been charged with notice

1 of this surface agreement when they ran their records?

2 A. Yes.

3 Q. Now, if we look at the Cimarex Surface Use and  
4 Compensation Agreement -- you don't have that in front of  
5 you, but Exhibit A to their agreement with respect to  
6 Section 10, what acreage is covered for Section 10?

7 A. It covers the west half also.

8 Q. Okay. And your Surface Use Agreement covers the  
9 south half of Section 10; is that right?

10 A. It covers the west half, and it does the  
11 southwest quarter also -- southeast quarter.

12 Q. Let's look back at your Exhibit 1.

13 A. Yeah, we also had an agreement with him on the  
14 southeast quarter.

15 Q. Okay. And so apparently, Cimarex does not have  
16 a Surface Use Agreement with Mr. Medlin for its well .  
17 locations in the southeast quarter on the surface?

18 A. I'm not aware of anything. They don't say they  
19 do on this.

20 Q. Okay. Look back at our Exhibit 2. Would you  
21 explain in a little more detail what this shows, what's  
22 depicted on here?

23 A. It's our initial locations in each of our  
24 sections where we own leaseholds, and it is an agreement  
25 that we have with Mr. Medlin on the routes and how we

1 would traverse his lands.

2 Q. Okay. So, the location of COG's surface  
3 facilities and lease roads were determined pursuant to  
4 negotiations with Mr. Medlin?

5 A. Yes, they were.

6 Q. And that's what's shown on your Exhibit 2?

7 A. Yes.

8 Q. Now, COG has in hand approved drilling permits  
9 for both of its wells in the south half of Section 10,  
10 correct?

11 A. Yes, we do.

12 Q. And is it COG's plan to start drilling this  
13 year?

14 A. Those wells, the Taurus wells, are on our  
15 drilling schedule for March.

16 Q. Okay. All right. Has Cimarex ever indicated to  
17 you or anyone else at COG, to your knowledge, why it would  
18 not participate in COG's wells?

19 A. No, they have not.

20 Q. Is there any indication from Cimarex to COG that  
21 it objected to COG's drilling plans or completion  
22 proposals?

23 A. Not to my knowledge, no.

24 Q. Was there any objection stated to COG over COG's  
25 proposed costs and it's AFEs?

1 A. Not to my knowledge, no.

2 Q. Okay. We heard some testimony about the  
3 relevant experience of Cimarex in drilling horizontal  
4 wells in southeast New Mexico. Can you tell the hearing  
5 examiners how many horizontal Wolfcamp wells COG has  
6 drilled?

7 A. We have drilled -- we have drilled none in 15-31  
8 as of this date. We have drilled and completed since the  
9 third quarter of 2006 ten horizontal wells, Wolfcamp  
10 wells.

11 Q. And have you participated in additional  
12 non-operative wells?

13 A. Yes, we have. We have been a partner with  
14 Cimarex in two of the Enterprise wells, Cave Lake wells  
15 over on 16-28, and I believe there's one other one, the  
16 Yorktown.

17 Q. All right. Now, we've heard some testimony  
18 about the Cimarex Enterprise well and their use of the  
19 simultaneous frac technique for those parallel wells.

20 A. Yes.

21 Q. Do you recall hearing that testimony?

22 A. I know that they did the simultaneous frac. We  
23 had interest in one of the wells that it was used on. We  
24 did not have an interest in the well above it. We know  
25 that it was successful, but I am not -- I don't know a lot

1 of details on that.

2 Q. All right. Do you know whether based on COG's  
3 participation in that Enterprise well that COG has any  
4 plans to change its frac or completion techniques as a  
5 result, do you see anything there that compels you to do  
6 anything like that?

7 A. Not to my knowledge. In talking with our  
8 engineers, they've -- in our recent completions in other  
9 areas, they have been very happy with the results we have  
10 gotten.

11 Q. All right. Were Exhibits 1, 2 and 3 prepared by  
12 you or at your direction?

13 A. Yes.

14 MR. HALL: And at this point, Mr. Examiner, we'd  
15 move the admission again of Exhibits 1, 2, and 3. They  
16 were previously submitted for the record in Case  
17 Nos. 14203 and 14204. We ask that the examiner take  
18 administrative notice of the record of the exhibits  
19 submitted in that case as well.

20 And in addition, Mr. Examiner, if I might -- Let  
21 me just go ahead and move their admission.

22 HEARING EXAMINER: Any objections?

23 MR. BRUCE: No objections.

24 HEARING EXAMINER: We'll just readmit those,  
25 Exhibits 1, 2, and 3. They're already in COG's case files

1 203 and 204.

2 MR. BROOKS: They are. These are COG's  
3 exhibits. They've already been admitted?

4 HEARING EXAMINER: No, these were admitted back  
5 in October with COG's cases.

6 MR. BROOKS: We need to admit them in this case  
7 so they'll be a part of this record.

8 HEARING OFFICER: Right. So Exhibits 1, 2, and  
9 3 will be admitted.

10 MR. HALL: That concludes my direct, unless  
11 there is any objection to the admission of --

12 MR. BRUCE: No objection. Did you have  
13 something else, Mr. Hall, you were going to --

14 MR. HALL: I'm finished with direct.

15 HEARING EXAMINER: Mr. Bruce?

16 CROSS-EXAMINATION

17 BY MR. BRUCE:

18 Q. Ms. Spradlin, these cases -- Well, take a step  
19 back. Your cases and Cimarex cases were kind of  
20 precipitated by a mass of applications filed by Chesapeake  
21 last fall; isn't that correct?

22 A. That's correct. In December of 2007.

23 Q. But last fall, Chesapeake filed a bunch of  
24 applications seeking to cancel COG's -- some of COG's APDs  
25 and some of Cimarex's APDs, and then force pool.

1           Apparently, Chesapeake wanted to operate the  
2 section, from what I could see. But that's what  
3 precipitated these cases, is it not.

4           A.     Correct.

5           Q.     Now -- and I don't know, and maybe you can give  
6 me a ballpark figure, how many of those cases involved  
7 Chesapeake and COG?

8           A.     It was basically on two federal leases situated  
9 in 10, 15, 14, and 13.

10          Q.     Okay. And Chesapeake and COG settled -- Take a  
11 step back again. Cimarex and Chesapeake were involved in  
12 certain cases, and to the best of your knowledge, they  
13 settled a bunch of their cases, correct?

14          A.     It's been mentioned, but I don't know which  
15 ones.

16          Q.     Okay. And by the same token, COG and Chesapeake  
17 settled a bunch of their cases?

18          A.     Correct.

19          Q.     By agreeing to -- either one support the other  
20 for the operator?

21          A.     We entered into an operating agreement covering  
22 all of our joint-owned acreage, which were two federal  
23 leases, and agreed on operations within the operating  
24 agreement for each area.

25          Q.     Okay. And these two particular well units, as

1 part of the settlement, did Chesapeake just say, "You can  
2 proceed with your pooling cases, we will support you," in  
3 these two units?

4 A. In the south half of 10?

5 Q. Yes.

6 A. It wasn't discussed, because we're under an  
7 operating agreement, we agreed we would operate -- I mean,  
8 yes, I guess they did by signing our operating agreement  
9 and entering into, that we would be operating the south  
10 half.

11 Q. Okay. And when was -- and I don't remember the  
12 specifics of the operating agreement, but when was the  
13 operating agreement signed?

14 A. Prior to our hearing in October.

15 Q. And at that hearing in October where COG  
16 presented its two cases, COG did not present a geologist,  
17 did they?

18 A. No, we didn't.

19 Q. And so -- I'm simply getting at the same  
20 question that Mr. Hall asked Mr. Tresner, that both  
21 parties are seeking the same geological objective,  
22 apparently?

23 A. Yes, we are.

24 Q. And Mr. Hall said that COG's cases were taken  
25 under advisement without objection by Cimarex. You were

1 aware that Cimarex had filed competing pooling  
2 applications, weren't you?

3 A. No, I was not. I didn't receive those until I  
4 got back to Midland, Texas.

5 Q. I hand delivered those to Mr. Hall. He did not  
6 tell you that Cimarex had filed?

7 MR. HALL: I guess I have to object to the  
8 question. That calls for privileged communications.

9 Q. I'm not asking for privileged communications,  
10 I'm merely asking, did Mr. Hall give you copies of the  
11 applications filed by Cimarex?

12 A. I didn't have anything until I got back to  
13 Midland, Texas. I was not aware of anything. And I think  
14 I stated that to you when you asked if I had received  
15 anything, and I was, like, "No."

16 Q. And Cimarex has stated that COG is competent to  
17 operate, and COG believes Cimarex is a competent operate?

18 A. Now what? Repeat that, please?

19 Q. I said, COG has -- Cimarex has stated that COG  
20 is a competent operator; does COG believe that Cimarex is  
21 a competent operator?

22 A. Yes, in the operations that we've been in with  
23 them, in wells we've been in with them.

24 Q. Regarding the surface use agreement, are you  
25 aware the -- You stated that COG has a Surface Use

1 Agreement on the southeast quarter of Section 10, but  
2 Cimarex does not. Are you aware that --

3 A. It's --

4 Q. State owned surface --

5 A. But we have agreed with Mr. Medlin on any  
6 damages that might have been occurred on that.

7 Q. Okay.

8 A. He has been paid no money.

9 Q. But under the Surface Owner Protection Act, the  
10 surface owner, the State, would be the party you would pay  
11 damages to and not the leasee.

12 A. Right.

13 Q. On that quarter section.

14 MR. HALL: Well, I object. I think that  
15 mischaracterizes what the Act says. I think it's beyond  
16 the scope of direct as well. We didn't ask her about the  
17 Act.

18 Q. But on a State owned surface, the Surface Use  
19 Agreement is not necessarily needed?

20 A. Correct.

21 Q. And you stated that you made an accommodation --  
22 or COG made an accommodation to the Medlins to drill one  
23 well -- to move one surface location so it wasn't near  
24 their --

25 A. We moved three. We moved the north half

1 locations also. They were flipped, all three. Other than  
2 the Taurus Federal No. 1, we flipped all three other  
3 locations in that section to accommodate their request.

4 Q. Okay. And I did provide you with Cimarex's  
5 exhibit booklet. Did you review the AFEs and see that  
6 both of their surface locations are in the southeast  
7 quarter of Section 10?

8 A. Yes.

9 Q. Just a couple of final questions. In looking in  
10 -- this is your exhibit booklet from the hearing a couple  
11 months ago. And you presented a drilling schedule. And  
12 in response to Mr. Hall's question, you stated that both  
13 of the Taurus wells in the south half of Section 10 were  
14 on COG's schedule for this year; is that correct?

15 A. I know I said a Taurus well was on the schedule.

16 Q. Well, I'm looking at --

17 A. Which it is.

18 Q. -- your drilling schedule, and the Taurus 10 Fed  
19 No. 1 is on the drilling schedule, is it not?

20 A. Correct.

21 Q. Is the Taurus -- I think it's the 10 State  
22 No. 2 -- or maybe it's No. 1, I'm sorry, is the other  
23 Taurus well on COG's drilling schedule?

24 A. I'm trying to find a copy of my drilling  
25 schedule. Because I don't have that exhibit.

1 Q. What I'm looking at is -- Let me -- (Witness  
2 handed a document.) Is that what you presented at the  
3 prior hearing?

4 A. Yes. But we do have a -- I believe a revised  
5 one. Didn't we? I'm trying to -- But that was our  
6 schedule.

7 Q. And the second well is not on there; is that  
8 correct?

9 A. No, it's not.

10 Q. And also, there were a couple other wells that  
11 were in red on this schedule, a Comet 22 No. 4, a Caribou  
12 19, No. 1. Those were the first wells on the schedule for  
13 November and December of last year. Have those wells been  
14 drilled?

15 A. The Comet 22 has been drilled. We're currently  
16 drilling the Ranger Pueblo No. 3 and we're drilling the  
17 High Lonesome 23 No. 1.

18 Q. The Caribou 19 No. 1 has not been --

19 A. It has been postponed.

20 Q. Okay. And has COG committed funds for both the  
21 Taurus wells in the south half of Section 10 for 2009?

22 A. I believe they have been.

23 Q. Has an AFE been prepared in your exhibit booklet  
24 -- And I believe the drilling engineer testified about  
25 that, about the AFEs, but I think submitted an AFE only

1 for the first well?

2 A. As far as -- to Cimarex? Or in the --

3 Q. In the exhibit booklet, your exhibit booklet  
4 from the prior hearing.

5 A. I know we did -- we had it for the Taurus  
6 Federal Well.

7 Q. Yeah, I'm looking -- you submitted behind  
8 Exhibit Tab 13 an AFE for the Taurus Federal No. 1. Has  
9 an AFE ever been prepared for the Taurus State Well, the  
10 second one?

11 A. I'm not sure. It appears that we've only done  
12 the Taurus -- actual AFEs for the Taurus Federal one in my  
13 information here.

14 Q. It's not that one hasn't been prepared, one was  
15 not submitted into evidence at the hearing, correct?

16 A. That's correct. The federal one was the one in  
17 the booklet.

18 Q. And correct me if I'm wrong, I believe you  
19 stated that you weren't submitting one on the Taurus State  
20 Well at this point on the hearing date because that well  
21 had not yet been scheduled for drilling?

22 A. I know it was on one that we talked about  
23 scheduling, but we did our initial well, we have an  
24 obligation well, and we can only schedule so many wells.

25 MR. BRUCE: That's all I have, Mr. Examiner.

1 HEARING EXAMINER: Okay. Mr. Brooks, any  
2 questions?

3 MR. BROOKS: You have an operating agreement  
4 with Chesapeake that covers this south half of Section 10?

5 THE WITNESS: Yes, we do.

6 MR. BROOKS: And did you propose this well to  
7 Chesapeake?

8 THE WITNESS: Yes. And in -- Well, under the  
9 operating agreement we have, they'll have -- they have  
10 their proposal and have agreed. We're waiting to find out  
11 what goes on with this.

12 MR. BROOKS: I'm sorry?

13 THE WITNESS: We're waiting to find out what  
14 happens with our other --

15 MR. BROOKS: Okay. So you have a standstill on  
16 their making an election to participate or not?

17 THE WITNESS: Yes.

18 MR. BROOKS: But you have an operating  
19 agreement?

20 THE WITNESS: Yes, we do.

21 MR. BROOKS: All right. That's all I have.

22 HEARING EXAMINER: I have no questions of the  
23 witness.

24 MR. HALL: Nothing further of this witness.

25 MR. BROOKS: Okay. Are the attorneys going to

1 make closing statements?

2 MR. BRUCE: I was going to make a brief closing  
3 argument.

4 MR. BROOKS: Okay. I may have some questions  
5 but I'll wait until you make your closing statements.

6 MR. BRUCE: Mr. Examiner, or Mr. Examiners,  
7 whichever you prefer, as the witness has stated, both  
8 parties are competent operators, they both want to  
9 operate.

10 Mr. Hall did submit a brief the last go round  
11 basically stating that COG made the first well proposal,  
12 and absent any other compelling factors, that as a result,  
13 COG should be made operator.

14 I would merely point out that as our witnesses  
15 testified, Cimarex has been active in this area for a  
16 couple of years. The only reason it was slow in getting  
17 out its proposal is it had to deal with Chevron for seven  
18 months before it could get a term assignment.

19 It has not been dilatory in proposing wells in  
20 this area, and the fact that it has drilled a number of  
21 wells in this area and has the best knowledge of how to  
22 drill and complete these wells should be a compelling  
23 factor in granting operations to Cimarex.

24 Its pipeline is in place. Cimarex has the  
25 largest single working interest, 50 percent; the other

1 parties have 25 percent each in the wells, and we believe  
2 this facilitates in Cimarex's favor.

3 We would urge the Division to grant Cimarex's  
4 pooling proposals and deny COG's pooling proposals.

5 And there is one other factor I would like to  
6 bring up. I think both attorneys asked questions and both  
7 land witnesses got asked questions on the timing of the  
8 drilling of these wells, and COG says both wells are on  
9 the schedule.

10 The well schedule I saw did not show the second  
11 south half of Section 10 well on COG's drilling schedule.  
12 And I would merely point out that because of the timing,  
13 today's economics, on questionable matters like this when  
14 these wells are drilled and the fact that because of  
15 competing applications, if when one party wins and one  
16 party loses, the chances of an appeal may be likely, I  
17 would ask that any type of election be postponed under the  
18 terms of the orders, number one, until a Commission  
19 decision is finally -- or until there is a final decision  
20 either of the Division or of the Commission.

21 And even once that happens, in the event that  
22 these wells are put out for drilling for some number of  
23 months, which could well occur, that a party not be  
24 required to pay the money upfront until 30 days before  
25 well commencement.

1           So that if, for instance, one well isn't drilled  
2 until November or December and -- I don't think it would  
3 be equitable to have one party have to elect and put up  
4 the money upfront if it's going to sit around for six,  
5 seven months while the parties are waiting for a ruling.  
6 Thank you.

7           HEARING EXAMINER: Thank you. Mr. Hall?

8           MR. HALL: Mr. Examiner, there's nothing unusual  
9 about this case. I think the record is clear the parties  
10 agree there is no issue with respect to geology, no issue  
11 with respect to well costs, no issue with respect to  
12 operator competence.

13           The Division has addressed these cases before.  
14 I think it's been well decided that you look to diligence,  
15 look to who is going to develop reserves first.

16           In this case, COG is well ahead of the curve,  
17 Cimarex is not; not through its circumstances entirely of  
18 their making, but somewhat of their making.

19           We provided you with a brief of the Agency's  
20 precedent for cases like that. We'll give you another  
21 copy just so you have it for your case files for these two  
22 cases.

23           I think precedent is clear. The Division always  
24 favors the party showing diligence, the one who's  
25 undertaken to obtain permits first, the one who's

1 undertaken to obtain surface agreements first, the one  
2 that's done the most to promote development, and that's  
3 COG.

4 I have to object to the request that any pooling  
5 order contain a provision that the election be postponed.  
6 I'm not aware that that's ever been done before. I think  
7 that's improper. I think that may actually deter  
8 development in this case.

9 The proper procedure would be for the Division  
10 to issue what would otherwise be generic compulsory  
11 pooling orders, then Cimarex would be free to come in and  
12 apply for a stay of all or a portion of the pooling order  
13 provided they could support it with some grounds.

14 They haven't done that here today. It seems  
15 like we may have to have a separate hearing if they want  
16 to advance grounds that would justify a stay like that.  
17 That's my suggestion. And we request that you act on the  
18 applications first filed in this case and award operations  
19 to COG in both cases.

20 HEARING EXAMINER: Very well. Mr. Brooks?

21 MR. BROOKS: Mr. Bruce, this brief that Mr. Hall  
22 prepared I guess is the same one that he filed previously.  
23 Are you aware of any other precedential orders from the  
24 Commission or the Division that we ought to consider?

25 MR. BRUCE: No. The main case is the order

1 number, our 10731D.

2 MR. BROOKS: Which is -- which one is that?

3 MR. BRUCE: The KCS Medallion and the Intercoast  
4 Oil and Gas. I was involved in that case. And the  
5 Commission set forth factors -- I think you can probably  
6 short circuit it by going through Pages --

7 MR. BROOKS: Is that also attached to --

8 MR. BRUCE: Yes, it's attached to Mr. Hall's  
9 brief. And Pages 7 through 10 are the heart of the  
10 issuance of that order.

11 That order basically said, number one, you look  
12 at geology. I don't think geology is a factor here.  
13 Another factor is -- but a minor factor, is AFEs. Again,  
14 there is not much evidence of that. So what you look at  
15 under this order is primarily interest ownership and who  
16 got the ball rolling.

17 And again, just to repeat my argument, Cimarex  
18 does have the most at risk in this well and we think  
19 that's one factor to consider. And the other factor is,  
20 really, when you look at this township and some adjoining  
21 nearby townships, Cimarex is the one who has been the  
22 plotting development in this township.

23 MR. BROOKS: And of course, on interest  
24 ownership, if Chesapeake is added to COG, they do have an  
25 operating agreement, we don't have any details about

1 Chesapeake, but we know they have an operating agreement,  
2 that makes it 50/50, right?

3 MR. BRUCE: Yes, it would.

4 MR. BROOKS: Now, one of the things I recall  
5 from reading these opinions in the past is that you should  
6 consider who developed the prospect. But we don't have --  
7 we didn't get any evidence on that today and I don't  
8 recall any evidence on that in the previous hearings  
9 either as to who originally developed this --

10 MR. BRUCE: I don't know who originally  
11 developed it, but I think if you look at the very first  
12 exhibits submitted by Mr. Tresner, you can see that  
13 Cimarex has drilled six wells in this township and was the  
14 first one to start drilling out here. COG's wells have  
15 been of pretty recent vintage of the last couple months

16 MR. BROOKS: Okay. I wasn't aware that there  
17 was any real evidence as to what COG had drilled and when  
18 out here, but I would have to review the record to know  
19 whether that was the case.

20 As I understood what the Commission had said  
21 was, they were concerned with the effort that had been put  
22 into developing the prospect and perhaps rewarding that. \*

23 So I guess that brings us down to the question  
24 of -- technical question of whether or not Cimarex has  
25 greater expertise in drilling wells in this area is mostly

1 what the evidence today was about. Is that a correct  
2 characterization?

3 MR. BRUCE: Yes, sir.

4 MR. BROOKS: Do you have anything to add,  
5 Mr. Hall?

6 MR. HALL: Well, I would flat disagree because I  
7 think the record now establishes that there is no dispute  
8 as to expertise of either operator. Both parties agree  
9 that either is competent.

10 MR. BROOKS: Well, yeah, they both -- each has  
11 said the other is competent. It's been said by land  
12 witnesses who probably don't know very much about it, but  
13 no objection to the lack -- lack of testimony in  
14 competence.

15 But my understanding of the testimony was that  
16 Cimarex believes they acquired some experience that will  
17 enable them to do a better job than somebody else could.

18 MR. HALL: Well, it's been unsubstantiated. I  
19 think that's at best an inference. You've heard this  
20 witness testify about COG's experience in drilling  
21 horizontal wells.

22 MR. BROOKS: Right. I don't remember what the  
23 evidence was about COG's experience in drilling in the  
24 previous --

25 MR. HALL: It was addressed in the previous case

1 as well.

2 MR. BROOKS: Yeah, I assume it was, but I just  
3 don't recall the evidence clearly. Okay, I think we know  
4 what the issues are. So thank you very much.

5 Mr. Warnell?

6 HEARING EXAMINER: I have no questions. I'll  
7 have a lot of them later on. So I think with that, if  
8 there is nothing further, we'll take Cases No. 14253 and  
9 14254 under advisement. And that concludes our docket for  
10 today. So Docket No. 1-09 will stand adjourned.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_,  
heard by me on \_\_\_\_\_.

\_\_\_\_\_, Examiner  
Oil Conservation Division

\* \* \*

1 STATE OF NEW MEXICO )  
 ) ss.  
2 COUNTY OF BERNALILLO )

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

I, PEGGY A. SEDILLO, Certified Court Reporter of the firm Paul Baca Professional Court Reporters do hereby certify that the foregoing transcript is a complete and accurate record of said proceedings as the same were recorded by me or under my supervision.

Dated at Albuquerque, New Mexico this 12th day of January, 2009.

  
PEGGY A. SEDILLO, CCR NO. 88  
License Expires 12/31/09